

Am. B.

Proceedings

3040

(374)

INDEX

TO THE

MISCELLANEOUS DOCUMENTS

OF THE

HOUSE OF REPRESENTATIVES

FOR THE

FIRST SESSION OF THE FORTY-NINTH CONGRESS,

1885-'86.

IN TWENTY-SIX VOLUMES.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1886.



INDEX TO HOUSE MISCELLANEOUS DOCUMENTS.

CONTENTS OF THE VOLUMES.

VOL. 1..Nos. 1 to 34, inclusive, except Nos. 15, 16, 21, 22, 23, 26, 27, 28, and 29.	VOL. 14..No. 273.
VOL. 2..Nos. 16, 304, and 305.	VOL. 15..Nos. 302, 379, and 380.
VOL. 3..No. 21.	VOL. 16..No. 338.
VOL. 4..No. 22.	VOL. 17..Nos. 341 to 395, inclusive, except Nos. 354, 355, 371, 379, 380, 392, and 393.
VOL. 5..No. 27, part 1.	VOL. 18..No. 354.
VOL. 6..No. 27, part 2.	VOL. 19..No. 355.
VOL. 7..No. 28.	VOL. 20..No. 371.
VOL. 8..No. 29.	VOL. 21..No. 392.
VOL. 9..No. 36.	VOL. 22..No. 393.
VOL. 10..Nos. 37 to 177, inclusive, except No. 164.	VOL. 23..No. 396, part 1.
VOL. 11..No. 164.	VOL. 24..No. 396, part 2.
VOL. 12..Nos. 178 and 179.	VOL. 25..No. 15, part 1.
VOL. 13..Nos. 180 to 340, except Nos. 273, 302, 304, 305, and 338.	VOL. 26..No. 15, part 2.

INDEX TO THE DOCUMENTS.

Subject.	No.	Vol.
A.		
Accounts, inquiry relative to unsettled accounts in Post-Office Department	{ 134	10
Adulteration. (See Food products.)	{ 185	13
Agricultural Department:		
Annual report of expenditures	154	10
inquiry relative to certain expenditures in	137	10
letter replying to above from Commissioner of Agriculture	240	13
Alaska:		
Report on education in	343	17
Secretary of War requested to transmit Allen's report on	217	13
Aliens, inquiry relative to lands owned by	332	13
Alleghany River, inquiry relative to improvement of	{ 170	10
Alexander, H. H., to pay claim of	{ 187	13
American fishing marine, relative to promotion of	340	13
Animals. (See Cattle.)	66	10
Appropriations:		
Statement showing appropriations made during first session of Forty-ninth Congress	394	17
letter of Secretary of Treasury relative to indefinite and permanent	123	10
Arbitration. (See International arbitration.)		
Ard, Nathaniel L., relative to his claim for patent	227	13
Army, list of officers on retired list of	{ 161	10
Atlantic and Pacific Ship Railway Company, special order for bill to incorporate	{ 211	13
Ayres, James H., report of Court of Claims on case of	254	13
	17	1

IV INDEX TO HOUSE MISCELLANEOUS DOCUMENTS.

Subject.	No.	Vol.
B.		
Barton, Harry, resolution to pay claim of	158	10
Beet sugar. (<i>See Sugar.</i>)		
Bell Telephone. (<i>See Patents.</i>)		
Bills, relative to, introduced by request.....	288	13
Bi-metallic Coinage Association, memorial of.....	152	10
Blair bill. (<i>See Education.</i>)		
Boston, inquiry relative to retention of silver dollars in sub-treasury at.	182	13
Brock, Henry, relative to claim of	219	13
Bureau of Animal Industry, relative to delay in printing report of.....	{ 264	13
	{ 270	13
Butler, B. F. (<i>See National Home for Disabled Volunteer Soldiers.</i>)		
Butter. (<i>See Oleomargarine.</i>)		
Byrne, L. R., relative to claim of	108	10
C.		
Cairo, Ill., report of engineers relative to construction of bridge over Ohio River at	339	13
California, inquiry relative to Indian war claims of.....	282	13
Canada, inquiry relative to exclusion of American fishing vessels from ports of	198	13
Carrollton, Miss., resolution to investigate alleged murders at.....	203	13
Cattle:		
Inquiry relative to existence of pleuro-pneumonia among.....	374	17
Memorial of Dr. O. M. Wozencraft relative to cattle-plague.....	127	10
Reports of diseases among	373	17
Centennial, relative to the celebration of the, anniversary of the foundation of the Government.....	{ 199	13
	{ 329	13
Cherokee Indians. (<i>See Indians.</i>)		
Chicago, River, inquiry relative to bridging	175	10
China, inquiry relative to mediation between France and.....	166	10
Chiricahua Apaches. (<i>See Indians.</i>)		
Civil Service, inquiry relative to employés in civil departments of the Government	114	10
Claims:		
List of allowed claims.....	215	13
Relative to adjudication of private.....	53	10
Resolution to complete index to	376	17
Resolution to provide for payment of, reported by Court of Claims..	282	13
Clerk of House of Representatives:		
Annual report of expenditures.....	5	1
Inventory of public property in possession of	4	1
Transmitting list of contested-election cases.....	62	10
Coal, inquiry relative to drawback on bituminous	181	13
Coinage. (<i>See Silver Coinage.</i>)		
Columbia River, relative to improvement of.....	230	13
Commercial relations. (<i>See Consular Reports.</i>)		
Committees:		
List of standing and select, in the House of Representatives.....	2	1
To allow, having charge of general appropriation bills to have printing done	76	10
Entitled to clerks	41	10
Committee on Agriculture, special order for business from	222	13
Committee on Alcoholic Liquor Traffic, to allow clerk to	90	10
Committee on Appropriations, relative to printing for	72	10
Committee on Claims, to allow assistant clerk to.....	83	10
Committee on Coinage, Weights, and Measures, resolution to allow, to have printing done	151	10
Committee on District of Columbia:		
Resolution to allow, to have certain printing done.....	113	10
Special order for business from	{ 344	17
	{ 348	17
Committee on Elections, to allow messenger to.....	73	10

Subject.	No.	Vol.
Committee on Expenditures in Department of Justice, to be allowed clerk	70	10
Committee on Invalid Pensions, special order for business from	285	13
Committee on Judiciary :		
Resolution to allow, to have printing done	120	10
Special order of business from	299	13
Committee on Labor :		
To allow, to have printing done	80	10
Special for business from	{ 267	13
	{ 296	13
Committee on Levees and Improvements of Mississippi River, to allow clerk to	{ 81	10
	{ 107	10
Committee on Military Affairs, special order for business from	{ 202	13
	{ 271	13
Committee on Naval Affairs, special order for business from	{ 259	13
	{ 384	17
Committee on Pacific Railroads, special order for business from	253	13
Committee on Post-Office and Post-Roads :		
Resolution to allow annual clerk to	42	10
Special order for business from	{ 226	13
	{ 235	13
Committee on Printing, special order for business from	331	13
Committee on Public Buildings and Grounds :		
Resolution to allow annual clerk to	220	13
Resolution to allow messenger to	109	10
	{ 252	13
Special order for business from	{ 278	13
	{ 352	17
Committee on Public Health, for appointment of	65	10
Committee on Rivers and Harbors :		
Resolution authorizing, to have printing done	101	10
Resolution to allow messenger to	79	10
Relative to division of	229	13
Committee on Ventilation and Acoustics, to allow clerk to	91	10
Committee on Violation of Rule XXXIV allowed to sit during session and recess	361	17
Committee on Ways and Means :		
To allow, to have printing done	84	10
Special order for business from	362	17
Congressional Record, relative to distribution of, to members	32	1
Connecticut, resolution of legislature of, relative to counting of electoral vote	85	10
Consular officers, inquiring relative to civil-service examinations for	118	10
	{ 28	7
	{ 29	8
Consular reports on commerce of their consular districts	{ 178	12
	{ 179	12
Contested-election cases, list of, pending in Forty-ninth Congress	62	10
Cook, L. B., to pay claim of	245	13
Cooperage, relative to decline of American	46	10
Corn. (<i>See</i> Grain.)		
Corwin (U. S. steamer) :		
Report of cruise of	133	10
Secretary of Treasury requested to transmit report of cruise of	133	10
Courts of United States, fees of witnesses and jurors of	280	13
Crook, General. (<i>See</i> Indians.)		
Currency, special order for House bill 5788, to issue small bills, &c.	242	13
Custom districts, inquiry relative to non-paying	272	13
Cutting, A. K., inquiry relative to detention in Mexico of	386	17
D.		
David J. Adams (steamer), relative to seizure by Canadian authorities of	{ 276	13
	{ 279	13
Denver and New Orleans Railroad, inquiry relative to discriminations against	206	13

VI INDEX TO HOUSE MISCELLANEOUS DOCUMENTS.

Subject.	No.	Vol.
Department of Agriculture. (<i>See</i> Agricultural Department.)		
Digest of House Rules, to print and distribute.....	{ 61 375	10 17
Diplomatic service, committee instructed to inquire relative to reforming	135	10
Direct tax, Secretary of Treasury requested to inform House relative to.	145	10
Director of Mint, report of, on production of precious metals.....	347	17
District of Columbia :		
Annual report of Commissioners relative to expenses of.....	49	10
Business of, special order in House for	162	10
Centennial anniversary, relative to celebrating it in 1889 and 1892 in.	199	13
Civil-service appointments from, relative to.....	{ 307 368	13 17
Commercial agents tax in, relative to.....	330	13
Public buildings in, relative to	88	10
Dolan, Patrick V., relative to pay of.....	74	10
Donelson, Samuel. (<i>See</i> Doorkeeper of House of Representatives.)		
Doorkeeper of House of Representatives :		
Inventory of public property in possession of.....	19	1
Inventory of public documents and books in the folding-room of House	20	1
Resolution to reimburse, for amount paid for additional force in folding-room	387	17
Dougherty, Robert, to pay claim of.....	295	13
Dyer, Elizabeth P., report of Court of Claims on claim of.....	124	10
E.		
Education :		
Resolution to instruct committee to report "Blair bill".....	155	10
Resolution relative to instructing committee to report bills pertaining to.....	165	10
Resolution declaratory of sense House of relative to appropriations for	364	17
Special order for consideration of Senate bill 194, on.....	261	13
Special order for House bill 7266, relative to	297	13
Electrical vote-recording apparatus, relative to its adoption by House..	315	13
Ellwood, Reuben, memorial address on life and character of.	302	15
Employés of United States, resolution of inquiry relative to, in civil departments of the Government.....	114	10
Eulogies. (<i>See</i> Memorial addresses.)		
European dock-yards, report on	237	13
Executive Departments :		
Inquiry relative to employment of substitutes in	141	10
Committee to consider adjustment of salaries in	346	17
F.		
First Comptroller of United States Treasury, Decisions of, vol. 6.....	69	10
Fish Commission, Annual Bulletin, vol. 5.....	34	1
Fish and Fisheries, inquiry relative to exclusion of American fishing vessels from Canada.....	198	13
Fish. (<i>See</i> American Fishing Marine)		
Folding-room. (<i>See</i> House of Representatives.)		
Food products :		
To prohibit adulteration of.....	71	10
inquiry relative to restrictions by foreign countries on importation of American pork	153	10
Foreign mails. (<i>See</i> Postal Service).		
Fort Brown reservation, inquiry relative to title of Government to	323	13
France, inquiry relative to mediation between, and China	166	10
Free-ship bill, resolution to make special order of.....	191	13
Freedman's Savings and Trust Company, annual report of commissioner of.....	18	1
Funeral obsequies, resolution for standing committee on.....	269	13
Funerals. (<i>See</i> House of Representatives.)		

Subject.	No.	Vol.
G.		
Garfield, James A., thanks of Congress to Ohio for statue of.....	37	10
Geological Survey:		
Monographs of vol. 3.....	33	1
Monographs of vol. 9.....	304	2
Gladstone, W. E., congratulations extended to.....	{ 249	13
	{ 314	13
Gorman, Frank B., to pay claim to	263	13
Grain:		
Resolution relative to supply of corn and wheat.....	214	13
Report of statistics on wheat and corn supply.....	303	13
Grave-yard Committee, resolution for appointment of, in House	269	13
Great Falls, inquiry relative to fish-ways at.....	289	13
Greely expedition, report on.....	{ 138	10
	{ 393	22
H.		
Hahn, Michael, memorial addresses on life and character of.....	380	15
Halley, Noah W., to pay claim of.....	262	13
Hancock, General W. S., inquiry relative to certain expenditures of....	382	17
Hanson land grant, inquiry relative to survey of	325	13
Hayes nitro-glycerine shell. (<i>See Ordnance.</i>)		
Hennepin Canal. (<i>See Illinois and Michigan Canal.</i>)		
Holbrook, Charles, to claim of	266	13
Holland, inquiry relative to taxation of petroleum by	130	10
House of Representatives: (<i>See also Rules.</i>)		
List of members, arranged by States	1	1
Alphabetical list of Members and Delegates and committees of which they are members	3	1
List of standing and select committees of.....	2	1
Absent members, relative to calling names of.....	55	10
rule proposed to fine	277	13
Admission to floor, to amend rules relative to.....	333	13
Debate, resolution to limit	54	10
Document-room, for additional force in.....	78	10
Electrical vote-recording apparatus, relative to its adoption by....	98	10
Employés of, for additional	77	10
inquiry relative to salaries of	337	13
Folding-room, for additional force in.....	168	10
Funerals, to amend rules relating to.....	147	10
Hour of meeting, changes of.....	{ 231	13
	{ 351	17
Offices of, committee instructed to investigate organization of.....	105	10
testimony in inquiry by committee.....	236	13
Post-office of, to continue employment of session messengers in	358	17
Rules, new one adopted by	16	2
Howard, Willie S., relative to employment of, as page.....	{ 95	10
	{ 104	10
Hydrophobia, resolution to obtain information relative to.....	372	17
I.		
Illinois and Michigan Canal, special order for bill to construct.....	256	13
Immigration laws:		
Resolution to investigate violation of, in bituminous-coal regions ..	244	13
Relative to alleged violation of, at New York	334	13
Import duties. (<i>See Tariff.</i>)		
Ireland, congratulations extended to William E. Gladstone and associ- ates on their efforts to secure home rule in.....	{ 249	13
	{ 314	13
Isham, Frank H., to pay claim of.....	257	13
India, Lazelle's report on English army in.....	{ 345	17
	{ 363	17
Indians:		
Appropriations for, resolutions of Maine legislature relative to.....	48	10

Subject.	No.	Vol.
Indians—Continued.		
Cherokee, inquiry relative to claims of	188	13
Chiricahua Apaches, investigation of General Crook's campaign against	57	10
Sioux, inquiry relative to school facilities for	121	10
Tribes of, inquiry relative to condition of all	190	13
Interior Department, inquiry relative to granting of leaves of absence in	310	13
Internal revenue, for appointment of select committee on	67	10
Report 3209, on bill (H. R. 9702) to reduce taxes, &c.	369	17
International arbitration, resolution of Maine legislature favoring	47	10
International law. (<i>See Wharton's Digest.</i>)		
International monetary conferences, reports of, for 1878-'81.....	396	23, 24
International Sheep and Wool Show, report on	392	21
Interoceanic Canal, inquiry relative to construction of	357	17
J.		
Jurors. (<i>See Courts of United States.</i>)		
K.		
Kanause, Theodore D., to admit, to floor of House	82	10
Kanawha River, relative to damage done by improvement of.....	317	13
Kansas, inquiry relative to land grants to railroads in.....	{ 129	10
	{ 308	13
Kansas Railroad, relative to management of	306	13
L.		
Labor:		
Committee appointed to investigate labor troubles in Southwest....	{ 180	13
	{ 192	13
Inquiry relative to alleged violation of immigration laws by the arrival of inmates of Bristol, England, reform institution in New York City	334	13
Resolution to make special order of legislation relative to	150	10
Resolution to investigate troubles in bituminous coal regions.....	244	13
La Fayette, Marquis de, resolution for tablet for portrait of.....	390	17
	{ 350	17
Lancaster, R. D., relative to investigation of frauds committed by.....	{ 367	17
	{ 370	17
Land grants. (<i>See Railroads.</i>)		
Letter-carriers. (<i>See Postal Service.</i>)		
Live-stock, relative to transportation of	207	13
Lord, William Blair, to pay salary and funeral expenses of	292	13
Louisiana, inquiry relative to property taken during the late war by Federal authorities in	111	10
Louisville and Portland Canal, inquiry relative to right of drainage into	281	13
Lyles, Minnie, to pay to, salary of her husband	312	13
M.		
McGarrahan, William, special order for bill for relief of.....	247	13
McKinstry, Justus, proceedings in the court-martial trial of	{ 327	13
	{ 366	17
Maine, resolutions of legislature of:		
Relative to appropriations for	48	10
Favoring arbitration and peace	47	10
Mallory, William E., to pay claim of.....	257	13
Marck, Peter, and others, report of Court of Claims on claims of.....	126	10
Maxwell land grant, relative to eviction of settlers from.....	{ 201	13
	{ 290	13
Medical and Surgical History of the Rebellion:		
Inquiry relative to publishing of.....	119	10
Letter from Public Printer relative to cost, &c., of printing.....	123	10

Subject.	No.	Vol.
Memorial addresses:		
On life and character of Reuben Ellwood.....	302	15
On life and character of Michael Hahn.....	380	15
On life and character of Joseph Rankin.....	379	15
Resolution to require their delivery in House on Sunday.....	173	10
Mexican awards, inquiry relative to.....	189	13
Mexican war, resolution of Missouri legislature relative to pensions to surviving soldiers of.....	44	10
Mexico, inquiry relative to reciprocity treaty with.....	365	17
Military Academy, annual report of Board of Visitors.....	63	10
Mineral resources of United States, statistical report of.....	36	9
Mississippi River improvements:		
For select committee on.....	86	10
Inquiry relative to.....	250	13
Missouri:		
Relative to war debt of.....	43	10
Resolutions of legislature of, relative to receivers of railroads.....	45	10
Resolutions of legislature of, relative to pensions for Mexican war.....	44	10
Resolutions of legislature of, relative to suspension of silver coinage.....	40	10
Monongahela River, inquiry relative to improvement of.....	170	10
N.		
National Home for Disabled Soldiers:		
Communication from Hon. B. F. Butler, late acting treasurer of.....	209	13
Report of Board of Managers of.....	{ 38 59	10 10
Nautical Almanac for.....	354	18
Naval Bureaus, resolution for special order to consider bill to consolidate.....	{ 212 223	13 13
Navigation and fishery interests, for a select committee on.....	233	13
Navigation laws, compilation of.....	391	17
Navy:		
	{ 194 196 213	13 13 13
Naval establishment, special order for bill to increase.....	{ 224 260 298 301	13 13 13 13
Retired list of, list of officers on.....	122	10
Vessels, report of progress on construction of.....	156	10
New Mexico:		
Relative to claims for land in Territory of.....	75	10
Relative to eviction of settlers from Maxwell land grant in.....	{ 201 260	13 13
New Orleans Exposition, inquiry relative to loans to.....	185	13
New River, relative to damage done by improvement of.....	317	13
Newspaper correspondents, resolution to admit them to members' corridor in House of Representatives.....	25	1
New York:		
Relative to celebrating anniversary of foundation of the Government in city of.....	329	13
Nicaragua, inquiry relative to claims against.....	221	13
Nicaragua canal. (See Interoceanic Canal.)		
Nimmo, Joseph, jr., to provide for revision of report on cattle business by.....	294	13
Northern Pacific Railroad:		
Resolution relative to bill (H. R. 4223) to forfeit land grant to.....	{ 169 193	10 13
Inquiry relative to management of.....	200	13
Norton, A. B., inquiry relative to claim of.....	172	10
Nye, Charles H., inquiry for copy of proceedings in case of.....	218	13

Subject.	No.	Vol.
O.		
Official Register of United States, giving list of officers and employes in the civil, military, and naval service on July 1, 1885.....	27, 27	5, 6
Ohio, thanks of Congress to, for statue of James A. Garfield.....	37	10
Ohio River, report of engineers on construction of bridge at Cairo, Ill., over	339	13
Ordinance:		
Report of commission on ordnance and war ships, referred.....	195	13
Inquiry relative to Hayes nitro-glycerine shell.....	132	10
P.		
Pacific Railroads:		
Resolution to investigate management of.....	{ 142	10
Relative to protection of interest of Government in	{ 225	13
Relative to protection of interest of Government in	335	13
Relative to protection of interest of Government in	{ 268	13
Panama canal, Kimbal's report on.....	{ 313	13
Relative to protection of interest of Government in	{ 395	17
Pan-Electric Telephone Company, testimony taken by committee relative to	355	19
Patents:		
Relative to suits to annul.....	100	10
Testimony relative to suits to annul the Bell telephone patents	355	19
Pennsylvania Railroad Company, inquiry relative to accounts of.....	287	13
Pension Bureau, investigation of the administration of	{ 131	10
Relative to suits to annul.....	{ 139	10
Pensions:	{ 316	13
Resolutions of Missouri legislature relative to pensions to surviving soldiers of Mexican war.....	44	10
Relative to delay in adjudication of claims for invalid	39	10
Resolution to provide for payment of pensions by special taxation..	149	10
Relative to number of persons drawing special pensions	336	13
Petroleum, inquiry relative to taxation by Holland of	130	10
Pettie, Winship B., resolution to pay claim of	106	10
Philadelphia, inquiry relative to public building at.....	186	13
Physiology; special order for consideration of bill to provide for study.	274	13
Pindle, Jacob, employment in bath-room of.....	319	13
Pleuro-pneumonia. (See Cattle plague.)		
Political contributions, committee to investigate subject of.....	353	17
Pork. (See Food products.)		
Postmasters:		
Relative to readjustment of salaries of.....	232	13
Relative to adjudication of claims of	89	10
Postal clerks, inquiry relative to pay of.....	112	10
Postal service:		
Foreign mails, inquiry relative to	136	10
letter from superintendent of	239	13
Special order for bill to extend eight-hour law to letter-carriers....	383	17
Resolution to investigate Post-Office Department contracts	246	13
Post-Office Department, inquiry relative to unsettled accounts in.....	134	10
Precious metals, report on production of.....	347	17
President of the United States:		
To print annual message of.....	56	10
Reference of annual message of	68	10
Resolution of Connecticut legislature, relative to counting of electoral vote	85	10
Printing. (See Public Printing.)		
Private bills:		
Relative to cost of printing.....	377	17
Business in the House, special order for	360	17
Private claims. (See Claims.)		
Protestant Episcopal Theological Seminary and High School, Virginia, report of Court of Claims on claim of	197	13
Public buildings:		
Committee to investigate condition of, in District of Columbia	88	10
Resolution of inquiry relative to purchase and management of	117	10

Subject.	No.	Vol.
Public documents, inventory of books and documents in folding-room of the House.....	20	1
Public health, for appointment of committee on.....	65	10
Public printing:		
Inquiry relative to reduction of.....	103	10
Relative to cost of printing private bills	377	17
R.		
Railroads:		
Inquiry relative to land grants to railroads in Kansas.....	129	10
Resolutions of Missouri legislature, relative to receivers of.....	45	10
Relative to consideration in House of railroad land grant forfeitures.	167	10
Land grants to, committee directed to examine certain ques tions of law relative to	208	13
Rankin, Joseph, memorial addresses on life and character of	379	15
Receivers. (<i>See</i> Railroads.)		
Reed, Addie S., to pay salary of her husband to	293	13
Reid, John B., report of Court of Claims on claim of.....	125	10
Reporters. (<i>See</i> Newspaper correspondents.)		
Revised Statutes, Secretary of State requested to place copies of, in House library, in two parts.....	92	10
Rhone River, France, inquiry relative to improvement	389	17
Ridley, J. S., to pay balance of salary to heirs.....	216	13
Rielly, James, relative to funeral expenses of	50	10
Robb, Leander A., to pay widow, salary of.....	31	1
Ruddlesden, Maurice, resolution to pay claim of.....	159	10
Rules of House of Representatives:		
Resolution to print digest of.....	61	10
Journal Clerk directed to prepare history of	146	10
Resolution that bills introduced by request be so indicated	288	13
	6	1
	7	1
	8	1
	9	1
Proposed new rules.....	10	1
	11	1
	12	1
	13	1
	14	1
Rules adopted	16	2
	24	1
	87	10
	144	10
	160	10
	171	10
	183	13
	184	13
Proposed amendments to	205	13
	265	13
	286	13
	322	13
	324	13
	326	13
	328	13
	356	17
Ryan, James D:		
Relative to employment of, as assistant folder.....	52	10
To pay claim of	342	17
S.		
Salaries. (<i>See</i> House of Representatives; Executive Departments.)		
Santos, Julio, inquiry relative to imprisonment of.....	359	17
Signal service:		
Report of committee to investigate expenditures in.....	155	10
Testimony taken by committee relative to accounts of Chief Signal Officer	140	10

Subject.	No.	Vol.
Silver coinage:		
Relative to maintenance of equality of value of standard dollar....	93	10
Inquiry relative to silver, profit from.....	{ 275	13
	{ 381	17
Inquiry relative to retention of silver dollars in Boston sub-treasury.	182	13
Relative to recoinage of silver dollars	102	10
Resolution of Missouri legislature relative to suspension of.....	40	10
Relative to suspension of	60	10
Inquiry relative to coinage of standard silver dollars	388	17
Secretary of Treasury requested to inform House relative to.....	96	10
Sioux Indians. (<i>See</i> Indians.)		
Smith, Henry Blair, to employ, as page.....	30	1
Smithsonian Institution, annual report relative to, for 1885.....	15	25, 26
Sorghum. (<i>See</i> Sugar).		
Southern Claims Commission, relative to completion of index to reports of	376	17
Special legislation. (<i>See</i> Claims.)		
Standard dollar. (<i>See</i> Silver coinage.)		
Stanton, Edwin M., relative to remarks of Hon. Joseph Wheeler on....	{ 320	13
	{ 321	13
Stenographers, examination of claims of.....	349	17
Substitutes. (<i>See</i> Executive Departments.)		
Sugar:		
Inquiry relative to process of manufacturing sorghum and beet- sugar.....	148	10
Letter of Commissioner of Agriculture relative to manufacture of sorghum and beet-sugar.....	284	13
T.		
Tariff:		
Against revision of	51	10
Resolution to print House bill 5576, known as Morrison tariff bill...	115	10
Resolution to create board of appeals on import duties	204	13
Telegraph companies, inquiry relative to certain.....	97	10
Telephone companies. (<i>See also</i> Patents):		
Resolution to pay expenses of investigation.....	241	13
Resolution to investigate, amended.....	116	10
Resolution of inquiry relative to Bell and Pan-Electric Telephone Companies	110	10
Temperance education. (<i>See</i> Physiology.)		
Treasury Department:		
Decisions of First Comptroller in.....	69	10
	{ 228	13
Inquiry relative to employment of substitutes in.....	{ 258	13
	{ 309	13
Inquiry relative to employés in the classified civil service in	311	13
Treutlen, Charles S., to pay funeral expenses of.....	300	13
Trezevant claim, relative to payment of	58	10
Trust funds, inquiry relative to, in the Executive Departments	291	13
Twomey, John F., to pay to family salary of	99	10
U.		
Union Pacific Railroad:	{ 142	10
Resolution to investigate management of.....	{ 234	13
	{ 306	13
Relative to prosecution of officers of.....	341	17
Utah:		
Memorial of Utah legislature relative to veto power in.....	238	13
Relative to fees of United States officials in.....	318	13
W.		
War of Rebellion:		
Official records of, Series I.....	164	11
Series I, Part I	273	14
Series I, Part II.....	338	16
Records of.....	21	3

Subject.	No.	Vol.
War of Rebellion—Continued.		
Records of.....	22	4
Records of, Part I.....	371	20
Washington Gas-Light Company, committee directed to investigate charges against.....	243	13
Washington navy-yard, inquiry relative to ordnance-shop at.....	143	10
Wharton's Digest, resolution to purchase.....	{ 177 210	10 13
Wheat. (See Grain.)		
Wheeler, Hon. Joseph, relative to remarks on Edwin M. Stanton, in speech of	{ 320 321	13 13
Willamette River, Oregon, inquiry relative to navigation on.....	157	10
Wilmarth, Seth, relative to compensation for invention.....	64	10
Winters, George, to pay claim of.....	245	13
Women's National Press Association, resolution to admit, to reporter's gallery.....	378	17
Wool:		
Relative to reduction of tariff on raw wool	248	13
Relative to restoration of tariff of 1867 on.....	251	13
Y.		
Yellowstone Park:		
Report of expenditures for	163	10
Inquiry relative to leases, &c., of	{ 174 176	10 10

TESTIMONY

TAKEN BY

THE COMMITTEE

APPOINTED BY

THE HOUSE OF REPRESENTATIVES

TO

INVESTIGATE CHARGES AGAINST CERTAIN
PUBLIC OFFICERS

RELATING TO

THE PAN-ELECTRIC TELEPHONE COMPANY,

AND TO

SUITS BY THE UNITED STATES TO ANNUL THE
BELL TELEPHONE PATENTS.

COMMITTEE:

C. E. BOYLE, *Chairman*, Pennsylvania.
W. C. OATES, Alabama.
JOHN R. EDEN, Illinois.
BENTON J. HALL, Iowa.
JOHN B. HALE, Missouri.
A. A. RANNEY, Massachusetts.
STEPHEN C. MILLARD, New York.
LEWIS HANBACK, Kansas.
SETH C. MOFFATT, Michigan.

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1886.

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO, ILL. 60637

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

THE UNIVERSITY OF CHICAGO PRESS

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES, *February 26, 1886.*

Mr. Morrison, from the Committee on Rules, submitted the following, which was agreed to:

Whereas grave charges have been made, and are constantly being made, by the leading press of the country reflecting upon the integrity and official action of certain officers of the Government of the United States, therefore,

Be it resolved, That a select committee, consisting of nine members of this House, be appointed, and when so appointed said committee is hereby directed, at as early a day as possible, to make inquiry into any expenditures upon the part of the Government incurred relative to the rights of the Bell and Pan-Electric Telephone Companies to priority of patents, said inquiry to include all organizations and companies which have sprung from the Pan-Electric Telephone Company or for any other purpose; and also to make full inquiry into the issuance of stock known as the Pan-Electric Telephone stock or any stock of any other company, companies, or organization springing out of the Pan-Electric Telephone Company, to any person or persons connected at the time of such issuance with either the legislative, judicial, or executive departments of the Government of the United States, to whom, when, where, and in what amounts, and for what consideration in money, service, or influence said stock, if any, was delivered; also as to what opinions, decisions, and orders relating to said stock have been made by any officers connected with the Government, and by whom, and all the circumstances connected therewith and arising therefrom, and also as to what suit or suits, if any, have been brought in the name of the United States to test the validity of patents issued or any other right in controversy between the Bell and Pan-Electric Telephone Companies, what contracts have been made, what moneys paid or to be paid to any person or persons as assistant counsel to the Attorney-General or Solicitor-General of the United States, the reason and authority for constituting the United States as a party to said suit or suits, and all matters connected therewith. And the said committee is further authorized and directed to ascertain and report whether either of the telephone companies herein mentioned, or their officers, agents, or employes, have in any manner improperly influenced or attempted to influence officials or official action by or through the public press, and, if so, when, by whom, and in what manner such influence was exerted or attempted to be exerted, and what newspaper or newspapers were so used or attempted to be used by them. The said committee shall have the right to send for persons and papers, to administer oaths, to sit during the session of the House, to employ a stenographer, and incur any and all such necessary and reasonable expenses as may be required for the purpose of conducting the said investigation, not to exceed the sum of one thousand dollars, which shall be paid out of the contingent fund of the House, upon proper vouchers certified by the chairman and one other member of the committee, and may report at any time.

Attest:

JNO. B. CLARK, JR., *Clerk.*

IN THE HOUSE OF REPRESENTATIVES,
March 4, 1886.

Ordered, That Mr. Boyle, Mr. Oates, Mr. Eden, Mr. Hall, Mr. Hale, Mr. Ranney, Mr. Millard, Mr. Hanback, and Mr. Moffatt be the committee under the foregoing resolution.

Attest:

JNO. B. CLARK, JR., *Clerk.*

The committee appointed under the preceding resolution of February 26, 1886, consisting of—

Hon. CHARLES E. BOYLE, of Pennsylvania;
Hon. WILLIAM C. OATES, of Alabama;
Hon. JOHN R. EDEN, of Illinois;
Hon. BENTON J. HALL, of Iowa;
Hon. JOHN B. HALE, of Missouri;
Hon. AMBROSE A. RANNEY, of Massachusetts;
Hon. STEPHEN C. MILLARD, of New York;
Hon. LEWIS HANBACK, of Kansas; and
Hon. SETH C. MOFFATT, of Michigan,

met to hear testimony on March 12, Hon. Charles E. Boyle presiding. The witnesses subpoenaed to appear, viz, Dr. J. W. Rogers, J. Harris Rogers, and Hon. Casey Young, were present.

A motion was made to proceed to the examination of Hon. Casey Young, which was amended by substituting the name of J. Harris Rogers, the inventor, as the first witness.

Mr. YOUNG. Mr. Chairman, I desire to ask if I can be permitted to say a word before the inquiry proceeds further. I am somewhat awkwardly situated, it being necessary, under the circumstances which surround me, to be in a measure both counsel and witness.

Mr. RANNEY. Do you speak as counsel or witness?

Mr. YOUNG. At present, as both.

Mr. RANNEY. Then we will hear you when you come to testify.

Mr. YOUNG. I desire to say a few words now before the investigation is proceeded with.

Mr. RANNEY. Do you desire to speak as counsel?

Mr. YOUNG. If I can be heard no other way, I do.

Mr. RANNEY. Who do you appear as counsel for?

Mr. YOUNG. For the Pan-Electric Telephone Company.

Mr. RANNEY. What members of it?

Mr. YOUNG. Every member.

Mr. RANNEY. Have you authority from them to represent every member of the company?

Mr. YOUNG. I have no express authority from all of them, but I have from some. I will undertake to represent General Johnston, Senator Harris, General Atkins, and Governor Brown. I have had no conference with the Attorney-General, and have no warrant to speak in his behalf.

I desire to protest against the line of investigation which has just been indicated, and while I wish the fullest and fairest examination as the representative of those members of the company I have mentioned, I would like to be informed how the investigation is to be carried on, in what order the witnesses are to be examined, and what accusations we are to be called upon to meet. Charges of the gravest character have been made against myself and my associates in the Pan-Electric Telephone Company, and if these charges should be found true we should be disgraced in public estimation.

It has been charged through the columns of several leading newspapers, among other things, that the Pan-Electric Telephone Company had been organized for the purpose of imposing upon public credulity by floating a worthless stock upon the market and selling it to unsuspecting persons, and that those who originated the company became connected with it for the purpose of using their official influence to give a fictitious value to its stock.

It has been charged in these newspapers that while I was a member of Congress a bill was introduced in that body for the purpose of advancing the interests of this company, and that I and other members of the company lobbied for the passage of this bill.

It has also been charged that a large number of members of Congress and Senators were interested in this speculative enterprise, and that their purpose and intention was to enrich themselves by the sale of stock to which value was to be given by Congressional action.

If all this is true the persons implicated in this disreputable transaction should be branded with public infamy; but if, on the contrary, these statements are not true, if they have been wantonly made without sufficient evidence to support them, or without careful inquiry to ascertain whether or not they were based upon any tangible fact, then the issue will be changed, and public judgment may be justly appealed to to pronounce sentence upon those who originated them.

As we have been charged with these grave offenses against official propriety and public virtue, and as the resolution under which you are acting grew out of the publication of these charges, the accused have the right, I believe, to be confronted with their accuser, and to be brought face to face with the witnesses who are to testify against them.

This is a right common to every American citizen when arraigned for trial before any tribunal, and I know of no reason why the rule of law should be reversed in this case, and we be required to disprove charges before any witness has been examined to establish them or before any accuser has been produced to stand sponsor for them.

What I ask now is that our accusers shall be put upon the stand and required to establish, by competent proof, the charges they have preferred, or else retract them.

I think I have a complete and perfect defense against every charge that has as yet been preferred against us, but I do not know what others are to come. So far we are fighting an ambuscaded enemy.

I want the case of the prosecution made out, and then I shall be able, perhaps, to answer the accusation.

I think I have a right to ask that this course shall be pursued upon the part of the committee, and I so ask it in behalf of myself and those of my associates whom I assume to represent.

Mr. MILLARD said the committee was not a court to try private individuals.

After some further discussion, in which Messrs. Ranney, Millard, Oates, Eden, Hall, Hanback, and Moffatt took part, it was agreed to call Mr. Pulitzer, the editor and proprietor of the New York World, as the first witness.

TESTIMONY OF HON. JOSEPH PULITZER.

Hon. JOSEPH PULITZER sworn.

Mr. Chairman BOYLE. Mr. Pulitzer, it has been made known to the committee that you desire to make a statement on the matter now under consideration by this committee.

Mr. PULITZER. If it please the committee, I should like to ask indulgence for a few moments. My name has been connected with the publication of the facts of this investigation, and I appear before you, therefore, to say that I assume the responsibility for the publication of these facts, and that I, and I alone, am responsible for these publications. I do not know a human being, and never did, who was interested in the Bell Telephone Company. I had no motive, private or otherwise, than that arising from the feeling that the publication of these facts was in the nature of news, and I honestly believe in the nature of a public service.

No human being connected with any private or public telephone interests ever endeavored to influence me to publish anything whatever in regard to these transactions. My books and papers, private or public, are at the disposal of the committee and I am ready to present them at any time. Furthermore, while I assume the responsibility solely, I have every reason to believe that these publications, instead of being either hastily or carelessly ventured upon, were most carefully considered. I had the manuscript of the first publication for three (3) months in my pigeon hole before I published it. I instructed my correspondent here in Washington to furnish me with the exact information during the three months and to be sure to ascertain whether the facts bearing upon the statements were correct or not, and only after I had ascertained from him that he had made every effort to verify the correctness of the statements, and only after emphasizing the desire on my part to make sure, and only when a hope that I entertained that certain gentlemen, particularly one gentleman, should rid himself of the stock, which while not involving any case of venality at all, did seem to me an act of impropriety or a piece of public indiscretion; only after that hope, entertained for three months, was disappointed, and when I was assured that the facts were correct, did I publish the record. If there are any questions which the committee desires to ask in this connection, I should be very glad to be examined.

Chairman BOYLE. Mr. Pulitzer, are you a member of the present House of Representatives?

Mr. PULITZER. I am, sir.

Chairman BOYLE. What is your relation to the New York World?

Mr. PULITZER. I am editor in chief of that paper.

Chairman BOYLE. Since when; how long have you been?

Mr. PULITZER. Nearly three years.

Chairman BOYLE. You have stated that you had in your possession certain papers before their publication; to what papers do you refer?

Mr. PULITZER. I refer to the manuscript containing the history of the Pan-Electric Telephone organization.

Chairman BOYLE. Are you able to state the date at which that particular publication was made?

Mr. PULITZER. As near as I can remember the story or history of the organization, all of it in piecemeal or fragments, first came out last summer, possibly August or September, I am not very certain about it, I instructed my correspondent here, not very early, but probably after the thing began, to run through the Republican newspapers; I had taken no notice, but finally the thing became rather more serious, and I instructed my correspondent to examine into and find out what the exact facts were. That might have been about a month after the publication appeared. I should think I got his story about a month after that, and I should think I kept it about three months—five or six months from the time the original statements appeared.

Chairman BOYLE. The papers you speak of as having retained in your possession was the history prepared by your Washington correspondent. Other publications had been made prior to that?

Mr. PULITZER. Not in my paper; not in the World.

Chairman BOYLE. Nothing had appeared in the World in relation to this matter?

Mr. PULITZER. I do not think much appeared in the World until what I supposed to be the exact history; possibly some stray fugitive item of news might have appeared. They did not amount to much.

Chairman BOYLE. Have any other publications appeared in the World since the history you speak of?

Mr. PULITZER. Yes; some supplemental illustrations. I must add here that immediately upon the publication of that story or history, I instructed my correspondent here to see all the gentlemen referred to and to convey to them my particular anxiety to receive their statements or whatever corrections they might wish to make. In fact I sent that message two or three times, one-half dozen times probably, and I added to it that I would surrender any amount of space in the paper for any explanation, defense, or correction that any of these gentlemen should want to make. I know I gave that instruction frequently, and I know I received answers frequently that they would not make any statements at that time.

Chairman BOYLE. What other publications have since appeared in the World?

Mr. PULITZER. Oh, a great many on all sorts of subjects.

Chairman BOYLE. Can you indicate their general character?

Mr. RANNY. It seems to me that the rule of evidence should be observed, and that original articles should be produced.

Chairman BOYLE. Have you the publications made in the World?

Mr. PULITZER. Yes; we keep a public file.

Chairman BOYLE. Have you it here?

Mr. CRAWFORD. It is in the Congressional Library.

Mr. PULITZER. I could have it here if the Chair desires. I am just informed by my correspondent that everything has arrived this morning, and will be placed at the disposal of the Chair.

Chairman BOYLE. Can you indicate the character of any of the publications?

Mr. PULITZER. The character of what?

Chairman BOYLE. Have you published any letters purporting to be written by the parties?

Mr. PULITZER. Yes, yes; I have published a series of letters from parties forming the organization.

Chairman BOYLE. Purporting to have been written by whom?

Mr. PULITZER. Purporting to have been written by gentlemen in public life.

Chairman BOYLE. Can you name them?

Mr. PULITZER. I think I can. The Attorney-General of the United States, the head of the Department of Justice, is the chief and most important person. There are some others of minor consequence; I think, in fact, the others are not connected with the direct question of impropriety of a private interest by a public official in a peculiar organization.

Chairman BOYLE. Well, they may have been written by a public official, but did they throw any light or in any way affect the public officials?

Mr. PULITZER. I think they do; they throw a light upon the whole transactions.

Chairman BOYLE. Have you any objection to stating, Mr. Pulitzer, how these letters came into your possession?

Mr. PULITZER. Yes, sir.

Chairman BOYLE. You may state it.

Mr. PULITZER. Oh, I mean I have no objections. I received these letters from my correspondent. These, I believe, came from Mr. Rogers.

Chairman BOYLE. Which Mr. Rogers?

Mr. PULITZER. I do not know either of the gentlemen, and I never saw either of them till now; I am not familiar with either.

Chairman BOYLE. Was there published in the World what purported to be an article of agreement made by the company as to the company's stock?

Mr. PULITZER. I believe my correspondent received a copy of the article of agreement from the chief promoter and organizer of this company, Mr. Rogers.

Chairman BOYLE. Do you recollect any other papers besides the letters and articles of agreement that were published in your paper?

Mr. PULITZER. I received more papers than I published; I presume there were some papers that I did not publish because—well, I did not want to publish them. I did not want to aggravate the matter, and I might have put the story in a more disagreeable light; I only printed that which I thought was necessary to make clear the transaction. I asked these gentlemen to make an explanation; I am not aware that any of the facts printed in the paper—in the World, I mean, of course—were ever denied by the gentlemen in question.

Chairman BOYLE. As I understand you, then, sir, all papers which have appeared in the World came through the gentleman who has charge of your Washington bureau?

Mr. PULITZER. Yes, sir; I do not know any of the parties connected with the companies; I never knew a human being who held any stock, or was connected with the Bell company.

Chairman BOYLE. Does any member of the committee desire to ask questions?

Mr. RANNEY. You have mentioned your correspondent, have you any objection to name him?

Mr. PULITZER. Not at all; I have no secrets. His name is T. C. Crawford.

Mr. RANNEY. You say you took particular pains to have the facts verified?

Mr. PULITZER. I instructed him at least a half a dozen times to be perfectly certain of these facts.

Mr. RANNEY. Did you make any request of him to see these individuals?

Mr. PULITZER. I did, sir.

Mr. RANNEY. Was that before making any publication, you took pains to have them seen?

Mr. PULITZER. I do not know that he saw these parties before the publication, but I am quite sure he saw them afterwards.

Mr. RANNEY. You say the inquiry goes beyond that. We are requested to inquire whether any of the newspapers are interested.

Mr. PULITZER. Yes; I offered that resolution myself, and know all about it.

Mr. RANNEY. I desire to know if there was any other motive for offering that resolution?

Mr. PULITZER. These charges were made by responsible people in New York, and I have taken the trouble to collect all they said about it, and I propose to hand whatever I have to this committee for their guidance in this matter. I am curious to know whether there was any impropriety.

Mr. RANNEY. Do you know of any official who holds any of the Pan-Electric stock?

Mr. PULITZER. I do.

Mr. RANNEY. Do you know any member of either branch of Congress who holds any of the stock?

Mr. PULITZER. Well, I know Mr. Vest; he admits that he holds stock, and Mr. Garland, whom I like personally. I do not know of anybody outside of Congress who has any interest in this matter, except through the publications. I do not know any of the gentlemen except the gentlemen named.

Mr. HALL. Your knowledge is not personal?

Mr. PULITZER. No, sir.

Mr. RANNEY. Do you own any of the Bell telephone?

Mr. PULITZER. Do I what?

Mr. RANNEY. Own any Bell telephone stock?

Mr. PULITZER. I do not own any kind of stock in any kind of Bell or other telephone companies whatever. I do not know a human being financially connected with or interested in the Bell. No human being ever tried to influence me. As I stated in the beginning, I, and I alone, am responsible for the publication of these facts. I only printed the history after a hope entertained for three months that it might become entirely unnecessary, by the gentlemen in high official station getting rid of that stock.

Mr. OATES. I do not understand from you whether you called upon these parties before or after the publication in the World.

Mr. PULITZER. I am not quite clear on that, but I am quite clear that I instructed my correspondent to call upon them.

Mr. OATES. Do you know it from your own knowledge that he did so?

Mr. PULITZER. He told me that they called at the office of the World after the publication, and that they had no statement to make at that time.

Mr. OATES. You did state it had been done, and you testified that you instructed your correspondent so.

Mr. PULITZER. I telegraphed him about it, and I told him that they could have any amount of space. I sent word to the gentlemen concerned that they could have pages, any amount of space, to explain, correct, or say anything they pleased.

Mr. OATES. How, Mr. Pulitzer, did you first come to get this information upon the company?

Mr. PULITZER. What company?

Mr. OATES. The Pan-Electric Company. From whom did you get the first information?

Mr. PULITZER. From the newspapers. It was only after my attention had been called to it.

Mr. EDEN. Was the World the first paper that published it?

Mr. OATES. Do you remember what newspaper you first saw it in?

Mr. PULITZER. It went through the press, chiefly the Republican papers, and they suggested to me to ascertain the exact fact.

Mr. OATES. You stated that your correspondent fortunately got hold of the album of some one of the Rogers family and from that received the letters. Do you know how he obtained that?

Mr. PULITZER. Only from what he told me. I believe that he said that the organizer of the company—I believe it was Doctor Rogers—had given him that album after the first story appeared.

Mr. OATES. Did you have to pay anything for it?

Mr. PULITZER. I am glad you asked me that. I never paid a cent for that album;

but I think I did pay for the original manuscript which I received about three months before the letters; my correspondent sent in a bill for less than \$100, but not exceeding that. That is all I paid. I never paid a cent for the letters that I know of.

Mr. OATES. I understand you to say some of these letters and papers of the most damaging character were not published?

Mr. PULITZER. I did not state that I did not print the most damaging letters. I will be explicit; I do not wish to withhold anything; I want the committee to know all I know in this matter. I did not print the transcripts of the cash transactions of the company.

Mr. OATES. Was there anything damaging to the character of these men—anything that seemed to be corrupt or improper?

Mr. PULITZER. I have never said that there was anything venal in it. I have distinctly stated that I never regarded the matter in that light. I only regarded it as an indiscretion or matter of very questionable taste in high officials.

Mr. OATES. Were there any of those you did not publish which seemed to give any considerable evidence or tend largely to prove the indiscretion or improper conduct of those receiving the stock.

Mr. PULITZER. Well, those are things of impression. There are extracts from the papers I refer to not very pleasant to some persons.

Mr. OATES. Did you not publish everything that you found in that album that went, in your judgment, to prove indiscretion.

Mr. PULITZER. I did not, sir. There are certain things which strike me as perhaps not strictly within the legitimate province of a newspaper to publish. Things that seem to bear on public interests and questions, on public officials, if you please, preserving the highest honor and adhering to the highest standard of public propriety, form on line. There was another line, which seemed to be in the nature of private transactions, of what they sold and what they got; these things I excluded.

Mr. OATES. Then, you mean to say that you published only such as you thought the public ought to have, or which you considered proper.

Mr. PULITZER. I published only that which the public, from a public standpoint, could justify for the public welfare, and anything which referred to private transactions I excluded.

Mr. OATES. Have you in your control those letters which you did not publish?

Mr. PULITZER. I did not say letters. These letters did not come to me. I told my correspondent to leave out all letters of a private nature, and all letters which did not bear upon questions of interest to the public. A large number of letters of a private nature I told him to leave out. There was a large number that was never printed; that is my recollection.

Mr. OATES. I heard some one say this morning that you were going away. I make this inquiry, so that we may have these letters.

Mr. PULITZER. I shall be very glad to assist in procuring them, or to attend again at any time you may desire, though I am a very busy man.

Mr. BOYLE. Does any other gentleman wish to examine the witness?

Mr. RANNEY. Do you understand this record from the World will be produced?

Mr. PULITZER. I simply stated that this committee can have everything which I can furnish that the chairman desires.

Mr. RANNEY. These things which you did not publish are not in your possession?

Mr. PULITZER. Some of them. Some were set up in type. I will cheerfully furnish the committee the pages I had set up.

TESTIMONY OF MR. J. HARRIS ROGERS.

Mr. J. HARRIS ROGERS, sworn.

Chairman BOYLE. What is your age?

Mr. ROGERS. I am thirty-five.

Mr. BOYLE. What is your business?

Mr. ROGERS. I am an electrician.

Mr. BOYLE. Have you made some inventions in your line of business?

Mr. ROGERS. I have.

Mr. BOYLE. Can you give the date of your first patent?

Mr. ROGERS. I cannot. It was about twelve or thirteen years ago.

Mr. BOYLE. What was it?

Mr. ROGERS. Embossed telegraphy.

Mr. BOYLE. Can you state in all how many patents you have obtained?

Mr. ROGERS. I can not. Making a rough guess, I should say about forty or fifty.

Mr. BOYLE. Are you the J. H. Rogers named in the publications as having been connected with the Pan-Electric Company?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Were any of your inventions, patented or to be patented, sold to that company, or to persons who afterward figured as the Pan-Electric Company?

Mr. ROGERS. They were transferred to the Pan-Electric Company.

Mr. BOYLE. Can you name some of the inventions?

Mr. ROGERS. Some were on telegraphy, some on electric lights and burglar-alarms.

Mr. BOYLE. Was the transfer made to the corporation or to individuals?

Mr. ROGERS. It was made to a number of associates.

Mr. BOYLE. Can you name them?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Please do so.

Mr. ROGERS. Senator Garland, Senator Harris, Hon. T. C. Atkins and Hon. Casey Young, and Mr. Johnston. They were the original incorporators and associates.

Mr. BOYLE. Can you state the number of inventions that were so transferred?

Mr. ROGERS. I think there were about twenty or thirty inventions.

Mr. BOYLE. When was this transfer made?

Mr. ROGERS. In 1883.

Mr. BOYLE. At what time?

Mr. ROGERS. I think it was in March. It was in March that the documents were signed.

Mr. BOYLE. In March of what year?

Mr. ROGERS. In March, 1883.

Mr. BOYLE. Had any of these inventions been put into practical operation before the transfer?

Mr. ROGERS. We had worked them practically.

Mr. BOYLE. Had they been used by the public at all?

Mr. ROGERS. No, sir.

Mr. BOYLE. Had their success been established or proved at the time the transfer was made?

Mr. ROGERS. Most of them.

Mr. BOYLE. Will you name some of them as have been proved, such as have been transferred to the company?

Mr. ROGERS. There were some, I think, on automatic telegraphy, several in the telephonic line, also on the electric light system.

Mr. BOYLE. Were these all transferred to what afterward became the Pan-Electric Company?

Mr. ROGERS. They were all originally transferred to my associates in New York, who styled themselves the Pan-Electric Company. They contemplated getting out a broad charter to cover those points. The idea was to get out a charter which would cover the various systems; hence the name Pan-Electric.

Mr. BOYLE. You say your associates in New York. Were they the same gentlemen you named?

Mr. ROGERS. Yes, sir; the same gentlemen.

Mr. BOYLE. The transaction took place in New York, then?

Mr. ROGERS. Yes, sir. The date of signing the transaction.

Mr. BOYLE. Prior to the formal transaction, had you had interviews with the gentlemen to whom the transfer was made?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. All of them?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Have you any recollection as to who first made the suggestion of the formation of the company?

Mr. ROGERS. My father did.

Mr. BOYLE. He made the suggestion to you?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Do you know by what means these gentlemen named by you were brought into the undertaking; I mean by whom?

Mr. ROGERS. Well, to my own personal knowledge, General Atkins was the first.

Mr. BOYLE. Who spoke to him about it?

Mr. ROGERS. I and my father. We gave him a copy of the pamphlet. My father suggested the Pan-Electric Company to him, and he said he was willing to look into the enterprise.

Mr. BOYLE. Have you a copy of that pamphlet, and can you produce it?

Mr. ROGERS. I have one which is almost exactly like it.

Mr. BOYLE. Have you any recollection of a personal interview with any others?

Mr. ROGERS. Yes, sir; immediately after the suggestion was made to General Atkins, we met Senator Harris at our house in company with General Atkins. We then went over this contemplated enterprise and examined very carefully into the patents and the pamphlet, and finally, after several interviews, they agreed to go into the enterprise.

Mr. BOYLE. Was Colonel Young present at that interview?

Mr. ROGERS. I know that he was present at several interviews; but as to the first, I think he was not.

Mr. BOYLE. Can you name any others?

Mr. ROGERS. It was suggested that there would have to be other associates, and that they would like to have such men as General Johnston and Senator Garland and men of that kind, and of national reputation.

Mr. BOYLE. Who made that suggestion?

Mr. ROGERS. I do not know; either Senator Harris or General Atkins.

Mr. BOYLE. Did you have an interview with either Senator Garland or General Johnston?

Mr. ROGERS. General Johnston came to my house, and I showed him an instrument that I had in operation. Subsequently Mr. Garland called at my house.

Mr. OATES. Was Mr. Garland then a Senator?

Mr. ROGERS. I think he was.

Mr. OATES. Where was your house?

Mr. ROGERS. No 315 Four-and-a-half street.

Mr. BOYLE. Can you state the time that this project was suggested?

Mr. ROGERS. Yes, sir; it was in June, 1883.

Mr. BOYLE. Did these gentlemen agree to go into the movement?

Mr. ROGERS. Yes, sir; the transfer was made in New York.

Mr. BOYLE. Then the transfer was made afterward in New York?

Mr. ROGERS. Yes, sir; several weeks afterward we went to New York.

Mr. BOYLE. The transfer was in writing was it not?

Mr. ROGERS. It was.

Mr. BOYLE. Can you state who has the writing?

Mr. ROGERS. It was sent to General Johnston, as treasurer, and we had copies printed for each one interested.

Mr. BOYLE. Have you a copy?

Mr. ROGERS. I have.

Mr. BOYLE. You say you have a printed copy?

Mr. ROGERS. Yes, sir.

Mr. OATES. Can you state what interest these gentlemen have in the undertaking?

Mr. ROGERS. One million each.

Mr. OATES. I mean on what proportion?

Mr. ROGERS. On the basis of five million. It was the intention to capitalize the company at \$5,000,000. It was then agreed that each party named should have one-tenth interest, another tenth to be reserved for some gentleman in New York.

Mr. BOYLE. How many were there?

Mr. ROGERS. It was to be divided in ten equal parts at one-tenth each.

Mr. BOYLE. Then six of you formed a syndicate.

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Who kept the other four-tenths.

Mr. ROGERS. I kept that myself, I and my father.

Mr. RANNEY. Were there six persons, or five in addition to yourself?

Mr. ROGERS. Five persons besides myself.

Mr. MILLARD. Who were these men who were to have one-tenth?

Mr. ROGERS. Senator Garland, Senator Harris, General Johnston, Colonel Young, and General Atkins.

Mr. MILLARD. Did you give them your patents without any money?

Mr. ROGERS. I did. There was no money paid out.

Mr. BOYLE. What was the consideration for the interests in these patents and inventions to be paid by these gentlemen?

Mr. ROGERS. They were to go ahead and get out a charter covering these patents, and put them under one corporation or company, to be based upon such improvements as we might invent in the future.

Mr. BOYLE. I understand, then, that whatever value the inventions might have had was to be divided into ten parts. You were to keep four parts for your invention, and each of these gentlemen was to have one-tenth for his stock in the enterprise?

Mr. ROGERS. I and my father were as one.

Mr. HALE. Another tenth was to be placed in New York for some capitalist?

Mr. ROGERS. I did not say capitalist. I said a gentleman who was well known in the financial world.

Mr. BOYLE. They were to join you, I think you said, in monetizing and bringing it into use and making it of value?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. They were to pay no money for their interests?

Mr. ROGERS. They were not. The question of money was never opened.

Mr. BOYLE. By what means were the expenses of the company undertaking to bring these inventions into use to be paid?

Mr. ROGERS. They requested me to make a rough estimate of what would be needed to test the patents on the various lines from New York to Washington. I made the estimate, but one of the gentlemen said, "Let's assess ourselves \$150 apiece."

Mr. BOYLE. You say that was after the instrument was signed?

Mr. ROGERS. I think it was.

Mr. BOYLE. Is not that in the instrument?

Mr. ROGERS. I do not think it is.

Mr. BOYLE. Is this a copy of the original agreement?

Mr. ROGERS. This is the pamphlet upon which the original agreement was made:

"Be it known that these articles of agreement, drawn up and entered into in the city and State of New York, on this 13th of March, eighteen hundred and eighty-three, by and between James Harris Rogers, a resident of the city of Washington, in the District of Columbia; of Joseph F. Johnston, also a resident of the city of Washington, in the District of Columbia; Augustus H. Garland, a resident of the city of Little Rock, in the State of Arkansas; John D. C. Atkins, a resident of the city of Paris, in the county of Henry, in the State of Tennessee; Isham G. Harris and Casey Young, residents of the city of Memphis, in the State of Tennessee, witnesseth:

"That, whereas the said James Harris Rogers is the owner of sundry valuable improvements, discoveries, and inventions in respect to and concerning the various uses, properties, and application of electricity, as a heating, lighting, motive, transmitting, and receiving power of agency, and which said improvements, discoveries, and inventions are secured to aforesaid James Harris Rogers, by Letters Patent, already issued to him as the author thereof, or by application filed therefor, in the office of the Commissioner of Patents of the United States of America, the same being known, designated and described as follows; that is, those which are already patented, to wit:

"'An Invention, styled Embossed Telegraph,' and numbered on the books of the Patent Office in Washington City, No. 130,662.

"'An Invention for improvement of Electric Light,' numbered 216,760.

"'An Invention for a Central Telephonic System,' numbered 268,294.

"'An Invention for a Telephonic Repeater,' numbered 269,326.

"Upon all of which patents have already been granted to the aforesaid James Harris Rogers. There is also embraced in these articles of agreements the following inventions, for which applications for patents have been made, to wit:

"'An Invention for Cylindrical Automatic Telegraphy,' numbered 87,340.

"'An Invention styled a Telephonic Transmitter,' numbered 80,555.

"'An Invention styled the Duplex and Quadruplex Telegraph,' numbered 16,734.

"'An Invention styled Thermotlemetre,' numbered 16,933.

"'An Invention styled A sub-marine Cable, without Insulation,' numbered 69,966, only one-half of which last-mentioned invention is, however, included in these articles of agreement. For all of the last-mentioned inventions, applications have been filed in the Patent Office as aforesaid. And there is also embraced in this agreement the following inventions, for which no patents have been issued, nor applications made for the same; but which the said James Harris Rogers proposes hereafter to obtain, if the same can be obtained from the Commisiener of Patents, to wit: 'Igniting Gas by Dyname Machines;' 'Generating Electricity directly from Coal;' 'An Electric Burglar Alarm;' 'An Electrical Enumerator and Calculator,' and all other inventions and discoveries in electricity heretofore made by the said James Harris Rogers, the title to which still remains in him.

"And whereas the said James Harris Rogers is desirous of further developing and putting into practical working operation the improvements, discoveries, and inventions, and for the purpose of obtaining the aid and assistance in the furtherance and accomplishment of this object of the persons herein named, is also desirous of forming an association or joint stock company with the said Joseph E. Johnston, Augustus H. Garland, John D. C. Atkins, Isham G. Harris, and Casey Young.

"Now, therefore, all the above-named persons hereby mutually agree to constitute themselves an association or joint stock company, for the objects and purposes above set out, upon the following terms and stipulations:

"First. It is mutually agreed and understood by all the parties hereto, that as among themselves, the value of said improvements, discoveries, and inventions, shall be estimated at one million dollars.

"That this amount shall be divided into ten (10) equal parts or shares, four of which are to be held and owned by the said James Harris Rogers, and one (1) each by the said Joseph E. Johnston, Augustus H. Garland, John D. C. Atkins, Isham G. Harris, and Casey Young; and the other part or share shall be jointly held by the company to be disposed of in such a manner as the members thereof think fit.

"Second. It is further mutually agreed by the parties to this agreement, that they will, as soon as the same can be done, procure a charter of incorporation, constituting themselves a corporate body, under the name and style of the 'Pan-Electric

Company," embracing under such charter of incorporation such objects and power as they may deem proper and as are allowed to incorporated bodies under the laws of the State of New York, or of any other State in which said charter of incorporation may be obtained.

"Third. It is also agreed that when the aforesaid persons are incorporated as a corporate body, as hereinbefore provided, all the capital stock of said corporation shall be the joint property of this company; and it may issue, sell, or otherwise dispose of so much thereof as they may see fit, provided that no individual member shall dispose of any interest acquired under these articles of agreement at less than the face value thereof without the assent of the executive committee, hereinafter provided for.

"And all interest, jointly held by the company, and which may be sold as aforesaid, and disposed of by direction of the aforesaid executive committee, shall be sold for the joint benefit of the company.

Provided further, That the said James Harris Rogers shall have the right to dispose of, to such persons as he may see fit, an interest in the property of the company hereinbefore enumerated, amounting to the sum of one hundred and seventy thousand dollars (\$170,000) upon the basis of a capital stock of five millions of dollars (\$5,000,000).

"Fourth. It is also further stipulated and agreed that the aforesaid parties to this agreement may admit others to membership in this Association or company upon such terms and conditions as they may prescribe; it being understood that they are the joint owners of all the properties, rights of franchises herein set out or referred to.

"Fifth: And it is also agreed that until the said charter of incorporation shall be procured, the company organized, and the board of directors elected, thereunder, there shall be chosen from the persons above mentioned an executive committee of three, who shall conduct the business and affairs of the company, and direct the doing of such things as may be needed to do for the furtherance of the objects herein set out. And any expense incurred for the doing of the same, may assess pro rata upon the members of the company to the amount of one hundred and fifty dollars (\$150) each; and no greater sum shall be assessed without authority from a majority of the members.

"And should any member be unwilling to pay the amount which may be assessed against him as aforesaid, he may withdraw from the company upon such terms as the remaining members thereof may impose, or he may be expelled by a majority vote; the persons so withdrawing, or being expelled, shall, however, be acquitted of all liability to the company or on its account.

"Sixth. The parties to this instrument hereby stipulated and agree to pay in the manner, and to the amount hereinbefore specified, the expense which may be necessarily incurred in perfecting the inventions, discoveries, and improvements herein set out, and in practically demonstrating their uses and value.

"Seventh. And in consideration of the last preceding article, it is stipulated and agreed by the said James Harris Rogers that any improvements which he may hereafter make upon any of the discoveries or inventions embraced in this instrument, or any further inventions or discoveries which he may make that are necessary to perfect those already made, applied for, or in contemplation, shall be the joint property of the Pan Electric Company, provided, however, that the company shall pay any expense he may incur in making the same.

"Eighth. The executive committee hereinbefore provided for, shall have the power, if in their judgment the same shall become necessary for the furtherance of the objects and purposes of this Association to agree with other parties to sell them such interest in the properties of this company or association as they may see proper, giving such persons a written or printed certificate, in which it shall be stipulated that the purchasers of such interest shall receive therefor a certificate for such share or shares of stock in the Pan-Electric Company, when organized, at such valuation as the said executive committee may determine upon.

"And it is agreed that said executive committee shall consist of Joseph E. Johnston, James Harris Rogers, and Casey Young.

"Ninth. The domicile or place of business of this company or association shall for the present be in the city of Washington, District of Columbia.

"Tenth. These articles of agreement may be altered or amended at any time at the option of two-thirds of the parties in interest.

"In witness of all of which we have hereunto fixed our seals, in the city and State aforesaid, on the day and date above written.

"JAMES HARRIS ROGERS, [SEAL.]

"JOSEPH E. JOHNSTON, [SEAL.]

"By his attorney-in-fact, ISHAM HARRIS.

"A. H. GARLAND, [SEAL.]

"By his attorney-in-fact, ISHAM G. HARRIS.

"JOHN D. C. ATKINS, [SEAL.]

"ISHAM G. HARRIS, [SEAL.]

"CASEY YOUNG." [SEAL.]

Mr. BOYLE. Have you a copy of the agreement?

Mr. ROGERS. I think I have.

Mr. HANBACK. Let us have the agreement. We do not care for the pamphlet.

Mr. ROGERS. Shall I look for it [rising]?

Mr. BOYLE. Certainly.

Mr. J. W. Rogers read the first agreement of J. D. C. Atkins and others, with J. H. and J. W. Rogers. (See original copy marked No. 1.)

Mr. BOYLE. Mr. Rogers, were Senator Garland and General Johnston present in New York?

Mr. ROGERS. No, sir.

Mr. BOYLE. Do you know, sir, whether at any time they paid the amount stated in the agreement?

Mr. ROGERS. Yes, sir; I think it amounted to \$1,100. In the course of three or four months they sent each individual his pro rata of the expenses, and I paid for my own four-tenths.

Mr. BOYLE. I understand these expenses were incurred in testing the value of the patents.

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Do you consider them of value?

Mr. ROGERS. Inventors generally do.

Mr. BOYLE. It sometimes turns out that they are mistaken; what is expected to be of great value proves of little use.

Mr. ROGERS. Yes, sir.

Mr. BOYLE. That happens more frequently than the contrary?

Mr. ROGERS. Oh, yes.

Mr. BOYLE. Do you know whether the company was afterward incorporated or their charter obtained?

Mr. ROGERS. No, sir.

Mr. BOYLE. Never was?

Mr. ROGERS. No, sir.

Mr. BOYLE. Was there ever any stock issued by the association?

Mr. ROGERS. I do not know really what stock means exactly. Senator Vest bought an interest in the Pan-Electric. He bought one thousand shares, at ten dollars per share, in the original Pan-Electric, which carried with it the same proportion in the Pan-Electric Telephone and Pan-Electric Telegraph.

Mr. BOYLE. I understand that two companies were formed?

Mr. ROGERS. Yes, sir; two companies were taken out of the original one and chartered.

Mr. BOYLE. By the same gentlemen to whom the transfer was made?

Mr. ROGERS. Yes, sir.

Mr. EDEN. What were the names of the companies?

Mr. ROGERS. The Pan-Electric Telephone and the Pan-Electric Telegraph. Subsequently another company came in.

Mr. BOYLE. They came in through these gentlemen?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Then you had three companies instead of two?

Mr. ROGERS. Yes, sir; the Pan-Electric Telephone, Pan-Electric Telegraph, and the Pan-Electric Company.

Mr. BOYLE. Were there any certificates of stock issued by these companies?

Mr. ROGERS. Yes; certificates have been issued by the Pan-Electric Telephone and the Pan-Electric Telegraph Companies.

Mr. HANBACK. Now we have come to the point where we want the books.

Mr. RANNEY. I do not want to be technical, but it would be better to show the books.

Mr. BOYLE. The stock that you say was issued, was it delivered to the several parties?

Mr. ROGERS. I suppose so. I think the original interest was simply given on the books. I subsequently received my telephone stock.

Mr. BOYLE. Four-tenths of the capital of five million?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Did Gov. Brown come in through you, or, in other words, did you sell him part of your interest?

Mr. ROGERS. He received part.

Mr. BOYLE. Was that Pan-Electric stock or Pan-Electric Telephone?

Mr. ROGERS. Yes, sir; it carried that with it.

Mr. BOYLE. How much did Governor Brown pay you?

Mr. ROGERS. He did not pay anything, to my knowledge.

Mr. BOYLE. What was the consideration for giving him an interest, then?

Mr. ROGERS. The same consideration as the other gentlemen.

Mr. MOFFATT. How much did you transfer to Senator Brown?

Mr. ROGERS. One hundred thousand. It was Governor Brown, not Senator Brown. He is attorney for the Missouri and Pacific, with headquarters in Saint Louis.

Mr. BOYLE. How much was transferred to Mr. Looney?

Mr. ROGERS. One-sixth of the whole enterprise.

Mr. BOYLE. Then he became a larger stockholder than any of the original corporators, excepting yourself?

Mr. ROGERS. Yes, excepting myself.

Mr. BOYLE. Out of what interest was that taken?

Mr. ROGERS. Out of mine.

Mr. BOYLE. What did Mr. Looney pay you?

Mr. ROGERS. I do not know exactly. I think it was mining stock.

Mr. BOYLE. Then it was an exchange of stock—he paid you in other stocks. Have they any value?

Mr. ROGERS. Not any great value.

Mr. BOYLE. Do you remember the face value of the stock transferred to you by Mr. Looney?

Mr. ROGERS. I do not.

Mr. BOYLE. Did you not take any account of that?

Mr. ROGERS. No; I thought they were of value.

Mr. BOYLE. Who is Mr. Looney?

Mr. ROGERS. A gentleman from Memphis, Tenn.

Mr. RANNEY. How does he spell his name?

Mr. ROGERS. Looney.

Mr. BOYLE. Did you sell any part of your stock to any other person?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. To whom?

Mr. ROGERS. I do not remember. My father attended to all that.

Mr. BOYLE. He can enlighten us?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. I want to ask you, sir, whether it was at your instance or at the instance of your father that the stock was issued?

Mr. ROGERS. You mean the Pan-Electric Telephone?

Mr. BOYLE. Yes, sir.

Mr. ROGERS. It had been frequently urged from the signing of the contract that stock should be issued for the original Pan-Electric.

Mr. BOYLE. Upon whom did you urge it?

Mr. ROGERS. Upon the members of the board, excepting Colonel Young.

Mr. BOYLE. Did they consent?

Mr. ROGERS. No, sir; they were endeavoring to get the charter out.

Mr. BOYLE. What reason did they give for not issuing the stock?

Mr. ROGERS. General Johnston urged that he could see no advantage in issuing the stock until they had made the test on the line from New York to Washington; and subsequently General Johnston told me, coming from Richmond, that the company would not issue stock.

Mr. BOYLE. Do you remember any other person to whom you sold stock?

Mr. ROGERS. There was Jacob Thompson; we sold to him about five or ten thousand dollars' worth.

Mr. BOYLE. To whom did that money go?

Mr. ROGERS. To Mr. Looney and ourselves; he was our agent, and we reimbursed him one-half of the amount sold, in stock; we got half the money.

Mr. BOYLE. Senator Vest seems to have purchased some stock?

Mr. ROGERS. So I was informed.

Mr. BOYLE. Whose stock was that?

Mr. ROGERS. It was taken from the company's stock.

Mr. BOYLE. And that money went into the company's fund?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Do you know of the company selling any other stock?

Mr. ROGERS. Yes, sir. Senator Harris wanted two friends of his to buy some.

Mr. BOYLE. Do you know what was the price paid?

Mr. ROGERS. I think it was agreed at \$5 per share. They were two ladies that Senator Harris wanted to make some money on it.

Mr. BOYLE. Do you know how much the ladies were favored with?

Mr. ROGERS. Twenty-five hundred, I believe.

Mr. BOYLE. What do you mean by five?

Mr. ROGERS. Five dollars per share.

Mr. BOYLE. The par value, I understand, was one hundred?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. And you say the ladies paid \$2,500?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. The whole amount of cash paid, as I understand you, was \$2,500?

Mr. ROGERS. Yes, sir; that was my impression. It was the company's stock, and that money went into the company's treasury.

Mr. BOYLE. Do you know of any other parties interested selling their individual stock?

Mr. ROGERS. I do not.

Mr. BOYLE. So far as you know, no stock was sold, except your own and the company's?

Mr. ROGERS. Yes, sir; I remember a gentleman Senator Harris spoke of; he is from Tennessee. I think he paid \$500.

Mr. BOYLE. Do you know his name?

Mr. ROGERS. No; I do not.

Mr. HANBACK. You know his name, but you cannot recall it?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Do you know of any sales of territory?

Mr. ROGERS. Yes; I have been informed that certain States would be sold.

Mr. BOYLE. Do you know of your own knowledge?

Mr. ROGERS. I have seen the papers and leases for certain States—Missouri, Tennessee, Illinois, Texas, Alabama, and other States that I cannot place.

Mr. BOYLE. Can you name the parties to whom the sales were made?

Mr. ROGERS. Saint Louis was sold to General Boyle.

Mr. BOYLE. Can you state what was paid for these rights?

Mr. ROGERS. I cannot now exactly remember; generally \$5,000 or \$10,000 in addition to a royalty and a certain proportion of their local stock. There may have been some slight difference, but they are the three things which we generally required. On some occasions we dispensed with the royalty.

Mr. BOYLE. Who purchased Pennsylvania?

Mr. ROGERS. My father and I, and paid the Pan-Electric Company a royalty on each instrument. I know scarcely anything about the business, except what I have told.

Mr. BOYLE. Did you put these inventions in practical operation in Pennsylvania?

Mr. ROGERS. Yes; we established a local company at Mauch Chunk.

Mr. BOYLE. Did you sell any stock? In what way did you operate?

Mr. ROGERS. We began to put up instruments, thirty or forty of them on the Lehigh Valley Railroad.

Mr. BOYLE. Did you organize a stock company for operation at Mauch Chunk?

Mr. ROGERS. Did you ask me if I sold any stock? The company did not sell any stock.

Mr. BOYLE. Who formed the company?

Mr. ROGERS. Robert B. Klotz, H. D. Money, Frank Armstrong, General Denver, Mr. Manning, and Mr. Cox.

Mr. OATES. Will you state, sir, the capital of this Mauch Chunk company?

Mr. ROGERS. Five million dollars (\$5,000,000.)

Mr. BOYLE. Do you know how much money came through the hands of yourself and father?

Mr. ROGERS. I do not think any money came in.

Mr. BOYLE. How were you paid then?

Mr. ROGERS. We let these men come in without the payment of any money.

Mr. BOYLE. And you never received any money from the Mauch Chunk company?

Mr. ROGERS. Never.

Mr. BOYLE. How many dividends were paid by the Pan-Electric Company, or Pan-Electric Telephone Company?

Mr. ROGERS. Three or four.

Mr. BOYLE. Do you know what they aggregated?

Mr. ROGERS. No, I do not; but the books will show that.

Mr. RANNEY. What were the dividends paid out?

Mr. ROGERS. From ten to thirteen thousand.

Mr. RANNEY. What I want to know is whether the money was obtained by sale of shares?

Mr. ROGERS. By selling rights.

Mr. BOYLE. You say as much as ten or twelve thousand was distributed at one time?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Can you name any other amounts?

Mr. ROGERS. No, sir.

Mr. BOYLE. Did you establish any other company in Pennsylvania?

Mr. ROGERS. No, sir.

Mr. BOYLE. In any other State?

Mr. ROGERS. No, sir.

Mr. BOYLE. Do you know of your own knowledge of any other company having been established?

Mr. ROGERS. Not to my own knowledge.

Mr. BOYLE. As I understand it, the parent company never realized anything from the transfer of the State of Pennsylvania to you and your father?

Mr. ROGERS. No, sir.

Mr. BOYLE. Were these dividends on the Pan-Electric telephone?

Mr. ROGERS. On the Pan-Electric telephone. They are just as different as the Pan-Electric Company from any other company.

Mr. HALL. What is the aggregate amount received?

Mr. ROGERS. I am not posted and cannot say.

Mr. HALL. What was the gross amount?

Mr. ROGERS. I would say about thirty or fifty thousand dollars.

Mr. BOYLE. All of that was realized from the sale of rights?

Mr. ROGERS. No, sir; not all from the sale of rights.

Mr. BOYLE. Well, then, it was all received from the sale of territory.

Mr. ROGERS. Yes, sir.

Mr. BOYLE. In making these sales, Mr. Rogers, did you believe the thing to be of value?

Mr. ROGERS. I did, sir; we believed what Mr. Garland said as the lawyer.

Mr. BOYLE. What was involved in the opinion of the lawyer?

Mr. ROGERS. We depended in a great measure upon that, because Bell claimed the right to the exclusive use of electricity for transmitting articulate speech.

Chairman BOYLE. You do not gather my question. If the Bell claim should not be sustained by the courts, what would be the effect upon your inventions; would they be valuable or otherwise?

Mr. ROGERS. It would greatly enhance their value.

Mr. RANNEY. If this Bell telephone should be defeated, it would increase the value of yours?

Mr. ROGERS. Most assuredly.

Chairman BOYLE. Otherwise your claims would be valueless?

Mr. ROGERS. Yes, sir.

Mr. MOFFATT. You say that you depended upon the opinion given by Senator Garland as your attorney, in particular; upon what else did you depend in that respect?

Mr. ROGERS. Well, as we had a superior instrument, we thought we might be able to sell it to the Bell company.

Mr. MOFFATT. Did you have the opinion of any other attorneys?

Mr. ROGERS. Senator Harris.

Chairman BOYLE. Do you remember having the opinion of some gentlemen in this city—some patent lawyers?

Mr. ROGERS. Not in behalf of the Pan-Electric, but in behalf of another company; we had the opinions a number of years ago.

Chairman BOYLE. Can you name your attorneys in regard to the validity of the patents of the Pan-Electric Telephone Company?

Mr. ROGERS. Mr. Noyes, of this city, gave an opinion, and Mr. Smith, but it has been so long ago I have almost forgotten.

Chairman BOYLE. Did they agree with the opinion given by Mr. Garland?

Mr. ROGERS. Yes, sir; that our patents did not infringe their patents.

Mr. HALE. I would like to ask a question.

Mr. ROGERS. Yes, sir.

Mr. HALE. Do you know anything about the bringing of this suit some time last summer against the Bell Telephone Company?

Mr. ROGERS. Yes, sir; I heard of it.

Mr. HALE. You remember the bringing of the suit. Was there any conversation in regard to the bringing of the suit?

Mr. ROGERS. Yes; one conversation in regard to the bringing of the suit. I had that with Colonel Young the first time.

Mr. HALE. Was that between Colonel Young and yourself?

Mr. ROGERS. Yes, sir.

Mr. HALE. About what time was that?

Mr. ROGERS. I do not remember the exact date. He came to our house on Four-and-a-half street and told us that the Government had resolved to bring suit.

Mr. OATES. Was that last year?

Mr. ROGERS. Yes; he said to us that the Government had begun suit. My father asked him whether the Attorney-General had not promised to bring suit. He said yes, that Mr. Garland had, and father said, well, if Garland has promised to bring suit he will do it. Colonel Young told us, however, that Mr. Garland felt a delicacy in conducting the suit, and that everything was to be left to Mr. Goode. It was all to be turned over to Mr. Goode.

Mr. HALE. You say that Colonel Young told your father that Garland had promised to bring suit?

Mr. ROGERS. Yes, sir; but I do not remember his exact words. He told him that he was to do it. Am I to state everything that was said on that occasion?

Several MEMBERS. Yes, state everything.

Mr. ROGERS. Colonel Young stated that that was all right; that Goode was a friend.

Chairman BOYLE. I did not exactly understand that.

Mr. ROGERS. He told us that Goode was our friend, or that he was friendly towards us, or, in substance, that he would do what was right, and I believe he said he would rather have Goode than Garland.

Mr. HALE. How soon was the suit brought?

Mr. ROGERS. Probably in a month.

Mr. HALE. Where was the suit brought in the State?

Mr. ROGERS. It was brought in Tennessee.

Mr. HALE. Nashville or Memphis?

Mr. ROGERS. I really do not know.

Mr. HALE. Do you know whether Mr. Garland was here when the suit was brought?

Mr. OATES. I did not hear your question, Mr. Hale.

Mr. HALE. I asked him whether Mr. Garland was here when the suit was brought?

Mr. ROGERS. I do not remember.

Mr. HALE. After the suit was brought, and the question was raised in the newspapers, did you have any conversation with the other members of the company? You remember that the suit was brought in Tennessee—well, after that suit was brought, did you have any conversation in regard to what was to be done?

Mr. ROGERS. No, sir; I do not think so; I do not remember it. I spoke to Senator Harris, privately, on one occasion. He spoke of the suit and spoke of it when it was pending in the Patent Office. We had a conversation as to that.

Mr. HALE. Now, did you have any conversation with any of the leading corporators about that time?

Mr. ROGERS. No, sir.

Mr. HALE. After the suit was dismissed, did you have any other conversation with the corporators?

Mr. ROGERS. I spoke to Senator Harris, and we talked of the possibility of Goode's calling on the suit in the event of the Patent Office deciding against us.

Mr. HALE. After the suit was dismissed did you have some talk of bringing another suit?

Mr. ROGERS. After the suit was dismissed we had another conversation.

Chairman BOYLE. That was while it was pending in the Interior Department?

Mr. ROGERS. Yes, sir.

Mr. HANBACK. After it was dismissed he said he had this conversation with Senator Harris.

Mr. ROGERS. Yes; I spoke to Senator Harris. I also had a conversation with Colonel Young.

Mr. HALE. In regard to the first suit?

Mr. ROGERS. Yes; he sent for me and told me that there were some parties at the Ebbitt House, and that they were anxious to consolidate with us in a company, formed on some of my original patents, as the National Improvement Company. He told me that they wanted our organization, and that they were very wealthy, and that we wanted their money. In other words, that we needed their cash and testimony that they had collected. He said to me that they had accumulated seventy-five thousand dollars worth of testimony in Europe in regard to the telephone, and that if we would consolidate with them they would give us the benefit of their testimony for the purpose of carrying on the suit.

Mr. OATES. For what purpose?

Mr. ROGERS. For carrying on the suit against the Bell Telephone Company.

Mr. OATES. So as to decide the validity of that patent?

Mr. ROGERS. Yes, sir. This was about the 1st of July. I cannot give the exact date. Colonel Gamp was at the Ebbitt House.

Chairman BOYLE. They wanted you to unite your force with the company that had the money?

Mr. ROGERS. Yes, sir; with the company that had already invested the money.

Mr. HALE. Did you go to the Ebbitt House?

Mr. ROGERS. No, sir. He suggested to me that they did not want my father there, so I never went. I went over to the office and told him to stay there until I returned, so that in case my father did not find me there he could come to the Ebbitt. The colonel said he thought they did not want the old man; that they were angry with him, and for me to keep him away. They hated my father because he called their enterprise "a small institution."

Mr. HALE. Who was present during your conversation in regard to Mr. Garland?

Mr. ROGERS. My father and Colonel Young.

Mr. HALE. That was at your residence?

Mr. ROGERS. Yes, sir; that was at our residence.

Mr. OATES. Mr. Rogers, to what extent is there conflicting interests between the Pan-Electric Company and the Bell Telephone Company?

Mr. ROGERS. The Bell Telephone Company claimed the exclusive right of transmitting articulate speech by the use of the current of electricity, no matter how the instrument is made. If I should take that water-cooler over there and by the aid of electricity make it talk, the Bell people would claim that you were infringing their patents, contesting that they have the sole right to transmit articulate speech. They acknowledge that you might not infringe any of their instruments, neither transmitters or receivers, but if you use the current of electricity in that way you are infringing their patent.

Mr. OATES. Then the conflict of interests between the Bell Company and the Pan-Electric Company is measured by the Pan-Electric Telephone Company. That is the only part of the company that is in conflict with the Bell Company?

Mr. ROGERS. Yes, sir.

Mr. OATES. That part of the company is in conflict with the Bell Company?

Mr. ROGERS. Yes, sir.

Mr. HALE. Mr. Rogers, there has been some testimony that you turned over some letters to the correspondent of the New York World. About what time was that?

Mr. ROGERS. Two months ago.

Mr. HALE. Under what circumstances? What was the motive?

Mr. ROGERS. There was an article in the World stating that I had been dismissed from the Pan-Electric Company, for reasons that it is not worth while to mention—and there were several paragraphs that did not please me very much—and at a meeting of the board that night I suggested the propriety of my answering that charge, that I had sold my patents a second time. A New Orleans paper said that Rogers had sold his patents a second time, first to the National Improvement Telephone Company, and then subsequently that he had gulled all these Senators into the enterprise and got their money for the same patent. At that time Senator Harris got me to write an answer, and got Mr. Marble to look into the affair, and he became convinced that there was no truth in it. Subsequently I requested them to come out in a card, and they refused. My father said we were capable of answering it ourselves, and we went to the World office, and I turned over the book and papers the next day.

Mr. HALE. Did you regard that as a vindication of yourself or the other gentlemen?

Mr. ROGERS. In vindication of myself and my father, that we had not got up a Credit Mobilier. My object in giving these papers and books to the gentleman was that if there was anything like a Credit Mobilier in them to let it come out.

Mr. HALE. Were your relations friendly with these gentlemen?

Mr. ROGERS. With all of them except Colonel Young.

Mr. HALE. Then you turned the papers all over?

Mr. ROGERS. Yes, sir.

Mr. HALE. Did you tell the reporter the reason for this?

Mr. ROGERS. I told him that if there was any Credit Mobilier, there it was.

Mr. HALE. Did you tell him anything of these other gentlemen?

Mr. ROGERS. Yes, sir; I told him they had refused to vindicate me.

Mr. BOYLE. Was that after some of the publications had appeared in some of the papers.

Mr. ROGERS. Yes, sir.

Mr. HALE. Are your relations friendly now?

Mr. ROGERS. I suppose not. I have no feeling, however, against them.

Mr. HALE. You were indignant at their conduct towards you?

Mr. ROGERS. Yes, sir; that was not all. I said at the meeting of the Board that some one of the gentlemen had given this information to the World, for I could not imagine how the World could get it unless some one of the directors had given it. I mentioned that Colonel Young had been there the day before, and I thought it was he who had furnished the thing.

Mr. RANNEY. You spoke of your company not having any money. What became of the money you received?

Mr. ROGERS. There may have been five or ten thousand dollars.

Mr. RANNEY. Did you know anything about proposed legislation in the Forty-eighth Congress.

Mr. ROGERS. Of course we thought it possible that a postal bill would be adopted by the Government, and we were interested in the Government adopting our telegraph. I had an interview with Senator Harris in regard to legislation, as to how he would feel or act—if he had any delicacy if the postal bill was brought up in the Senate. He said none in the least. That he would rise in the Senate and state that he was interested in telegraph companies, and if the committee would consider such interest sufficient to disbar him from voting he would not vote.

Mr. RANNEY. How soon after you came into it that this project was formed?

Mr. ROGERS. I did not say that any project was adopted. There were several bills pending, and in the event the whole affair should be referred to a committee we

wanted to come in with our instruments and leave it to the committee to judge of their efficiency.

Mr. RANNEY. You say that bills were pending?

Mr. ROGERS. So I read in the newspapers.

Mr. RANNEY. Did you and your associates talk over that matter of the Government postal telegraph system?

Mr. ROGERS. I think we had spoken of it in a casual way. We never at any meeting of the company had a conference in the matter.

Mr. RANNEY. Did you talk over the question whether some legislation was necessary in order to effect the Bell patent?

Mr. ROGERS. No, sir.

Mr. RANNEY. Were you present when they talked over how the law then stood?

Mr. ROGERS. The first I ever heard of it was told me by my father. He had read it in the newspaper that Attorney-General Brewster had rendered a decision in regard to the telephone.

Mr. RANNEY. Do you know of any proceedings in the Forty-eighth Congress?

Mr. ROGERS. Mr. Young told me that somebody had prepared a bill in reference to the postal-telegraph company.

Mr. RANNEY. Did Mr. Young ever say anything to you as to the proceedings in Congress?

Mr. ROGERS. No, sir.

Mr. MILLARD. Mr. Rogers, you spoke of Mr. Garland's opinion; was it rendered after the date of his interest?

Mr. ROGERS. I do not know; I have it in my book.

Mr. MILLARD. What I desire, Mr. Rogers, is this: When this opinion was rendered by Mr. Garland, he was a Senator of the United States. It was not the judicial opinion—judge of any court.

Mr. ROGERS. No, sir.

Mr. MILLARD. Was the opinion rendered by him after he had become interested in the company?

Mr. ROGERS. Yes, sir.

Mr. MILLARD. After his interest had been assigned him?

Mr. ROGERS. Yes, sir.

Mr. MILLARD. Under what circumstances did he come to render an opinion?

Mr. ROGERS. I do not know, of my own knowledge.

Mr. MILLARD. Well, what action was taken upon the rendition of that opinion?

Mr. ROGERS. I do not know that any action was taken.

Mr. MILLARD. Was not that opinion printed at the expense of the company?

Mr. ROGERS. Not by the Pan-Electric Company. It was printed by our Pennsylvania company. The Pan-Electric had nothing to do with it.

Mr. HANBACK. You said that you relied upon that opinion as to the value of it?

Mr. ROGERS. Certainly.

Mr. MILLARD. Can you give us any intimation that would lead as to when that opinion was given out?

Mr. ROGERS. A party was here from New York to buy, and he addressed a letter to Senator Garland asking for his opinion, and after that opinion the purchase was made.

Mr. MILLARD. The Pan-Electric was organized in the State of New York; do you know under what statute?

Mr. ROGERS. The Pan-Electric never was organized; we never had it chartered to this day.

Mr. HANBACK. Did you say that this gentleman—Mr. Myers—is in the city? Do you know his address?

Mr. ROGERS. I can get it for you.

Mr. BOYLE. Have you other letters besides those published?

Mr. ROGERS. I have.

Mr. BOYLE. Will you produce them?

Mr. ROGERS. Well, I have other letters here in the scrap-book with other matters.

Mr. BOYLE. Can you not give us the letters relating to the Pan-Electric? I believe that all the letters relating to the matter should be produced.

Mr. ROGERS. I have them here.

Mr. BOYLE. Mr. Rogers, I understand you to say you have no personal knowledge as to the opinion given by Mr. Garland. Was the opinion given by Mr. Garland as the attorney of your company?

Mr. ROGERS. I do not know.

Mr. BOYLE. Have you a copy?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Bring it here to-morrow morning.

Mr. OATES. Mr. Rogers, what is the present value of your telephone stock?

Mr. ROGERS. It has not any market value; there never was any of it enlisted upon the stock market.

Mr. HALL. At the time that Senator Garland gave his opinion on the telephone company was it known that he was interested?

Mr. ROGERS. I do not know.

Mr. BOYLE. Are not the other inventions of value without regard to the contest with Bell about the telephone?

Mr. ROGERS. Yes, sir.

Mr. MOFFATT. It was understood that there was a question between your inventions and the Bell Telephone Company.

Mr. ROGERS. Yes.

Mr. MOFFATT. You have stated that one element in the value of your patent depended on your success in selling.

Mr. ROGERS. Yes, sir; and Senator Harris carried on a correspondence with them for several weeks, and Mr. Vail told me that we asked entirely too much for our inventions.

Mr. MOFFATT. Who is Mr. Vail?

Mr. ROGERS. He is in the Bell Telephone Company.

Mr. HANBACK. What did you ask?

Mr. ROGERS. Well, we were up in the millions.

Mr. MOFFATT. When was that negotiation?

Mr. ROGERS. About two years ago.

MARCH 13, 1886.

The committee met according to adjournment.

Present: Messrs. Boyle, Oates, Hall, Millard, Hanback, and Moffatt. Messrs. Ranney, Hale, and Eden subsequently appeared.

J. HARRIS ROGERS continues:

Mr. Chairman, I brought with me the papers you requested me to bring. I have taken out such letters as were of a private nature. There may be some still left, but I leave it with the committee that if they find it they will not publish anything of that kind.

Mr. MILLARD. What letters are these?

Mr. ROGERS. They are letters from each of the persons interested in the Pan-Electric matter.

Mr. BOYLE. Were these letters written in reply to letters from yourself?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. And did you make reply to some of these letters?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Have you copies of your own letters?

Mr. ROGERS. I have not.

Mr. BOYLE. Have you any other papers pertaining to the Pan-Electric transactions?

Mr. ROGERS. Not that I know of. I have papers relating to different transactions.

Mr. MILLARD. What transactions?

Mr. ROGERS. To sales and trades that we have made.

Mr. MILLARD. Will you name them?

Mr. ROGERS. Well, my father conducted all of these. I can bring them if you would like to see them.

Mr. MILLARD. You say your father conducted the transactions as your assistant or attorney.

Mr. ROGERS. Yes, in his capacity as counsel and some time on his own account, independent of either my interest or the association's interest.

Mr. HANBACK. Wait a minute. You say you have papers showing transactions of sales of interests and different contracts that have been made and that you can furnish them.

Mr. ROGERS. I can if you so desire?

Mr. MILLARD. Are you speaking of your own interests or of the company.

Mr. ROGERS. I am speaking of my own private interests.

Mr. MILLARD. Nothing in connection with the Pan-Electric Company than your own private papers in that case.

Mr. ROGERS. No, sir. I would like to make a suggestion at this point. The gentlemen asked me yesterday that I should repeat the whole conversation that occurred with Colonel Young bearing upon the Government bringing the suit. I overlooked one point that I will repeat if you think it worth while. During that visit Colonel Young asked me to go to the telephone office to see Mr. Gardner.

Mr. MILLARD. Mr. Gardner you say?

Mr. HANBACK. Who is Mr. Gardner?

Mr. ROGERS. He is the secretary of the Washington Telephone Company. Before going he said to me, "Do not mention the fact of this suit to any one," referring to conference he had with me, both at my house and in his room, that I spoke of yesterday. When we went to Gardner's room, from what he said I understood that he knew all about it. We talked about the Government bringing suit. When I returned I said to Colonel Young, "How is this? You told me not to mention this, and the very first man I met after I left your room seems to know all about it." He said, "Confound it! I told Bradley Johnson and Henkle, and I suppose it was so good that they could not keep it."

Mr. BOYLE. Was any one present at the conversation between yourself and Colonel Young?

Mr. ROGERS. I do not remember.

Mr. MILLARD. How about the first conversation?

Mr. ROGERS. No one except my father—that is the time that Colonel Young said Garland had promised to bring suit. There was a colored boy in the room during part of the time we were there. He may have been sitting in the room at the time. I have no distinct remembrance of his being present. It was Colonel Young's room.

Mr. HANBACK. I want to ask you a question. You stated yesterday that at the last meeting, and before handing up certain papers to the correspondent of the New York World, you spoke of a difficulty between yourself and Colonel Young; will you state that difficulty?

Mr. ROGERS. We spoke of this publication, and something was said about General Boyle, who was on here to buy interests in the Northwestern States, and I suggested that I had heard that General Boyle had stated to me, as coming from Young, that some of my patents were interferences on the United Bell Telephone Company. He said, "Yes; I have come to that conclusion." I remarked that he was not a very fine judge, or something to that effect, and that after my explanation to him of the various telephone instruments through a series of weeks, at the last interview he did not know the difference between a transmitter and a receiver. He said something about me not knowing what I was talking about, and called me a liar. I arose and knocked him down. General Atkins took charge of Colonel Young, and I walked out with Colonel Looney. It was suggested by one of the gentlemen present that a committee be selected to decide which was in the wrong. General Joseph E. Johnston and General Atkins were appointed as a committee to go up stairs and come to a conclusion on the matter pleasantly. I very readily agreed to abide by any decision they might make. Colonel Young insisted that he would not; that we had come there to raise a row, and wanted to go out in the street and settle it. My father told him if he declined the proposition proposed by the gentlemen that he would settle it in any way and at any time or at any place that he desired. Colonel Young then said, "I will abide by the decision of the gentlemen." They went up stairs, and when they came down reported that General Johnston had looked the matter over and they thought that Mr. Rogers was hasty and ought to apologize to Colonel Young, which I did.

Chairman BOYLE. Your relations with Colonel Young have not been amicable since?

Mr. ROGERS. I have never seen him since except once.

Chairman BOYLE. How long was it after that occurrence that you gave the letters to the correspondent of the New York World?

Mr. ROGERS. The next day.

Mr. MILLARD. You stated yesterday that you gave these papers to the correspondent of the New York World with a view of vindicating yourself?

Mr. ROGERS. I did, sir.

Mr. MILLARD. You say it was simply for the purpose of vindication of yourself?

Mr. ROGERS. I said simply to vindicate myself and the gentlemen connected. The gentleman asked me if I had any animosity. I have not; but, as a matter of course, I felt indignant when they declined subsequently to refute these articles which were appearing in the daily papers to the effect that Mr. Rogers, the electrician, had duped these distinguished gentlemen into a Credit Mobilier; that they were entirely innocent; they had not looked into the matter fully; that it was a swindle, and characterized Rogers as a scoundrel and swindler.

Chairman BOYLE. Then you turned over all your letters and papers?

Mr. ROGERS. Yes, sir.

Mr. OATES. What was the date of that difficulty?

Mr. ROGERS. I do not know the date, sir. After the last meeting of the board. The secretary can give the dates.

Mr. RANNEY. You spoke of something yesterday that I did not fully understand. It was about an interview at the Ebbitt House with parties representing some other telephone interests.

Mr. ROGERS. Yes. Colonel Young told me that there were certain parties at the Ebbitt House representing the National Improved Telephone Company.

Mr. RANNEY. What telephone company?

Mr. ROGERS. The National Improved Telephone Company of Louisiana; and he said he would write up an agreement that day for the perfect consolidation of the two companies, so that we would be joined in this fight against the Bell Telephone Company.

Mr. RANNEY. What is that company? Has it any connection with the Bell Telephone Company?

Mr. ROGERS. No, sir; it is in opposition to that.

Mr. RANNEY. Did your parties join in anything towards negotiating with the Bell Telephone Company?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. When was that?

Mr. ROGERS. Well, about, I think it was in 1884. A correspondence took place between the Bell Telephone Company and our company; it took place between Mr. Vale and Senator Harris. We subsequently went on to have a practical test as to the superiority of our instruments over their instruments. We went on to Boston with them. We had the test, and their chief electrician and superintendent, Mr. Lockwood, reported to Mr. Vale the superiority of our instruments over theirs, and we then returned to Washington. I do not think anything further was ever done in connection with that. Senator Harris can enlighten you on this. He conducted the whole affair.

Mr. RANNEY. Had you any negotiations for a trade with them?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. What was it?

Mr. ROGERS. Well, the first way in which it came to me was through a man in this city by the name of Augustine. He told us that the Bell Telephone Company were anxious to buy our instruments, but that they would not make the proposition, but if we would make the proposition that they would entertain it, and he had no doubt but that the consolidation of the two interests could be effected. My father mentioned this to Senator Harris; he said that he was already in communication with the Bell Telephone Company. This is partly hearsay, but I do not know whether it should have been stated.

Mr. RANNEY. When was this?

Mr. ROGERS. About 1884.

Mr. RANNEY. Was any sum named for which you were to sell out to them?

Mr. ROGERS. Mr. Augustine suggested that if we would allow them to water their stock they would give us a large amount of their stock in pay for it.

Mr. RANNEY. Yes; and you were to get the water, were you? Do you recollect what amount you wanted?

Mr. ROGERS. Well, he said something about \$5,000,000.

Mr. RANNEY. You wanted \$5,000,000 to sell to them.

Mr. ROGERS. That is what Mr. Augustine told me, and that was so reported to our associates.

Mr. RANNEY. Did that negotiation fall through?

Mr. ROGERS. I suppose so. I never heard anything come of it since. I saw Mr. Vale after we made the test. He asked about the sales of rights we made for the different States. He said he thought our figures were too high for them to buy our interest. I remember, now, that Senator Harris said he would like to have them adopt our transmitter. He spoke to Mr. Vale, who said that if they bought our patents at all that they would have to have full control over them.

Mr. RANNEY. The proposition was for your side to sell out to the Bell Telephone Company?

Mr. ROGERS. Yes, sir; we were to sell out the patents. I do not know very much about the negotiation.

Mr. RANNEY. Had there not been some litigation between you and the Bell Telephone Company up to that time?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. What suits were brought?

Mr. ROGERS. One was brought in Pennsylvania. I think it was the first.

Mr. RANNEY. Brought by whom?

Mr. ROGERS. By the Bell Telephone Company.

Mr. RANNEY. Against whom?

Mr. ROGERS. Against the Rogers Telephone Company, which was licensed by the Pan-Electric Company.

Mr. RANNEY. Was that suit pending when the suit was brought by the Attorney-General in Tennessee?

Mr. ROGERS. No; it had been disposed of. Our parties concluded it would be best not to try it there, and advised the Rogers Telephone Company to let it go by default, and the company called a meeting. When I say "our company" I mean the sub company.

Mr. HANBACK. You mean the Pennsylvania company.

Mr. ROGERS. Yes, sir; we called a meeting on the subject and we found most of the

Pan-Electric people were very anxious, indeed, to let it go by default and not put in an appearance, and, after considerable talk, we agreed that the Pan-Electric Company would pay whatever expenses might have been incurred in Pennsylvania.

Mr. RANNEY. So you allowed it to go by default?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. And they got an injunction against the local company?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. So, if you had gone on in that trial and contested this matter, it would have been determined whether your patents were infringing on the Bell telephone?

Mr. ROGERS. There would undoubtedly have been a decision rendered.

Mr. RANNEY. You preferred not to try it?

Mr. ROGERS. I was anxious to try it.

Mr. RANNEY. Then, if they wanted to test that patent to see whether there was any infringement or not, why did you not go on with it?

Mr. ROGERS. At first I thought that Senator Harris and Attorney-General Garland would go on to defend the suit; Senator Harris told me that he had spoken to Senator Garland to defend the suit; finally he told me he would have to put a hot coal on the old turtle's back.

Mr. RANNEY. Put a what?

Mr. ROGERS. A hot coal on the old turtle's back.

Mr. RANNEY. Who is the old turtle?

Mr. ROGERS. Attorney-General Garland.

Mr. RANNEY. Was this before the suit was brought in Tennessee?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. Was anything said that they preferred to fight the Government suit rather than fight the other?

Mr. ROGERS. At that time, I think not.

Mr. RANNEY. Is there any reason why this suit was not proceeded with?

Mr. ROGERS. Well, Colonel Young went on there finally as our representative. He returned and said that he did not think we would have justice done us in that State; that he had talked with a number of patent attorneys and telephone men and men interested in telephone enterprises, and that he had become thoroughly convinced that we would not have a fair trial.

Mr. RANNEY. In Pennsylvania.

Mr. ROGERS. Yes, sir.

Mr. RANNEY. Why?

Mr. ROGERS. Well, for the reason I have just assigned. That is the reason he gave us.

Mr. RANNEY. I did not understand you exactly what the reason was?

Mr. ROGERS. He said he had talked with a number of electrical experts and a number of lawyers, and that they were of the opinion of the Pan-Electric Company, that the Rogers Telephone Company would not have justice done them. That was the opinion of these lawyers.

Mr. RANNEY. Because of the courts, or what?

Mr. ROGERS. I think he meant the courts.

Mr. RANNEY. What is the trouble with the courts in Pennsylvania?

Mr. HALL. He need not give his opinion.

Mr. RANNEY. What did they complain of; was it explained?

Mr. OATES. I object to that question.

Mr. RANNEY. I only want the facts. What did he say about it?

Mr. ROGERS. He said that he had employed one attorney, and that he had also talked with other attorneys interested in telephonic enterprises, and that he was confident we would not have justice done in Pennsylvania by the courts; that they would decide against the Rogers Telephone Company.

Mr. RANNEY. Did he say anything more than that?

Mr. ROGERS. He thought it would be better to let it go by default and not put in an answer; that it would be better now that the suit in Tennessee was begun.

Mr. RANNEY. Did you think you would get along better in Tennessee?

Mr. ROGERS. He said in Tennessee, Missouri, or some other of the States?

Mr. RANNEY. Had the Louisiana company brought suit in connection with it?

Mr. ROGERS. Not at that time.

Mr. RANNEY. Was there any other suit brought in Tennessee, or any other State, except the one Mr. Goode brought?

Mr. ROGERS. The Bell Telephone Company had been circulating pamphlets throughout Texas, Alabama, Tennessee, and Missouri warning the people against the use of the Pan-Electric telephone, and to put a stop to this issuing circulars and these stories we instituted a suit there. I think we filed the papers to restrain them.

Mr. HANBACK. In Tennessee?

Mr. ROGERS. Yes, sir; to restrain the Bell people from issuing these circulars, and asking that suit be brought to test the validity of the patent and decide whether there was any infringement between the Rogers patent and the Bell patent. I think

the Bell Company were very anxious to have suit there, for they said if we would put any instruments in Memphis that they would immediately bring suit. Then we sent instruments down there, but they refused to bring suit.

Mr. RANNEY. Was that suit you brought prior to that of the Government?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. How long prior?

Mr. ROGERS. It was about six weeks.

Mr. RANNEY. Was that suit pending when the Government suit was brought?

Mr. ROGERS. No.

Mr. RANNEY. Do you know what has become of it?

Mr. ROGERS. I do not.

Mr. RANNEY. Do you know any reason why that suit could not have been tried on the question of infringement?

Mr. ROGERS. I do not; but I think that the Bell Telephone Company claimed that they were not properly served. That is my opinion; that their domicile was Boston; that they could only be properly served there. I think that was it.

Mr. RANNEY. Did the suit stop on that account?

Mr. ROGERS. I have heard. I don't know whether it is quite true or not.

Mr. RANNEY. Then it stopped as soon as the Government suit began?

Mr. ROGERS. About that time, I suppose.

Mr. RANNEY. Did you have any talk with Mr. Young as to the impropriety of that suit going on when another brought by Mr. Goode was going on? Did you have any preference to going on with one suit rather than the other?

Mr. ROGERS. No, sir. I never heard any mention in connection with a discontinuance of our suit.

Mr. RANNEY. Do you know of any other suit brought between your company, or any of your companies, and the Bell telephone people?

Mr. ROGERS. I do not.

Mr. RANNEY. Was there not one in Baltimore?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. Was there not one in Philadelphia?

Mr. ROGERS. I have named that.

Mr. RANNEY. There was one in Baltimore; what do you know about that?

Mr. ROGERS. Well, I heard that suit had been brought there and that the United Improvement Company were to furnish the testimony they had collected in Europe if they could make their arrangements with us.

Mr. BOYLE. From whom?

Mr. ROGERS. I have to recollect. Well, through the papers. It is very seldom I am in the city, so it was through the papers I learned it.

Mr. RANNEY. Do you know of any other suit which the Bell Telephone Company brought against you?

Mr. ROGERS. No, sir.

Mr. RANNEY. There was one in New Orleans.

Mr. ROGERS. Not against the Pan-Electric.

Mr. RANNEY. The mother of a great many little chickens from the description you give of it. Do you know of any others?

Mr. ROGERS. I do not, sir; not against the Pan-Electric.

Mr. RANNEY. Well, any of its branches or the children?

Mr. ROGERS. No, sir.

Mr. BOYLE. Mr. Rogers, you say this Pennsylvania suit was brought in Pennsylvania. Do you remember whether it was in the eastern or western district?

Mr. ROGERS. I was under the impression that it was in Philadelphia.

Mr. BOYLE. There was a suit brought in the western district, at least was partly argued in the western district of Pennsylvania. I am not sure that the Bell Telephone Company was the party. When was the suit brought to which you refer?

Mr. ROGERS. It was brought about six or eight months ago.

Mr. BOYLE. And it was brought against the local companies—that is, against this Mauch Chunk Company?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Does the Pan-Electric Company have any interest in that company?

Mr. ROGERS. According to the contract they were to have certain royalties on the instruments.

Mr. BOYLE. The suit, however, involved the validity of the Pan-Electric patents.

Mr. ROGERS. Yes, sir.

Mr. BOYLE. As I gather from your testimony yesterday the right of that Rogers Company was acquired by the local company from yours and your father's interests only.

Mr. ROGERS. Yes, sir; from the Pan-Electric Company.

Mr. BOYLE. I understand it was part of your interest—that you were the owners of the right for Pennsylvania?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. They were to have a royalty.

Mr. BOYLE. Was the Pan-Electric Company entitled to a royalty or you?

Mr. ROGERS. The Pan-Electric Company. My father and I acquired the right of operating the Pan-Electric telephone from our associates for the territory of Pennsylvania, and we named it the Rogers Telephone Company, so as to distinguish it from the Pan-Electric. We were required to pay a royalty.

Mr. MILLARD. To pay whom?

Mr. RANNEY. The Pan-Electric Telephone Company.

Mr. BOYLE. This suit was allowed to go by default in Pennsylvania?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. Was there a decree against you?

Mr. BOYLE. The Bell Telephone Company doubtless alleged infringement of the patent and you failed to reply; in how much worse condition would you have been had you contested it?

Mr. ROGERS. Well, in Pennsylvania we could not have been in a worse condition than we are now.

Mr. BOYLE. So there is a decree sustaining the validity of the Bell patent and finding that yours was an infringement?

Mr. ROGERS. I simply know we made no defense.

Mr. MILLARD. You mean judgment was entered against you?

Mr. BOYLE. Then is it a fact, Mr. Rogers, that you failed to make a defense either because of the pending of this suit or that you were in any way controlled by it?

Mr. ROGERS. Well, I think it was suggested to the company by several parties that it would be better for the validity of the patents to be tested in Missouri.

Mr. BOYLE. And allow it to go by default in Pennsylvania?

Mr. ROGERS. Yes, sir.

Mr. BOYLE. You say that Colonel Young stated that to you as the proper policy of the company?

Mr. ROGERS. Yes, sir; he thought it best.

Mr. BOYLE. You have stated that if you would not contest this bill in Pennsylvania, and, according to your impression, allow judgment to be passed, you would have a better position in Tennessee and Missouri?

Mr. ROGERS. He said that if we did not put in a defense that then we would not be brought into other suits there.

Mr. BOYLE. The bill did not prevent their use in other States?

Mr. ROGERS. No, sir.

Mr. BOYLE. Do you know of any of the telephone suits that were brought in Pennsylvania?

Mr. ROGERS. I frequently saw in electric papers that such suits were going on.

Mr. BOYLE. Was the Pan-Electric, or any company springing from it, a party to the suit?

Mr. ROGERS. No, sir; I saw in the electric papers that the court-house at Pittsburg looked more like a telephone exchange than a court of justice.

Mr. BOYLE. Was the Pan-Electric represented there?

Mr. ROGERS. They were represented there; that is, Colonel Young was sent there by Senator Harris to see the president of the Boston company and try to get our interests joined in something.

Mr. BOYLE. Your statement is that your company was not a party?

Mr. ROGERS. No, sir.

Chairman BOYLE. You have spoken of one Augustine as having suggested this deal between your company and the Bell Company.

Mr. ROGERS. He suggested it to me.

Chairman BOYLE. Who is he?

Mr. ROGERS. He was at the time he suggested it to me an employé in some Government building near the Treasury.

Chairman BOYLE. Has he any connection with the Bell Telephone Company, to your knowledge?

Mr. ROGERS. No, sir.

Chairman BOYLE. None with your company?

Mr. ROGERS. No, sir.

Chairman BOYLE. Do you know what interest he had in trying to bring about the consolidation?

Mr. ROGERS. I do not know.

Chairman BOYLE. Who was Mr. Vale?

Mr. ROGERS. He was connected with the Bell Telephone Company.

Chairman BOYLE. General superintendent?

Mr. ROGERS. He was at that time.

Chairman BOYLE. Have you any knowledge as to the capital of the Bell Telephone Company?

Mr. ROGERS. About \$10,000,000.

Chairman BOYLE. As I understand you, it was agreed to water the stock; that is, to add \$5,000,000 to the capital?

Mr. ROGERS. That was suggested to me by Mr. Augustine.

Chairman BOYLE. And you were to get the additional capital?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. He argued that putting these patents into the Bell Telephone Company would enhance their value, and that they were to water their stock?

Chairman BOYLE. To the extent of the increase?

Mr. ROGERS. That was the proposition, or rather the suggestion, and I urged it to Senator Harris and some other associates.

Mr. HALL. I would like to ask a question: In the conversation between yourself and Mr. Young in which you stated that they suggested the propriety of letting that suit go by default, was there any consideration paid to the idea that the decree by default might be conclusive upon the company every where? Did they discuss that at that time?

Mr. ROGERS. Yes, sir; they discussed it on that line.

Mr. HALL. Had the court not acquired jurisdiction; had they not served process upon your Pennsylvania company?

Mr. ROGERS. So far as the Pennsylvania company were concerned, it had.

Mr. HALL. Was it not considered that when a decision was rendered against Pan-Electric Company—I mean your telephone company—that it would be binding upon both of them?

Mr. ROGERS. You mean the Pan-Electric Telephone Company?

Mr. HALL. Yes, sir.

Mr. ROGERS. No, sir; not unless the Pan-Electric people put in their appearance.

Mr. HALL. Was the Pan-Electric Company made a party to that suit?

Mr. ROGERS. I think they were.

Mr. HALL. That question, then, was discussed as to the binding effect of any decree upon the Pan-Electric Company?

Mr. ROGERS. Yes, sir.

Mr. HALL. That is all.

Mr. MILLARD. Have you not got some of the papers showing just what was issued to the parties to the suit?

Mr. ROGERS. I had them. I know there were two patent suits, in which Bell claimed the entire use or right of electricity for transmitting articulate speech, and another patent on his receiver.

Mr. MILLARD. Now, I think you have stated that the suit in Pennsylvania and your failing to appear and defend was prior to the date of the commencement of the suit by Goode?

Mr. ROGERS. Yes, sir.

Mr. MILLARD. And your failure to appear in that suit was prior to the conversation you had with Casey Young?

Mr. ROGERS. Yes, sir.

Mr. MILLARD. That was prior?

Mr. ROGERS. Yes, sir.

Mr. MILLARD. You say you had this conversation with Casey Young prior to the bringing of the suit by the Government. Do you know of any other suits that were commenced after that?

Mr. ROGERS. Well, not knowing the exact date of that conversation I cannot answer positively as to the first conversation. I think though that they were prior to the conversation.

Mr. MILLARD. Prior to that of Goode?

Mr. ROGERS. Yes; I think it was about the last of July.

Mr. MILLARD. And suit was brought when?

Mr. ROGERS. It was brought in September or—no, it was August. I am a little confused, but I think it was the last of August or the first of September.

Mr. MILLARD. Of course, Mr. Young has got all of the dates?

Mr. ROGERS. Yes, sir.

Mr. MILLARD. You know of no other suit after the Goode suit was brought?

Mr. ROGERS. No, sir.

Mr. OATES. Mr. Rogers, I understand you to state that immediately after the difficulty with Colonel Young which you have spoken of that you went to the representative of the New York World and communicated the particulars, and on your second visit turned over these letters which were published. What consideration, if any, did you receive for this matter?

Mr. ROGERS. Nothing at all.

Mr. OATES. He did not pay you anything?

Mr. ROGERS. No, sir.

Mr. OATES. Had they agreed to pay you anything?

Mr. ROGERS. No; no money, in no shape or form, was ever suggested to me.

Mr. MOFFATT. You spoke in regard to not putting in a defense and that the Pan-Electric had agreed to pay the costs?

Mr. ROGERS. Yes; I think so.

Mr. MOFFATT. Who informed you of that?

Mr. ROGERS. I am not very positive.

Mr. MOFFATT. Do you know whether or not they paid them?

Mr. ROGERS. I never heard anything further of it; Colonel Young stated when that question was brought up—he said “it cannot be a very great deal”; and I think that they agreed to pay it; I never heard from Mr. Klotz on the subject since as to any expenses; he would have written if they had been very enormous.

Mr. MOFFATT. You say that after Mr. Young cautioned you to say nothing in regard to the suit being brought by Mr. Garland, that you had a conversation with one Gardner, and that he seemed to know all about it. Who is he?

Mr. ROGERS. He is secretary of the Washington Telephone Company.

Mr. OATES. Is his place of business in Washington?

Mr. ROGERS. He is in the city at present.

Mr. OATES. How long after these letters were furnished to the World before they appeared in that paper?

Mr. ROGERS. I think the first letters came out in one or two days.

Mr. OATES. In one or two days after you furnished them?

Mr. ROGERS. Yes, sir.

Mr. OATES. How long before the others appeared?

Mr. ROGERS. I think about a week; possibly longer.

Mr. OATES. How long.

Mr. ROGERS. I am stating as near as I can.

Mr. OATES. Can you mention a space of time within which they appeared?

Mr. ROGERS. I think within two weeks.

Mr. OATES. Within two weeks?

Mr. ROGERS. Yes, sir.

Mr. OATES. All appeared in the World?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. If you have the injunction I wish you would produce it.

Mr. MILLARD. I presume it is in printed form.

Mr. HANBACK. This was in the United States courts, I presume?

Mr. MILLARD. Was it in the circuit court of the United States or the district court?

Mr. ROGERS. I do not know.

Mr. OATES. I want to ask him one more question. Mr. Rogers, it is not clear in my mind what you said about that discontinuance. Did you say that you and Mr. Young had a conversation in reference to this suit in Pennsylvania, in which it was understood that that was to go by default on account of the Government suit brought in Tennessee?

Mr. ROGERS. No, sir.

Mr. OATES. The suit to be brought by the Pan-Electric in Tennessee?

Mr. ROGERS. Suit to be brought by the Pan-Electric in Tennessee.

Mr. OATES. And that occurred prior to the commencement of the suit in Tennessee?

Mr. ROGERS. Yes, sir.

Mr. RANNEY. Had there been any talk about the Government suit?

Mr. HALL. You had not fully or definitely determined at that time just what course to pursue. You were in the condition of clients who were trying to do the best you could to preserve the validity of your patents.

WASHINGTON, D. C., *Monday, March 15, 1886.*

The committee met at one o'clock p. m. pursuant to adjournment. All the members present.

J. HARRIS ROGERS was recalled, and his examination continued.

The CHAIRMAN. The stenographer informs me that the Government Printing Office cannot print the evidence at night taken before the committee during the day so that we can have the record here the succeeding day. There is no order made for night printing there, except for the Congressional Record, and the testimony taken before the committee cannot be printed at the office until the following day. However, I think the stenographer has made an arrangement which will enable him to produce the testimony about as rapidly as the committee wants it, from this time forward.

Mr. HANBACK. It was the understanding of the committee at the last session that you would ask for authority for additional assistance to be employed.

The CHAIRMAN. There was no order made, but it was stated that the matter could go over until this meeting. The examination of the witness can now proceed.

Question. I will inquire if you have done all the committee desired in regard to assorting and arranging the correspondence?—Answer. They appointed one o'clock to-day as the time, and requested that during yesterday I would try to formulate the letters, which I did to the best of my ability.

Q. There are one or two matters connected with the testimony taken the other day, that I have been thinking of, concerning which I desire to put a few questions. You have said that in a meeting in New York a certain contract was drawn up and signed which has been read here. I understand you there was nothing given for those interests except what appears in that paper?—A. No, sir.

Q. Was there any agreement that anything else should be given?—A. No, sir; no written agreement; that is the only written agreement.

Q. There must have been some conversation about it. Was there nothing said about what these parties were to do in consideration of having each his one-tenth interest?—A. Yes, sir; we had lengthy discussion before going to New York, and we gentlemen had the pamphlet that the chairman now has, before us, and it was thoroughly understood that we should organize this Pan-Electric Company—

Mr. EDEN. I would rather you would state what the conversation was.

The CHAIRMAN. Give the substance of it if you can.—A. Well, that they should issue stock based upon the patents, and the future possibilities of electricity, and that they were to give their names to guarantee to parties that the company should be conducted honorably and fairly. Going into an enterprise based upon these future possibilities, it required men of national reputation and men whose names were well known throughout the country, as a guarantee that such an organization would be conducted honorably and honestly. That was the main consideration for which we gave them the stock for their respective interests. They agreed to get out this charter and to give their names, and it was that that we bargained for and that we have never received.

By Mr. RANNEY:

Q. You mean to say that you selected these men because of their commanding influence and their position?—A. Well, it was because they were well known throughout the country for honesty and integrity, and at the same time they were shrewd lawyers, most of them, and we expected in all probability to have lawsuits.

By Mr. EDEN:

Q. You are just giving the reasons now that operated on your mind, not the conversation?—A. Oh, that was the general tenor of the conversations before we went to New York and also in New York. For example, when we were about signing, either before or after, and the point was raised as to the issuing of stock, having it printed, Colonel Young said "Well, just write a certificate for the present." My father said, "No, gentlemen, the stock will only cost about \$60;" and General Atkins rose and said, "Gentlemen, if I understand this whole affair it was with that understanding that we went into this company; that we should issue the stock and go forward with it, and I see no reason why we should not issue the stock at once."

By Mr. RANNEY:

Q. Did you know of the official positions these gentlemen occupied?—A. I did.

Q. Was anything said by them with regard to their occupying the official positions in connection with this enterprise?—A. I think not immediately at that time. I know that my father addressed a letter to Senator Harris, in fact I believe it was before he became thoroughly interested with us, before we went to New York.

Q. I will not ask what it was, but was there a reply to that letter?—A. Yes, sir.

Q. You had a letter from Senator Harris before he went into it?—A. Yes, sir; that is my belief. I think it is in the book.

Q. Did you write to any other one of these gentlemen who were associated with you?—A. No, sir; I think not.

Q. Or get any letters from them, giving their influence?—A. With respect to their being Senators or Members of Congress?

Q. No; in regard to their giving their influence in floating this stock.—A. No, sir; I think not. There were quite a number of letters; I do not remember them all. There was one letter touching that point they addressed to Senator Harris asking him—

Mr. EDEN. You need not state what was in the letter.

Q. We will get the letters; they are the best. You have said that one-tenth interest was laid aside for Abram S. Hewitt. Did he take it?—A. No, sir; he declined, on the ground that he was in feeble health, and since the death of Peter Cooper, his father-in-law, the most of his business had devolved upon him—most of Mr. Cooper's business—and that he could not venture to go into a new enterprise requiring so much time.

Q. Did you see him personally?—A. Senator Harris, Mr. Atkins, and myself went in person to see him.

Q. You were present?—A. Yes, sir.

Q. What became of the one-tenth interest that was laid aside for him originally?—A. One portion was sold to Senator Vest and to the two ladies that I mentioned the other day, and one to a gentleman whose name I could not recall, and \$100,000 to Gov. John C. Brown.

Q. What were the proceeds of those sold to Governor Brown?—A. He came in on the same ground, except for a smaller amount, that we proposed to let Mr. Hewitt come in.

Q. That is to say, he was to pay nothing?—A. No, sir.

Q. How was it with the ladies?—A. Senator Harris stated that these ladies wanted an interest in it, and he thought it would be a valuable investment for them, and he requested us to put it down to the lowest figure, and we followed the suggestion and let them have it for \$5.

Q. Did you give it to the ladies for their influence?—A. I did not, and I do not suppose any of the gentlemen did.

Q. What became of the proceeds?—A. They were divided among the associates.

Q. It did not come to you but to each one of the associates?—A. Yes, sir; they divided them equally.

Q. If that was to be given away to Mr. Hewitt originally, and these gentlemen were not to have any, how did it happen that they had a share of those proceeds?—A. Well, it was suggested at the meeting that they would take that stock that was set aside for Mr. Hewitt, and I made no objection. I thought that I had enough already to give me all the money I needed, if they would go ahead with the general scheme, and I always felt confident that they would do so, though I made frequent demands.

Q. That was additional to the interests which you originally gave them by contract?—A. That was additional. It was more than I proposed originally to give them.

Q. What consideration did they render for that additional gift?—A. Nothing more than they did for the other. I would suggest here that I stated the other day that we gave each party one-tenth interest. But there is a clause in the contract that I have thought of since, in which there is \$170,000 reserved, or, rather, put at my disposal. I had promised a number of parties before they became interested. One was an old friend of mine, Father Rochfort. I gave it to him for the church, and they put in the articles of agreement that I should have at my disposal \$170,000 that was to be taken *pro rata* from each one of the ten interests; so that, in fact, I did not give them quite one-tenth interest. It was minus that \$170,000. But the way they have managed it, they have received more than one-tenth by one-tenth of that set aside for Mr. Hewitt.

Q. Was that share of the fund got from Senator Vest and the ladies given them on account of their not getting the whole tenth in any way?—A. No, sir; that was not mentioned.

Q. Did Senator Harris take a part of the money received from the ladies who purchased; did he share in the division?—A. It was divided. I drew my share and I suppose the other associates drew theirs. I only got my share.

Q. I see by the contract that there was \$170,000 of the stock that was to be disposed of by you. Will you be kind enough to state what became of that stock, to whom it was disposed of, who it was, and for what consideration?—A. I gave Father Rochfort \$100,000 for the church, St. Dominic's church over here, and I gave \$10,000 to Col. Richard Wintersmith.

By Mr. MILLARD:

Q. Who is he?—A. He is Colonel Wintersmith of Kentucky, whose son was door-keeper here in the Forty-eighth Congress. He is a gentleman I had known many years during the war.

By Mr. RANNEY:

Q. There is a letter here from him; he seems to be very grateful in that letter?—A. We regretted very much that that one letter was published. I do not know that it did any harm however.

Q. Did he give you anything for it—it seems to have made him happy?—A. No, sir. Then I gave \$10,000 to a gentleman, Marcus Wright.

Q. Tell the whole—are there any others?—A. I had promised, before my Pan-Electric associates became interested, \$10,000 in the proposed Pan-Electric to General Price, in consideration of a transmitter that I had previously sold him. I sold this transmitter to Price, and my father suggested this Pan-Electric company, and I said we had better buy that back, that it was a very superior instrument, and that I would give another transmitter in its place and \$10,000 to boot. Negotiations were carried on

through a Mr. Cahoon, or rather I promised him that \$10,000; he has never been able to get it, though I have urged it upon the company to do so. Not long ago he put his claim in the hands of Mr. Jeff Chandler and General Hunton, a few months ago.

Q. I only want to know where that \$170,000 of stock went; not to enter into the details?—A. It went to Mr. Wright, to Mr. Wintersmith, and to Father Rochfort; I think those are the only names I remember right now. Am I at liberty to refer to a note here?

Mr. EDEN. Certainly.

The Witness. (After referring to some papers.) Those are the only names I remember; there are a couple of others, but I forget them.

Mr. RANNEY. If you recall them at any time let me know. I have been reading the correspondence, and I want to ask you one other question. I did ask you the other day whether you had anything to do with distributing any other stock amongst Congressmen, and I believe you said you did not?—A. I did not except those I have suggested.

Q. Do you know of any efforts that were made by the Pan-Electric Telephone Company to sell stock to Congressmen; if so, by whom, when, and where?

Mr. MILLARD. Sell or give?

Mr. RANNEY. Yes; sell or give. (To the witness.) Do you know of any efforts made by the Pan-Electric company to sell or give stock to Congressmen; and, if so, by whom?

A. At the meeting of the board—

Mr. HALL. I object to that. It is a matter of record.

The WITNESS. I heard of efforts made to sell.

The CHAIRMAN. State what you know yourself. If you know of any of the company as a company, or of any individuals doing so, you may state.

Mr. HALL. The objection I make goes farther than that. My objection is that no company has any power or authority to offer its stock; it must act by a governing board, and its proceedings are presumed to be of record, and that is the best evidence of those proceedings. Individuals may offer stock without authority.

The CHAIRMAN. In view of the character of the investigation, I do not think the objection well taken. If it was intended to bind the company, it would be necessary, perhaps, to show official action. But as the purpose is to show an attempt to distribute stock amongst Congressmen, as I understand the question, I think it is proper.

Mr. HALL. I object to it, as it was all individual action.

The CHAIRMAN. The question is by the company or by any member of the company. (To the witness.) Do you know of any action by the company with a view to giving or selling stock to any member of Congress, or do you know of any individual member of the company offering to give or sell his own stock to any member of Congress? If so, you may state it; only state what you know of your own knowledge.

A. At the meeting of the board—I can state what was transacted there—is that what you mean?

Mr. RANNEY. That is to the point.

The WITNESS. Colonel Young suggested that a number of gentlemen in the House were anxious—

The CHAIRMAN. Before you proceed, you may state who was present; what members of the board?

The WITNESS. Senator Harris, General Johnston, Colonel Young, and myself. Mr. Looney may have been there; I do not know.

The CHAIRMAN. Proceed.

The WITNESS. Colonel Young stated to the company that a number of members wanted to become interested in the Pan-Electric Company, and that they had frequently importuned him on the subject, and he asked the advice of the company as to what should be done. I think they suggested to him that they thought that probably we had enough of that class of gentlemen already associated with us, and it ran on in a running conversation which was substantially this: as to what they would give, and some suggested twenty, and Colonel Young said that he thought that was too much; that most of them wanted to get in on the ground floor, or as near as possible to the ground floor.

By Mr. RANNEY:

Q. They suggested twenty members?—A. No, sir; \$20, and he said he thought that was too much. I do not know whether a vote was taken upon it, but it was left pretty much to Colonel Young to do the best that he could. The sum might have been named, but if it was named it was somewhere about 10 cents to a dollar. One of those mentioned was Mr. Dunn, of Arkansas; I do not mention the others.

Mr. OATES. Mentioned in what connection?

The WITNESS. As one of the parties who was anxious to become interested. That is one name that Colonel Young mentioned.

By Mr. RANNEY:

Q. As the result of that arrangement was it concluded there or was any one appointed to attend to it?—A. I think Colonel Young was appointed to see them.

Q. Was there any definite arrangement as to what the stock should be given them for?—A. I think that was left with Colonel Young.

The CHAIRMAN. I do not understand that the witness testified that there was any proposition to give them stock.

Mr. RANNEY. I did not mean that.

The WITNESS. Oh, no, sir; not as a present, but to sell them stock.

By Mr. RANNEY:

Q. Was there any definite arrangement as to terms?—A. Yes, sir; that he should receive money, somewhere between 10 and 20. The conversation continued for some time, and it was left to Colonel Young to get the best he could; to settle the amount.

Q. Was there anything fixed as to how much stock should be left undisposed of?—A. No, sir; not to my remembrance.

Q. Did he report that afterwards?—A. I never heard of the report; that is the last I ever heard of it. There is a private individual who attempted to sell some of the stock to a member.

Q. Who was that individual?—A. My father.

Q. That is all you know about it, is it? Do you know of any member who did have stock or interest or claimed any?—A. Not in the Pan-Electric telephone.

Q. In any of the subordinate telephones?—A. No, sir; not to my own knowledge.

Q. When was this interview with the board, that you have spoken of? Give the date as near as you can.—A. I can tell you where it took place, but I cannot give the date. It was at Senator Harris's room. Possibly he could enlighten you on the subject. It was when he was living between the Baltimore and Ohio depot and the court-house.

Q. What year was it?—A. I cannot tell positively. It was about the time that Senator Vest became interested; I think it was at the same meeting.

Q. I wish you could fix the date.—A. Oh, I can guess; I think it was in 1884.

Q. You have spoken of Governor Brown; I do not know the gentleman. Did he occupy any official position at the time he was gotten into it?—A. He became one of the directors.

Q. Did he occupy any political position?—A. No, sir; not that I know of. He was only the attorney, as I heard, of Jay Gould's lines.

Q. Was he a member of the Democratic committee in the last Presidential campaign?—A. Yes, sir.

Q. What position did Mr. Looney occupy?—A. He had no Government position whatever; I do not think he ever had any. He was a Presidential elector from Tennessee, though, in the last election.

Q. Of which party?—A. The Democratic party.

Q. Was he in any way connected with any large capitalists or men of large capital?—A. Not of my own knowledge.

Q. I saw something said in the paper that he was connected in some way with Jay Gould?—A. Yes, as his attorney. I thought you meant financially.

Q. Which was that, Looney or Brown?—A. That was Brown.

Q. He was connected with Jay Gould's roads?—A. With his railroads west of the Mississippi, as his attorney, so it was represented to me.

Q. You are an electrician. Was there anything done in the Forty-eighth Congress about your getting appointed electrician to the House, I mean the last Congress?—A. No, sir; not in the last one.

Q. Was there in this Congress?—A. No, sir. I don't know whether you call them the Forty-eighth or Forty-ninth Congresses. I can give you the year, though, in which there was an effort made in that way. It was in 1883—the latter part of 1883 or the beginning of 1884.

Q. It was after this association was formed?—A. Yes, sir.

Q. How long after this contract was formed or made?—A. It was at the next meeting of Congress, I think; during the next Congress after the signing of that.

Q. It was in the winter succeeding, then. What was the arrangement about your being made electrician of the House?—A. I suggested that I would like to be made electrician of the House at a meeting of the board on one occasion, and something was said as to whether it would interfere with my carrying on my experiments, and I said no, that I thought on the contrary I would have better opportunities for developing some of my improvements, and at the same time I had always been anxious to put the electric light and some other inventions here, especially the electric light; and Senator Harris or Mr. Garland, whichever it was, I do not know which, said—Senator Harris said, "I will take Mr. Garland to-morrow to see Mr. Clark, the architect, upon the subject," and shortly afterwards they told me they had seen Mr. Clark upon the subject. Shall I give the whole conversation?

Mr. RANNEY. Certainly.

The WITNESS. But that Mr. Clark, while he spoke of me in the highest terms possible as to my abilities as an electrician, stated to the Senator that I sometimes became intoxicated, and that Senator Harris, if he appointed me, or Mr. Garland or Senator Harris together, would have to take that responsibility upon their own shoulders. I told the Senator that I did not care for the place so far as the money was concerned anyhow, but I was very much astonished that Mr. Clark should speak of me in that way.

Q. That was when it was spoken of about your becoming electrician of the House?—A. That was not the first. It first was mentioned by my father in a letter to Colonel Young; I think by letter.

Q. There was a letter first by your father to Colonel Young?—A. Yes, sir.

Q. Did you get a reply to it?—A. Yes, sir.

Q. Have you got that reply?—A. Yes, sir; that is one of the letters that has been printed in which Colonel Young says substantially—

Q. Never mind; we have that letter. Was there anything said between these gentlemen and yourself, at the time it was talked of, about what advantage it would be, if any, of having you electrician of the House?—A. Well, I suggested the advantage myself, and while it might collaterally be an advantage to our associates I was confident, and I think they were also confident, that I could greatly improve the electrical system here as I had in the past. And I stated to them that Mr. Clark had in his annual report said that I had saved between \$1,200 and \$1,300 a year, to say nothing of the rentals of the rooms and apartments heretofore occupied. I suppose that would be some \$1,300 now.

Q. Was anything said about carrying on experiments here?—A. Yes; I suggested I would like to put in my lights and I thought I would be able to make a success of it in the Capitol.

Q. You mean the lights which are embraced in these patents, which are disposed of?—A. I mean all of the improvements that I have made upon the same, and some others.

Q. Did you have any letters from either of those gentlemen to aid you in getting the position?—A. I got a letter from Mr. Garland to Mr. Cox and Mr. Hewitt. I want to do Mr. Garland justice in this. I do not know that it was mentioned to Mr. Garland what we wanted to see the parties about. I do not remember. Possibly he did not know. I do not know that Mr. Garland knew for what purpose we wanted this letter to Mr. Cox and Mr. Hewitt; I am not positive about that. We may have written him what we wanted with these gentlemen, and we may not.

Q. You did get letters from Mr. Garland to Mr. Cox and Mr. Hewitt?—A. Yes, sir.

Q. Where are those letters?—A. We got one letter, and it is here.

Q. Did you get any letter from anybody else?—A. It seems to me I did, but I do not remember just now.

Q. Did Mr. Casey Young give you any?—A. I think not; no, sir.

Q. Did he do or undertake to do anything in your behalf, to your knowledge?—A. Yes; he said he wanted to go not so much upon the ground that I was an electrician, or better fitted for the position than anybody else, but he wanted to go in on the ground that we were Democrats. When the Republicans came in I was told by Mr. Clark that I would probably have to go, and must look around among my Republican friends. I told him I did not ask for any favors—

Q. We do not care to go into that.—A. That is the ground that we wanted to go in on. Mr. Young suggested subsequently that we had better go in on the ground that I was a superior electrician. I knew nothing against the gentleman who was holding the office.

Q. Was Mr. Casey Young a member of the House then?—A. Yes, sir.

Q. Did your name go in as a candidate for the position of electrician of the House?—A. Yes, sir. I recall a name now—General Joseph E. Johnston, who went to see the Speaker on my behalf.

Q. Did you have a talk with him before he went?—A. Yes, sir.

Q. What was that?—A. I think he was present at the meeting at which we suggested it. I asked him to please go and see the Speaker on my behalf.

Q. Do you know whether he went?—A. Yes, he went.

Q. Did he report to you?—A. I was present; he took me to see the Speaker.

Q. Was General Johnston a director in this Pan-Electric Telephone Company?—A. Yes, sir.

Q. Did Mr. Atkins do anything about it more than you have stated?—A. I think not.

Q. Was Mr. Atkins then a member of the House?—A. No, sir.

Q. Was there anything said during these interviews about his being a candidate for Clerk of the House also?—A. In a letter it was suggested—

Mr. EDEN. You need not state what was in the letter.

Q. In what letter was it?—A. Mr. Young's letter.

Q. You have that letter, have you?—A. Yes, sir.

Q. In this talk you had together was there anything said about his being a candidate for the position of Clerk of the House?—A. No, sir; I think not. I do not remember any conversation to that effect.

Q. He said nothing about it?—A. No, sir.

Q. You knew of the fact, did you not, that he was a candidate for Clerk of the House?—A. I did subsequent to the receipt of this letter.

Q. Was that letter addressed to you?—A. I do not know; either to me or my father.

Q. I forget whether his name went before the House to vote upon?—A. It did go before the House; yes, sir.

Q. In what form?—A. Mr. Young wrote to us; in fact, he became dissatisfied with our bold policy of having the place anyhow, since we had started in on that ground, and we had begun to think that he was not pushing it, and we got a member named Robinson, of New York, to put in a resolution, which he did. Mr. Clark stated subsequently that he did not have the power unless the Speaker would appoint, and the Speaker said he could not unless Mr. Clark would, and each said the other would if the other would take the responsibility.

Mr. EDEN. Was Mr. Robinson, of New York, a member of this company?

A. No, sir.

By Mr. RANNEY:

Q. I see one of the papers said he had some of the stock?—A. Not of the Pan-Electric.

Q. Not of the subordinate companies?—A. No, sir.

Q. What stock did he have?—A. He holds, or held, a certain amount of American Postal Telegraph stock. I do not know whether he held it at that time; whether it was after or prior to that.

Q. Was that the stock in which your company, or individuals of your company, were interested in any way?—A. None, except my father.

Q. You spoke the other day about this stock not being listed or having any market value; I wish you would be more definite about that and state whether it had any actual value or not, whether offered or sold in the market, and whether you had any offers for it.—A. Yes, I have had frequent offers; we have sold stock for money; for example, I mentioned Jacob Thompson, late Secretary of the Interior; I stated it was five or ten thousand; we got \$5,000 cash for \$50,000 worth of stock at ten, and we sold some to Mr. Neely, either five or ten.

Q. Please be more explicit; you say "we"; who did it?—A. My father, myself, and Colonel Looney; Colonel Looney sold it.

Q. It was a part of your four-tenths?—A. Yes, sir; I had an offer not long ago (to give you some idea of what the value is) of three and one-half for \$500,000 cash; we declined taking it; the letters in the book show it; we declined taking less than six.

Q. Who made the offer?—A. Mr. Looney stated there was a banker at the Ebbitt House who would pay five and one-half cents on the dollar for \$300,000 or \$400,000.

Q. How recently is that?—A. About a month ago.

Q. Referring again to men getting offices, was your father a candidate for any office under this administration, too?—A. Yes, sir.

Q. For which one?—A. For some position in which he could carry on his profession as a lawyer, as assistant attorney in some Department; or if he could get some position abroad, as consul to Marseilles or Milan.

Q. Do you know whether he got letters of recommendation from any of your associates?—A. Yes, sir; they were signed by some of our associates.

Q. By whom?—A. It is in the book there; the original application.

Q. The Mr. Atkins that you speak of now who was a former member, does he hold any office now; I want to identify him?—A. He is Commissioner of Indian Affairs.

Q. Do you know when he was appointed?—A. He was appointed soon after the new administration came into power.

Q. Was your father a candidate for the office of Assistant Attorney-General?—A. I think not; I do not think that was ever mentioned at all, except it might have been in a jocular way.

Q. Where are the letters of recommendation that he got for the office that he did have?—A. They are in the book among the papers.

Q. We will have them then at the proper time; I do not think of any more questions that I desire to put until these letters are in.

By Mr. OATES:

Q. You stated the other day in your examination, Mr. Rogers, that Colonel Young at some time, in some conversation, said to you or your father that Attorney-General Garland had agreed to bring this suit against the Bell Telephone Company in the name of the Government for the purpose of setting aside the patent; I believe that is

one statement that you made. Can you give us the date of that, and the place where it occurred?—A. Do you refer to the first conversation?

Q. At the time you stated that Colonel Young said—A. I mentioned two occasions that he went over the same conversation.

Q. That Mr. Garland had agreed to bring the suit. Can you name the place and the date?—A. The first occurred at my residence, at 315 Four-and-a-half street. I think it was some time in July last.

Q. About what time, as near as you can state?—A. It might have been only a few days prior to the second interview, and it might have been several weeks before; but I think it was a few days before the second interview, from my remembrance of it, and several other collateral things which occurred.

Q. Where did the second interview occur?—A. At his rooms on H street, I think, between Thirteenth and Fourteenth, near a large church with a gold cross on it. That was, I think, the latter part of July. I can give you a point so that you can find the date. When he was at my house he told me that Colonel Gantt was here, stopping at the Ebbitt House, and that he wanted me to come up and see him; that he wanted to see me in reference to some of these patents, and that these "National Improved" people were anxious to enter into some kind of an agreement with us. When I had the second conversation with him he told me that Mr. Gantt had returned to Memphis, and that the "National Improved" people were at the Ebbitt. That is as near as I can fix it.

Q. You say that Colonel Young said in both or each of these conversations that Attorney-General Garland had agreed that suits should be brought by the Government?—A. At the first conversation he said so, and I repeat it in the most emphatic words that he did. At the second conversation he did not go over the whole thing, I do not think. He just talked about it as a thing known and understood between us. He cautioned me, both at our house and at the second place, to say nothing about it; that it would be the best thing. He did not give his reasons, but I supposed he did not want the Bell people to hear about it.

Q. At which one was it that he said that as Mr. Garland was attorney of the Pan-Electric Company he felt some delicacy about it and that Mr. Goode would bring the suit?—A. He said that at the first conversation. He may have gone over it at the second conversation; I do not remember. It was not impressed on my mind as fully as the first, because it was news for me, and something we had been expecting a good while and looking forward to since the 23d of May, and I was deeply impressed when he told me, and hence I remember almost word for word what transpired at the first meeting.

Q. You stated a while ago that you had a letter to Mr. Hewitt and to Mr. Cox. Did that letter have any reference to taking stock in the Pan-Electric Company?—A. No, sir; it was in reference—

Q. (Interposing.) It was merely a letter of introduction?—A. Yes, sir; a letter of introduction.

Q. What was it that he stated?—A. That was never presented to Mr. Hewitt. It was presented to Mr. Cox.

Q. You stated a while ago that Mr. Hewitt declined to take any stock in the company?—A. Yes, sir.

Q. Why did he say that he would not?—A. Upon the ground that he was in bad health, and since the death of his father-in-law, Mr. Peter Cooper, his business was very pressing and that he could not go into it.

Q. Was that the only reason he gave?—A. That is all that I remember. I do not know that those were his words, but they were his reasons given. He thereupon (Mr. Hewitt did) gave us a letter of introduction to Mr. Eckert of the Western Union Telegraph Company, which we presented.

By Mr. MOFFATT:

Q. You speak of this conversation between you and Colonel Young in regard to Mr. Garland's bringing that suit, that you had looked forward to it since the 24th of May?—A. Yes, sir; the 23d or 24th of May.

Q. What occurred on that date?—A. My father addressed a letter to Attorney-General Garland—at least, I will tell you what my father told me; I never saw the letter; I have seen copies of it, though—in which he stated—

Mr. EDEN. You need not state if the letter is here.

Q. Did the Attorney-General reply to the letter?—A. He did not. He took no notice of it.

Q. During the organization of this company was there, to your knowledge, in the deliberations of the company or the executive committee, any question raised in regard to new legislation needed through Congress to carry out any of your schemes?—A. I do not think that that subject was ever broached, as to legislation, by any of my associates.

Q. Then you do not know of any efforts made to secure any legislation?—A. Ex-

cept in behalf of the Attorney-General, which is already on record, the order to have the suit instituted.

Q. Giving them power to commence the suit?—A. Yes, sir.

Q. What was said in regard to that?—A. It is in a letter there.

Q. That is all in the correspondence?—A. Yes, sir.

Q. That is all you have any recollection of?—A. Yes, sir; the point of legislation was never raised by any single individual of the Pan-Electric Company, or I never heard it.

Q. You never heard anything about the law being deficient in regard to securing some of your patents; that the scope of the patent law would have to be enlarged?—A. I do not remember that. I remember we sometimes talked over the postal bill, and the probability of our having our telegraph adopted by the Government in the event that they should provide a postal bill; but as to legislating on the subject, I never heard any one of my associates say a word. We asked Senator Harris how he would feel about it in case the bill should come up, and he said that he would rise in the Senate and state that he was interested in a postal system, and that he would decline to vote or to have anything to do with it; that was the idea.

Q. You do not remember Mr. Young introducing a bill in the House amending the patent laws so as to enable you to secure patents on some of your inventions which the laws did not allow?—A. No, sir; not of my own knowledge.

By Mr. MILLARD:

Q. Did you see Colonel Gantt while he was here?—A. No, sir; not on this visit that you speak of.

Q. You spoke of a conversation in which Colonel Young told you that he was here?—A. He told me that he was here, and was stopping at the Ebbitt House, as I have stated.

Q. That was at the time of the conversation about the Government suit?—A. Yes, sir.

Q. He told you that Colonel Gantt was here?—Ans. Yes, sir.

Q. Did you understand that he had returned to Memphis afterwards?—A. Yes, sir.

Q. From whom?—A. From my brother, who is here.

Q. What took place upon his return to Memphis?—A. I do not know.

Q. As to the bringing of the suit; was the suit brought soon after his return to Memphis?—A. I only know what I have seen through the press.

Q. You so understood?—A. I was under the impression that the suit would be brought, and that Colonel Young must leave in a few days to follow him; and that it was to be instituted there.

Q. And after his return there, was such a suit brought as was talked of between you and Colonel Young?

The WITNESS. How is that?

Mr. MILLARD. The suit was brought soon afterwards?

(Objection was made to the question by members of the committee.)

Q. I will ask you, who is Colonel Gantt?—A. His name was suggested to us as a man of great legal ability, and the propriety was suggested of our employing him to defend the suit that the Pan-Electric had begun prior to the institution of the Government suit. We employed him, Colonel Gantt, and General Luke Wright to assist in that suit; the Pan-Electric employed him.

Q. The Pan-Electric employed him for that purpose?—A. Yes, sir; not for the Government suit.

Q. When the suit was brought by the Government, application was made before whom?—A. It is only hearsay—Mr. McCorry, of Memphis.

Q. Who was directed to manage that suit by the Government?—A. That is all hearsay with me. You gentlemen all know about it as well as I do. I have no object in declining to answer.

Q. But you know very well?—A. Yes, sir; from hearsay.

Q. State, if there is no objection.

(Objection was made.)

The WITNESS. It is only hearsay.

Q. If there is objection I will not insist upon it.

By Mr. OATES:

Q. Please state, if you can, the date of that conversation with Mr. Hewitt when you offered him the stock.—A. It was during the time I and my associates were stopping at the New York Hotel, to the best of my remembrance.

Q. State the month and year.—A. I think it was in March, 1883.

Q. Soon after the agreement was entered into?—A. Yes, sir. Colonel Young, I do not think, was present. He was left to prepare the papers while we went to see Mr. Hewitt at his down town office.

Q. That was in March, 1883?—A. Yes, sir.

By Mr. RANNEY:

Q. There is one question that occurs to me. You alluded the other day to that suit in Pennsylvania where you concluded not to defend it. I want to know whether this Pan-Electric Company were not obliged to defend your patents there?—A. They so bound themselves in the agreement; yes, sir.

Q. So that although that suit was against the company in Pennsylvania it involved the validity of the patents, and the parent company was obliged to defend it?—A. Yes, sir; under their agreement, if we insisted upon it. Right there, Mr. Chairman, I would like to suggest something in the interest of Mr. Klotz. It was asked by some member the other day if he came in on the same ground that my other associates came in on, and we were then speaking of the Rogers telephone and telegraph, and I thought you spoke with reference to his interest in that, and I said yes. He did come in without paying any money. Subsequently he bought an interest in the Pan-Electric Company, amounting to \$7,500 from me, which was to be expended in putting up lines and exchanges in Pennsylvania. He spent \$2,500, and when this injunction was about being brought, we wrote to Mr. Klotz, and he came on, and we told him not to put any more money in the enterprise; that we did not want him to lose; that he had come up like a man and given us the money, and so far as the other \$5,000 that he owed us was concerned, he could have that as well as the Pan-Electric stock.

By the CHAIRMAN:

Q. At what rate did you sell that stock to Mr. Klotz?—A. At 5.

Q. Amounting to \$7,500, that he bound himself to pay?—A. Yes, sir; but we released him from that. He spent \$2,500.

Q. If I understand you correctly, the matter of obtaining favorable legislation for your company was never mentioned between you and your associates; never talked about?—A. Do you mean that none of my associates ever suggested that they would legislate in behalf of my company?

Q. Yes.—A. No, sir.

Q. It was never mentioned?—A. No, sir.

Q. You have stated that these interests were divided among these gentlemen in tenths, and that you took them in—your language was that you gave it to them—and that they were expected to render services to the company in setting the enterprise on foot?—A. They were expected to give us the benefit of their legal talent and their services as business men and their names as honorable men.

Q. At that time had your inventions any market value?

Mr. HANBACK. Do you mean in the stock market or sale to the public?

The CHAIRMAN. Had they any market value? I think the witness understands the phrase.—A. There was no stock issued; of course I looked upon the patents as very valuable.

Q. But had they any value in the market?

Mr. RANNEY. There was no stock in the market at all.

The CHAIRMAN. Were the inventions themselves recognized by the public as having any value?—A. I do not suppose the public looked upon them as being worth a great deal, if anything at all.

Q. As I understand you, then, you put only inventions, without known value at that time, into this association, and you expected from the gentlemen to whom shares were assigned services?—A. Yes, sir; but if you gentlemen had read the pamphlet.

The CHAIRMAN. I have read it. I am only getting this out. Was there anything said between you and any one of these gentlemen to the effect that the company would derive any benefit from their official positions, that is, from the exercise of official power by any one of them?—A. I do not think any one of us looked to legislation in the beginning. We did not depend upon it nor care for it.

Q. Did you then take them into the enterprise and assign these interests because of the official positions they held, or because of their standing as lawyers, and because you expected to be benefited by their services?—A. I can give you one of the reasons we suggested to the gentlemen.

Q. If you will just answer that question it will be sufficient.—A. What is the question?

(The question was read by the stenographer as follows: Did you then take them into the enterprise and assign these interests because of the official positions they held, or because of their standing as lawyers, and because you expected to be benefited by their services?)

A. I will have to explain that. One reason was because they held official positions, and through that fact they were widely known; second, because they were lawyers; thirdly, because we had known many or most of them for years. My father had known them for twenty or thirty years, and I had known them from my boyhood, and we were satisfied that they would conduct everything upon an honorable basis, and we wanted to have none but such men associated with us.

Q. My question was this: Did you expect to benefit by the exercise upon their part of any power that their official positions gave them, or did you look at their official positions simply as giving them standing?—A. Standing, that is all.

Q. You have spoken of the fact that one-tenth of this stock was set apart for Mr. Hewitt. Was it set apart for him specially, or for some one in the position he was, that is, a man of means and engaged in business?—A. It was suggested that Mr. Hewitt was a man well known in New York in the financial world, and he was known equally well for his honesty and integrity, and we thought when we went on to New York we would approach him on the subject and see if we could be so fortunate as to have him associated with us.

Q. Was that after the execution of the agreement?—A. I cannot be positive as to that. It was during that visit; a day or two before or after.

Q. You have been inquired of by the gentleman from Massachusetts as to the sale of parts of your tenth interest. To whom did that tenth really belong?—A. It all originally belonged to me.

Q. But under the agreement?—A. I am not lawyer enough to tell you about that agreement. It was my understanding that that was mine until some one like Mr. Hewitt should become interested.

Q. I will ask you whether the agreement does not provide that it belongs to the company?—A. I say that as a legal interpretation it may be that.

Q. That one-tenth belonged to the company, and was intended to be assigned to some gentleman like Mr. Hewitt?—A. I never made any objection to the division as it subsequently took place.

Q. So, as to such parts as were sold, the money would properly belong to the company, if the stock or interest belonged to the company?—A. If your interpretation of the agreement is correct that would be so.

Q. Was it, then, an additional gift, at the time of these sales, to these gentlemen—whatever money they may have received from the sales of these interests or parts of interests?—A. If the law so interpreted it, it was an additional gift.

Q. Although it belonged to the company already and they owned this one-tenth interest in the company?—A. If it belonged to the company of course it belonged to them, and if it did not belong to the company then it did not belong to them, but to me.

The CHAIRMAN. Dependent upon the agreement.

By Mr. RANNEY:

Q. You spoke of Mr. Klotz?—A. Yes, sir; Mr. Robert Klotz.

Q. What is his position, or has it been?—A. He was for some years a member of Congress here, but during the time he became interested with me he was a private citizen.

Q. He was not a member then?—A. No, sir; that is my impression.

By the CHAIRMAN:

Q. You stated that it was proposed to sell interests to other members of Congress?—A. Yes, sir; there was a suggestion made to that effect by Colonel Young.

Q. I think you stated some one objected to that. Who was it?—A. I cannot give you the names of those parties. It was just in a conversational way that the thing went on. We did not sit down like a deliberative body or in a business way. We knew one another and just went in and trusted one another.

Q. Colonel Young was authorized to make some arrangement in regard to that matter?—A. Yes, sir; that is my understanding and remembrance of it.

Q. Was he to get the best price that he could for it?—A. That is my impression. They may have put the margin at 10.

Q. You spoke of 20 before?—A. I know; it was debated, I said, as to whether it would be 10 or 20; it was fluctuating in the minds of the parties somewhere between those limits.

Q. Was there any proposition to sell it to them at less than you were selling it to other persons for?—A. No, sir.

By Mr. OATES:

Q. He sold to Mr. Klotz for 3½?—A. Oh, that was long after; that was Pan-Electric.

By the CHAIRMAN:

Q. You had been electrician of the House previously?—A. Yes, sir.

Q. What years?—A. I was here four or five years, about.

Q. When did you cease to occupy that position?—A. When a Republican administration came in. I think it was in 1881 when I ceased, or about there.

Q. That you ceased to be connected with the House?—A. Yes, sir; in 1881 or 1882; I do not remember the exact time. I have a copy of the resignation there, with the dates, in the book.

Q. And you say you wanted to be restored because you were a Democrat?—A. I did

not want to go in and say anything against the gentleman who was there at all. I simply wanted to go in on the ground of being a Democrat. I thought I was entitled to it.

Q. Was there any conversation between you and your associates that you were to seek this position with a view to benefiting the Pan-Electric Company?—A. It was understood that collaterally it would benefit to some extent the Pan-Electric individuals.

Q. In what way?—A. In the fact that I would have a better opportunity in carrying on my experiments, as I had dynamo machines and a steam engine that I had purchased, and the general paraphernalia that was already existing here.

Q. It was the opportunities, then, it would give you to develop your inventions?—A. To be beneficial alike to my associates and to the Government, as I had been in years previous.

Q. Who made that suggestion?—A. I did.

Q. You have stated that a resolution was offered in the House by Mr. Robinson, of New York?—A. Yes, sir.

Q. At whose instance was that done?—A. At the instance of my father and myself.

Q. Had these others any connection with it?—A. No, sir; not to my knowledge. It was independent of any of them.

Q. You say your father was an applicant for an appointment under this administration?—A. Yes, sir.

Q. And, like many others, he did not get it?—A. No, sir; he did not.

Q. Was he a lawyer?—A. He says he is "not a lawyer to hurt."

Q. I observed that. Is he a lawyer at all?—A. I think he is a very good lawyer.

Q. Has he ever practiced?—A. Yes, sir; ten years at the bar of the courts of the District.

Q. What position did he want?—A. He wanted some position as assistant attorney in some of the Departments, or as attorney in some of the Departments, or a position abroad. He was very anxious to go to Italy.

Q. Did you say there was some conversation in regard to the passage of a postal telegraph bill; was that talked of?—A. Yes, sir.

Q. Had you any interest in that other than in competing for the place, for the service, in case the bill was passed; was there to be any indirect influence exercised by yourself or any of your associates to give you any advantage?—A. Not to my knowledge. Never a word was suggested.

By Mr. RANNEY:

Q. You had no objection to competing for it, I suppose?—A. That was our idea. If we had instruments superior to others we wanted the Government to have them; not otherwise.

By Mr. HANBACK:

Q. Out of these resources of \$100,000 there was \$2,500 paid by these ladies and \$1,000 by Senator Vest. I understood you to say that that money was divided up in the company?—A. That money was divided up among our associates, so I was informed and believe.

Q. Then you got your share?—A. Yes, sir.

By Mr. HALE:

Q. How much have you received altogether as your individual share or how much have you and your father jointly received from these dividends?—A. I suppose about \$5,000. I do not know the exact amount; the books have it.

By Mr. MILLARD:

Q. That is your individual share, did you say?—A. It might have been more than that. Between my father and I probably it was \$6,000 or \$7,000.

Q. You are speaking of your individual shares now?—A. Yes, sir. I did not receive half of that, probably, independent of my father's share.

By Mr. HALE:

Q. Does that include what you received from these local boards in other States?—A. The moneys that came were divided among those sources mainly.

Q. You say your individual share was \$5,000, or was it your share and your father's interest?—A. I say \$3,000 individually and \$5,000 or \$6,000 together. I never have kept any books in my life. I never put down the amounts that I get.

Q. You say there was no talk between you and your associates in regard to your inducing the Government to adopt your system provided this postal telegraph law passed?—A. We looked forward to the adoption of a system.

Q. Who do you mean by "we"?—A. My associates and myself.

Q. You did not know what they thought about this matter; was there any talk about it?—A. Yes, sir; sometimes they would say something about the Government's

postal system ; something in the way of hurrying me up with it ; something about the tests. I do not think they ever conversed much upon the subject.

Q. Was there any understanding, direct or indirect, that if that law passed you would try and induce the Government to adopt your system?—A. The general idea was that the inventions should stand upon their merits before a committee that might be appointed, and solely upon their merits.

Q. Nothing was said about any political efforts, then, to induce the Government to adopt your system?—A. No, sir ; not in their official capacity as Senators and Representatives.

Q. Or in any way, whether as Senators or individuals?—A. No, I do not remember anything. Some little conversations may have been had, but I am not positive in remembering or disremembering. I am giving you the truth as near as I can.

Mr. OATES. I move that the committee go into executive session, and that we postpone the further examination of witnesses until day after to-morrow, Wednesday, at 12 o'clock.

The motion was agreed to, and the committee, after an executive session, adjourned.

WASHINGTON, D. C., *Wednesday, March 17, 1886.*

The committee met at 12 o'clock m., pursuant to adjournment, all the members being present.

J. HARRIS ROGERS appeared before the committee, at his own instance.

The WITNESS. With the permission of the committee I would like to make a short statement before you proceed.

The CHAIRMAN. You may do so.

The WITNESS (producing a package of papers). These are the papers relative to the contracts. There are a few letters here pertaining to the business, some of which I have found since yesterday, and a few that were taken out that I thought I had better bring here, notwithstanding they contain a little something private. I also wish to state that in my testimony the other day in reference to the interview with Mr. Hewitt, in company with General Atkins and Senator Harris, I stated that Mr. Hewitt gave as his reason for not going into the company the death of Peter Cooper and his own ill health ; that that was why he declined. On thinking over the matter afterwards, I remembered that while in New York we met General Manning and Mr. Money and Senator Walthall, who were there with us ; and in speaking there of some land-grant speculations they were in, one of them suggested that he had dined with Mr. Hewitt, I think, and that it had been the custom to open a bottle of wine on each anniversary of Peter Cooper's birth, and I am under the impression that they partook of that bottle ; and hence, if that was so, Peter Cooper could not have been dead then. However, I do not know whether he was dead at that time or not, but that was the impression lodged in my mind at the time. In case he was not dead, it is irrelevant. The main point was that Peter Cooper's business had devolved upon Mr. Hewitt, and that, in connection with his own ill health, forced him to decline.

By Mr. RANNEY:

Q. Do you know whether Mr. Hewitt had been seen prior to the interview to which you have testified by Mr. Atkins?—A. I do not. His name had been suggested before we went on to New York, as I have already testified.

Dr. JAMES W. ROGERS, sworn and examined by the chairman.

Q. What is your age?—A. Sixty-three or four ; I was born in 1822.

Q. What is your present place of residence?—A. Parthenon Heights, Bladensburg, Md.

Q. What is your occupation?—A. Lawyer.

Q. Are you a practicing lawyer?—A. Yes, sir.

Q. Have you been in any way connected with the Pan-Electric Company?—A. Yes, sir ; from its foundation.

Q. By whom was the formation of that company suggested, if you know?—A. It was suggested originally by Mr. L. G. Hine, a very distinguished lawyer of this city.

Q. To whom was the suggestion made?—A. He made the suggestion to me and my son.

Q. When was that?—A. That was in 1881, I think, or 1882.

Q. What, if anything, was done in pursuance of that suggestion?—A. Mr. Hine waited upon some parties with the view of purchasing the old Chase mansion in this city, in which it was proposed to establish laboratories and develop all the possibilities of electricity ; that the company should be founded upon the possibilities of discovery and of invention, and the values that would accrue therefrom.

Q. Was there anything done towards organizing the company in pursuance of the suggestions of Mr. Hine?—A. Well, he discovered some defect in the title of the Chase property, or at least some difficulty in having it conveyed, and at that time the project was abandoned.

Q. When did the movement originate which resulted in the formation of the present Pan-Electric Company?—A. About the 1st of January, 1883, or the last of the December preceding.

Q. In what manner?—A. I and my son were guests at the Ebbitt House, my family residing on Lexington Avenue, in New York, and we learned that a very fine brown stone mansion, a better house than the Chase house, on Four-and-a-half street, was being offered very cheap. It had been built by the late Mr. Purdy, and cost about \$35,000. We were told at the Ebbitt House that it could be bought for about \$10,000, and it struck us as being an admirable place to carry out the original Pan-Electric idea. We bought it at once, and paid the money for it, and started out with that idea of Mr. Hine to establish laboratories in that house—it was a very large house—and built up the enterprise which he had suggested; but when we began to count a little more carefully than we had at first, since it was more his scheme really than ours, we found it would cost a great deal of money to employ learned electricians and skilled mechanics and to organize a company upon that idea, and I suggested to my son that we would form a stock company, and instead of taking it out of our own humble means that we should sell stock to parties who might be willing to take chances in the possibilities of electricity, and in that way—

Q. Before you go into the formation of the company I would like to have you state when you made the purchase of that house?—A. I think about the last of December, 1882, or in January, 1883; I do not remember the date.

Q. Now you may proceed and state what followed.—A. In order to form a company commensurate with the object in view we naturally turned our attention to the subject of great names and to men of influence who would give character to the enterprise. In view of that, I either wrote to General Atkins or called upon him; I think I called upon him.

Q. Did he occupy any official position at that time?—A. Yes, sir; he was a member of Congress, chairman of the Appropriations Committee, I think; I suggested to him just about what I have already stated to this honorable committee; he seemed pleased with the idea as one that was feasible, and a few days thereafter, I think it was, I communicated with Senator Harris on the subject; I believe General Atkins had seen him before I did; at any rate, those two gentlemen and the Hon. Casey Young came to my house, 315 Four-and-a-half street, the building I have referred to. In the meantime my family had removed from New York, although at first we did not contemplate that; I laid the scheme before them, with a pamphlet which I gave to the chairman of this committee, and offered each one of them, I think, something like \$100,000 a piece in stock, on the basis of \$5,000,000; they hesitated, at least Senator Harris more than any other seemed to hesitate, about going into it, and nothing was done at that meeting.

Q. Did he give any reason for his hesitancy?—A. He did not, sir, but I suspected—

The CHAIRMAN. You need not state your suspicions.

The WITNESS. Well, sir, I will state it in another form. Suspecting that he—

The CHAIRMAN. You need not state your suspicions.

The WITNESS. It occurred to me that Senator Harris, whom I know to be a very honorable gentleman, as well as a very distinguished statesman, might be apprehensive that there possibly would be some impropriety in his advancing such an enterprise, and I wrote to him accordingly to ask whether or not he entertained any feeling of that kind, to which he replied in his usual frank manner that he saw—

Q. Have you that letter?—A. That letter should be among the letters of the case. We have so many I could not swear it is there. The substance of the letter can be given in a word, that he saw no—

The CHAIRMAN. You had better not give the substance.

Mr. RANNEY. Is that letter in the scrap-book?

The WITNESS. It should be there.

Mr. HANBACK. I think it is. It is the letter in which he said he would rise in his place in the Senate and state his position. You have got the letter here.

Mr. EDEN. The letter itself would be more satisfactory.

Mr. MILLARD. Why not put it in at this stage of the case?

Mr. OATES. It was before the sub-committee.

Mr. MILLARD. It will throw light upon his explanation as he goes along.

Q. Has the letter been published?—A. I do not think so; if so I do not remember it.

Mr. RANNEY. Had you not better let him state the substance?

The CHAIRMAN. We will pass it, and recur to it if we can get the letter.

Q. Have you a copy of your letter to Senator Harris?—A. No, sir; I have no copy I seldom ever kept copies. It was a mere accident when I did keep copies of letters

Mr. HANBACK. Young Mr. Rogers testified to the same letter; that Senator Harris stated he would rise in his place.

The CHAIRMAN. That was in another connection; that was when the project of the postal telegraph was spoken of.

Mr. HANBACK. Oh, yes; that was another matter.

Q. Unless there be objection, you may state the substance of the letter, and we will have it put in.—A. The substance of the letter was simply that, having duly considered the matter, he saw no impropriety in persons situated as he and General Atkins were taking part in a scientific enterprise such as that which was proposed, but still he did not go into it; there was nothing in his letter to indicate that he would go into it. Subsequently to that, however, they met again at my house, doubtless at my own invitation, though I don't remember why.

Q. Who were present?—A. Senator Harris, General Atkins, and Colonel Young. I proposed to them that each one should take \$500,000, which they accepted, and agreed to go into the enterprise. At that meeting, when it was evident that they would go into it, I suggested to them that several other gentlemen had previously consented to act as directors, and left it chiefly with them to determine who their associates might be.

Q. Were any of those gentlemen members of Congress or persons in office?—A. No; I think not, sir. One was a priest, the pastor of St. Dominic's church, who had been a patron of my son, sometimes advancing money and permitting him to use the convent up there for one end of his lines. He had agreed to allow us to use his name in the enterprise, Father John Rochefort, now prior of the convent of St. Bertram, in Louisville, Ky., having been just before that time the provincial, as it is termed, of all the Dominican priesthood and Dominican sisters in the United States.

Q. What was his standing in the church?—A. As high as that of the cardinal.

Q. Go on and name the others, if you can.—A. Another was General Marcus Wright, an old friend of mine from Memphis, who had been a general in the Confederate army, now in charge of the Confederate records, I think, in the War Department.

Q. How long has he been in that position?—A. I do not know when he was appointed. He had been there several years, though, before that time, I think.

Q. He was not appointed by this Administration?—A. Oh, no, sir; I think that was referred to at that very meeting—that the general had been appointed by Republicans, or something like that.

Q. Name the others.—A. Another was Richard Wintersmith, who had been formerly secretary or chief clerk of the legislature of Kentucky—something of that kind—a man of universal reputation for good humor; in fact he is a national wit, and one of the best men in the world. I have known him for over twenty years.

The CHAIRMAN. That is a good certificate.

The WITNESS. He does not need my certificate, sir.

Q. Were there any others?—A. Another was Mr. Snyder, a prominent merchant of this city—Christian G. Snyder—who had said I might use his name in that connection. Another was General Basil Duke, of Kentucky, who made those raids with Morgan during that unpleasantness which occurred some years ago; and I believe another was Mr. Nicholas Shay, a wholesale grocer in this city. I do not think we proceeded further than with those names at the time I broke off from the main narrative.

Q. These were the gentlemen whose names you mentioned to Senator Harris, Mr. Atkins, and Colonel Young as having been spoken to previously?—A. Yes, sir; and they were the gentlemen for whom I provided \$170,000 to give them what I had told them. I think I had suggested different sums to different ones; that I would put that to their credit which they were willing to accept; that it was of no present value; but they were moved all, I may say in justice to them, more to assist me and my son in our enterprise than to make any money by it.

Q. Do you refer to the whole party?—A. To the whole party that went into it originally. I do not know about my friends who went into it on the \$500,000 basis, because that was a good deal of money if it was worth anything; but these other gentlemen were going in for a mere trifle.

Q. I understand you to say the stock did not have much value at that time?—A. It had no commercial value, but my son and I thought it was worth about \$100,000,000 if it was developed as we thought it could be developed in great laboratories by learned electricians and skilled mechanics.

Q. Now you may proceed as to the transactions between yourself and these other gentlemen.—A. Having the pamphlet on the table and reading passages, and having previously sent this pamphlet to the gentlemen I have mentioned, and to many others in the Senate and House, and business men about this city, they agreed that as soon as Congress should adjourn they would have a little more time, and that we would draw up a contract upon the basis I have suggested. Pursuant to that, about the first or second week in March following, Senator Harris, Colonel Young, General Atkins, my son, and myself went to the city of New York and stopped at the New York Hotel, with the object partly of drawing up that contract, and some floating idea of getting a charter from New York, or of getting Mr. Eaton, who was a great

friend of Senator Harris, to get the charter out for us in Hartford, Conn. We had an idea at first that the general incorporation act of one or the other of those States might cover so vast a field as the patents already made and applied for and the possibilities of electricity.

Q. Do you refer to Senator Eaton?—A. Senator Eaton, afterwards a Congressman, I think. He had, however, nothing to do with the Pan-Electric Company, only his services to assist. Nothing was done in that direction. We found, upon consulting authorities, that no State, so far as we knew, could guarantee any such charter, and it would have to be a special act of the legislature to bring all these things and to permit the stock to be sold upon a general plan. Hence we simply drew up a contract, which is in evidence here, in which it was agreed to get the charter, &c. The contract speaks for itself.

Q. Will you name again the parties who were present at the making of that contract?—A. Senator Harris, Colonel Young, General Atkins, my son, and myself.

Q. Until the signing of this contract had you any conversation with General Johnston with regard to this matter?—A. Yes, sir; not a conversation so full as with those other gentlemen; but General Johnston, the first time I had the honor of seeing him in my life, brought a letter of introduction from Senator Harris, either to me, or to my son, or both of us, at my house; and thereupon we talked the matter over with him, the general scope of it, and exhibited to him the telegraphic system which was already in operation in the laboratory, and the telephonic system, and showed him generally the other patents and inventions.

Q. Can you state when that was?—A. Well, some time I think in April, or in the preceding months, March, January, or February.

Q. Did you come to any agreement or understanding with General Johnston at that interview?—A. Nothing more than that he had the pamphlet. You will find in a subsequent letter that he as a soldier, rather than as a lawyer, calls that paper a contract. He says: "This is the contract on which the association was founded." It was in one sense a contract. He considered it a contract.

Q. Was there any agreement reached at that time that General Johnston was to go into the enterprise?—A. Well, I do not know that there was any definite statement to me that he would go into it, but it was my impression that he was one of us at that time and was going into it.

Q. Did you have any other interview with him preceding the making of the written contract?—A. I think that he occasionally came there, either alone or with Senator Harris or Senator Garland. They came frequently to look at the instruments at work.

Q. That was before the making of the New York contract?—A. Yes, sir; I think so.

Q. You may state whether you had any interview with Senator Garland before the making of the New York contract, in reference to this matter.—A. Well, we had two or three interviews, assuming—we made no agreement—but it was generally assumed that he was one of us and understood the matter. He came to my house at one time—the first time—to examine the instruments, and went into the laboratory and seemed to look through them with a great deal of interest.

Q. Was anything said at that time about Senator Garland taking part in the matter?—A. I cannot recall it, but it was just assumed that he was one of us. I think either Senator Harris told me he would be one of us or he told me himself. I do not recall the words. We looked upon him as one.

Q. Do you recall anything that Senator Garland said at the time he was examining the instruments, indicating that he was willing to take part in the company that you then had in view?—A. Well, I could not recall a single word that either gentleman said. There was nothing striking in the matter.

Q. Can you recall the substance of anything he said indicating a purpose to go into the company?—A. I think not.

Q. Did he do more than examine the instruments?—A. At the first visit I think that is all he did.

Q. State what occurred at the second visit?—A. Well, he sat in my parlor with me, where we talked the matter over. Shall I state everything that occurred in my private house?

The CHAIRMAN. Not of a private nature.

The WITNESS. In connection with these gentlemen.

The CHAIRMAN. Anything in relation to this enterprise.

A. He sat there with us and we talked this matter over, about the possibilities of electricity, which was a favorite theme with me; at least I talked it over, and I suppose there were responses; but those fugitive conversations made no impression upon me. There was no contract drawn then.

Q. Was there anything said then in regard to the formation of this company?—A. I do not remember that there was.

Q. Were you doing anything more than discussing the general subject of electricity and the possibilities of it?—A. Oh, infinitely more. It was understood already that

these gentlemen were parties to our concern—Garland, Johnston, Harris, Young, Atkins, myself, and Harry. We talked it over just as partners would who had agreed.

Q. You say that was the understanding. I have asked you to state the conversations or occurrences from which you gained that understanding, making my question as broad as possible.—A. I cannot recall a single word of it, sir.

Q. Can you recall the substance of anything that was said at any time upon which this understanding was reached?—A. The understanding was not reached in any sense through conversation. Senator Harris had said to me that these gentlemen could go into it, and they seemed to come and acquiesce in it.

Q. Had you been acquainted with Senator Garland?—A. I had never met him until he came at the instigation of Senator Harris, as I understood, to go into this enterprise.

Q. You may state anything that occurred between you preceding the New York contract?—A. Well, when I proposed to give this \$500,000, Senator Harris remarked that it seemed a little too generous in me, but he said: "As you express it in your pamphlet, if we develop it or succeed as we anticipate, there will be fortunes for a hundred men; and although you seem to be too generous, with the view of there being a great deal in it and plenty for you and for others, we will accept it." He seemed to be the spokesman for all the gentlemen.

Q. Who were present when Senator Harris said that?—A. At that meeting Mr. Atkins and Colonel Young and my son and myself were present.

Q. Was General Johnston present at any of the meetings with Colonel Young and Mr. Atkins preceding this contract?—A. If you mean a business meeting, no. They dropped in to look at the instruments.

Q. Was Senator Garland present at any meeting?—A. No, sir; I don't think he had occasion to call any meeting. It was all settled at once. I will say here that in choosing associates I suggested to the gentlemen that I had already written to Senator Windom just as I had written to them, and he wrote me a polite letter saying he had too much business to go into it.

Q. Had you written to Senator Garland?—A. Never.

Q. Had you written to General Johnston?—A. Never.

Q. You had written, then, only to Senator Harris?—A. I had written to Senator Harris and spoken to General Atkins. I wrote to several parties. I wrote to Senator Windom, as I have just stated; I wrote to Hon. Ben Le Fevre, and I wrote to Architect Clark about the time I wrote to Senator Harris and had the interview with General Atkins, and offered some small amount, suggested that I would put some small amount to their credit, and they all declined, just as Senator Harris and General Atkins did, upon those amounts. I suppose if I had raised the amount any of them would have gone into it, as it seemed to be a very fair, legitimate thing.

By Mr. RANNEY:

Q. Did General Le Fevre decline it?—A. Yes, sir; he declined the small offer, just as Senator Harris and General Atkins did.

By the CHAIRMAN:

Q. The small offer of \$100,000 each?—A. I don't remember the amount; it might have been \$50,000 or \$100,000. Whatever it might have been it was small compared with \$500,000.

Q. Will you state what was said, if anything, by any of these gentlemen in these interviews as to the consideration they were to pay you or to render to you for the share they were to have in this enterprise?—A. I stated to them the general contents of the pamphlet, and, in urbanity, said they were men of national reputation, and they were known not only as lawyers and statesmen, but they were known for their integrity, and as the enterprise was an unusual one, I wanted to have such men as a guarantee to the people that the stock which we should issue upon the possibilities of electricity and so much that lay in the future—I wanted that class of men, or otherwise we couldn't sell the stock.

Q. Did you expect services from them?—A. I expected those services that their interest might prompt, in addition to the use of their reputation for integrity and good business sense.

Q. Was General Johnston at that time in any public office?—A. No, sir.

Q. Was anything said by you to any of these gentlemen or by any of them to you with reference to the company deriving any advantage from any official position held by any one of them?—A. Never a whisper; never a breath. The object of the thing was, as I have stated, to bank on their names and general reputation and upon my son's genius.

Q. Upon their names as officials, or upon their names, as you have stated, as honest men?—A. Just so far as their official character gave them a broad reputation for integrity, honesty, and good business sense.

Q. Can you recall any instance from the beginning to the end of this transaction

in which the company sought to derive any advantage from the official position of any one of these gentlemen?—A. I have thought of that a great deal, sir, and I cannot trace a single vestige of an effort by the company to get anything through official position, except possibly it was the effort to appoint my son to be the electrician of the House; and I believe I will state on my oath that if it had not been for their official position they would have been more likely to have obtained it for him.

Q. Had your son ever been electrician to the House before?—A. Yes, sir; he had been electrician for several years.

Q. When was he appointed?—A. I think in 1876.

Q. Who aided in securing his appointment then?—A. Prof. Joseph Henry was the chief person. He had been my preceptor at Princeton and was my personal friend. He wrote a letter to Col. Casey Young, commending my son in the highest terms, after having examined a number of his inventions.

Q. That, you say, was in 1876?—A. 1876, I think, sir. Colonel Young thereupon wrote a letter to Mr. Adams, but cautiously said to him he would not ask anything of him, but if he thought it was due to Tennessee he might give it to my son. Feeling that was a very cold way of pushing him into the place, I waited upon Mr. House, of Tennessee, who went warmly into it, and upon a kinsman of mine, Judge Ashe, of North Carolina, and upon General Atkins, to whom I had borne a letter from Senator Harris, and they went in to see Mr. Adams. I think they took Colonel Young with them; I don't remember certainly. They, however, did not succeed. Mr. Adams appointed somebody else—some druggist in this town—who went to work to light up the House. His predecessor, it was said, had so arranged the wires that they could not be lighted.

The CHAIRMAN. You had better not go into that.

The WITNESS. I only wanted to bring out the point that he was placed there chiefly through his merits. When the House could not be lighted, Adams sent for him, and put Henry's letter into the archives, saying, "This will protect me anyhow, and I will give you the place."

Q. Did Senator Harris give any assistance at that time in procuring the appointment of your son?—A. He was not in the Senate.

Q. Had you known Colonel Young before that?—A. I had known Colonel Young since before the war, many years.

By the CHAIRMAN:

Q. This matter is of no consequence unless it be suggested that the effort to have him appointed the second time was because of his connection with this company. It appears that he was appointed the first time years before the company was thought of.

The WITNESS. I would suggest, lest I should be misunderstood when I said these gentlemen would have exerted themselves more if they had not been connected with us, that it is in testimony in that book [indicating book on table] that my son had the highest commendations from Mr. Clark who was the appointing power at that time. Those testimonials go to show that my son had been of great advantage to the Government, and had saved thousands of dollars by the new instruments he had introduced. Senator Harris has been instrumental in the Senate in getting—

Mr. RANNEY. I don't think you need go into that.

Q. Were those testimonials from gentlemen who were associated with you in this enterprise? A. The testimonials were chiefly to show—

By Mr. RANNEY:

Q. Whose were they?—A. Chiefly from Edward Clark, the architect, and Professor Henry and others.

The CHAIRMAN. We don't care about that.

The WITNESS. I beg pardon; it suggests this: That if all these gentlemen had gone together and got him appointed, the natural inference of charity and reason would be that they did it for the public service, for the benefit of the public, and not to get their little things into the Capitol. That would come in incidentally to putting in telephones and electric lights; but it would certainly seem reasonable to appoint a man to a place in which he had previously saved to the Government thousands of dollars, when they had the Architect's word for it. I want to exonerate those gentlemen, or at least to tell the truth.

The CHAIRMAN. We have gone into this matter simply because of your suggestion that they had never done anything through their official positions which would further the enterprise, unless their support of your son was such action.

The WITNESS. If it had been charged, I should think it was a misinterpretation.

By the CHAIRMAN:

Q. Will you state what was done by the company after the signing of this agreement in New York?—A. Well, some questions arose between us as to the procedure necessary to bring these things before the public and my son was appointed as the

electrician of the company to rent a wire reaching from New York to this city, and directing it to be connected with the uptown wires of the Rapid Telegraph system, so that we could experiment from New York to this city both on the telegraph and the telephone, and he was also instructed by a resolution of the gentlemen at the New York Hotel to have the stock engraved or printed, pursuant to all of which he had the stock engraved. We had not the charter yet.

By Mr. OATES:

Q. You mean the certificates?—A. I mean to have the certificates of stock engraved. We rented the wire, and General Johnston was a committee of one at this end to superintend and employ electrical experts to operate with him here, while my son and other electrical experts operated at the New York end; and after some weeks of testing these various instruments I think the general reported to the board that they were very satisfactory.

By the CHAIRMAN:

Q. Was the Pan-Electric Company ever organized and incorporated?—A. Well, no sir. There was a stock company formed, simply a stock job company. The partners were the gentlemen whose names I have already mentioned in this connection; but in the contract which will speak for itself they proposed to get a charter and to issue stock under that to carry on this enterprise.

Q. But never did so?—A. They never did. I beg pardon in saying they never did. I might be misunderstood. With our acquiescence some year or two afterwards, I think about a year afterwards, they concluded to get out a telephone charter, which they did in Tennessee.

Q. When you speak of "they," to whom do you refer?—A. I mean my associates whose names I have given all along. By this time there were others. There was Colonel Looney, who had come into it, and General Brown, of Saint Louis, formerly governor of Tennessee, I believe. You may add those names to those which I have been mentioning.

Q. Were you present at any meeting when it was determined to organize the Pan-Electric Telephone Company?—A. I think I was. I was in favor of it. I had written to the parties that after there was so much delay about us getting the big charter we might start out with something smaller, and get that when we could.

Q. Where did these meetings take place?—A. The first I remember of on the subject of the telephone was in the Judiciary Committee room of the Senate.

Q. Who was present?—Colonel Looney, my son, Senator Harris, Senator Garland, General Johnston. General Atkins was not there.

Q. Can you state the time?—A. Well, I should say about a year after we organized, to give a guess; but the papers will show.

Q. Did you have more than one meeting with reference to the organization of this telephone company?—A. Yes, I think we had two, both in the same place. At the first we adverted to the subject, and there was a general agreement about it. At the second meeting it was agreed to have the charter prepared or have it reported on, I don't know which; but there were two meetings. Mr. Garland prepared the papers and submitted them at the second meeting, I think.

Q. In what State was that charter obtained?—A. The charter for the telephone was obtained in Tennessee. The charter for the telegraph was obtained in New York. The two first charters that Senator Garland wrote out were designed to be obtained from the State of New Jersey. I went on there and found that a recent law which the Senator had overlooked, or possibly had not been published, put a very high tariff upon charters in New Jersey, and I had to go back and get instructions.

Q. You say there was another company, a Pan-Electric Telegraph Company?—A. Yes, sir.

Q. What was the foundation for those two companies?—A. The foundation for the telephone company was several inventions of my son in the art of telephony, which he had operated up at the laboratory, and for the telegraph company it was mainly based upon a patent which he had already obtained for embossing a metallic tape and then running over those embossments with great rapidity, so as to send at least ten times as many words a minute as can be done by ordinary manipulation.

Q. Were these inventions included among those originally assigned to the Pan-Electric Company?—A. Yes, sir; they were, and on account of the delay in getting out the main charter, still hoping it would be done after a while when legislation could be had, we chartered them, hoping to get stock that would enable us to do in part what we had contemplated in the original enterprise.

Q. Has any of the stock of the Pan-Electric Telephone Company been issued?—A. We have never had any stock proper; that was one thing we insisted on very frequently—getting stock. The secretary sometimes signed with his pen a statement that a party had so much stock in the company, but it was tantamount to a man obtaining a charter for a bank and then writing that that paper would entitle a man to

five dollars; and we found great difficulty in using that kind of paper or stock. We were always insisting that they should, according to the original contract, either get out the stock under the great charter or under this authority we would issue stock, have it printed, and given to the owner; but that they never did.

Q. As I understand, then, there has been no stock issued by either of the three companies?—A. None.

Q. But there have been assignments of interests?—A. They called it stock, but it was a certificate. In the papers you will find every species of it, a certificate showing that John Smith was entitled to \$500,000. There is one there for \$500,000 to J. W. Rogers, stating that J. W. Rogers is entitled to \$500,000 in the Pan-Electric Telephone Company, signed by Casey Young.

Q. Have you such a paper?—A. It is in the book there, the one that I told the committee to take care of, as it contained millions.

Q. Has the question of the issuance or non-issuance of the stock been a cause of disagreement between the parties?—A. Oh, it has been a bone of contention through the whole business.

Q. Who wanted the stock issued?—A. Chiefly I and my son and Colonel Looney.

Q. Who opposed the issuing of the stock?—A. I think it was chiefly Senator Harris. I believe he was the head of the whole business of opposing it.

Q. How did the others take sides?—A. The Senator had great influence over the rest of them. I think they were all willing to go into it, and their letters will show they wanted to go into it; but the Senator seemed to draw back more than anybody else and didn't want to issue that stock.

Q. Did Senator Harris give any reason for opposing the issuing of stock?—A. I can give you the conversation we had.

Q. Give it.—A. After we had waited a long time and felt that we were not being—that the contract was not being carried out—my son wrote a formal letter demanding the stock according to the contract. It was considered, as I am told, at a meeting of the board, and the next day Senator Harris came down to my house—that was, I suppose, two years ago—and, said he, “Doctor, that letter of Harry’s demanding the stock was considered at the board, and I for one have made up my mind to withdraw from the association rather than allow it to be issued.” Said he, “It is for you to say whether you insist upon that demand.” I said, “I most certainly do. As my son’s attorney, and a party in interest, I demand it.” Thereupon he added, “I think all my associates will withdraw.” It struck me that the Senator was impressed with the idea that we would be left fearfully in the cold if these great men should withdraw, and I said, “We should be most melancholy, Senator, if you gentlemen should withdraw.” Thereupon he left my house, and they had a meeting at the judiciary committee—

Q. I will ask you, before you proceed to that, if he stated any reason why he objected to the issuance of the stock?—A. No; I think not. It was generally understood among us that they were unwilling to have their names go forward on the stock.

Q. Why?—A. Well, I suppose their names were sacred, and they did not want them on the street.

Q. Was there any other reason?—A. Well, yes. It was suggested in conversation—I could not give the words—that possibly the whole thing might fail, and that if it should fail the whole concern would be looked upon as scoundrels.

Q. Was there anything said with reference to first establishing these inventions or showing their value before the stock was put upon the market?—A. Yes, sir; and pursuant to that I and my son advanced \$1,200 or \$1,500 on two of the instruments to do what we knew perfectly well they would do, and were willing to put the money up in New York, simply that our friends, whom we greatly honored (for their reputation was as dear to us as our own), should have something tangible to go upon. We knew that our instruments would work from New York to Washington. We knew it as electricians. I speak in regard to the telegraph. If it would work across this room we know it would work between New York and Washington; but these gentlemen, being in the higher sphere of state, and not having paid the attention which we had to our humble science, naturally wanted to see something. They were honorable men, and they didn't want to pitch into the dark.

Q. You and your son were accomplished electricians?—A. No, sir; not accomplished, but we had paid a great deal of attention to it. Professor Henry had taught it to me, I was going to say a century ago, but as I am on my oath I will say a long time ago. My son had given his whole life to it from his boyhood. We knew that the instruments would do these things, and we were willing to put in our money, and we advanced that money, which they paid back to us *pro rata*.

Q. You were going on to state a moment ago that there was another meeting in the Judiciary Committee room in the Senate?—A. Yes, sir; I cannot speak except from—I can tell what Colonel Looney said—Colonel Looney, I think, or one of the gentlemen told me. It was in the Judiciary Committee room, and the meeting was held after this interview with Senator Harris. Looney came back, I think, at least some one came who had been present, and told me that they had considered the matter, and

Senator Garland was present, and they had concluded that they would not issue the stock for the present at least, and that they would not withdraw; whereupon I was about to file a bill in equity, when Colonel Looney, who is a man of universal peace and good humor, besought me not to make a stir, and said it would injure the stock and the enterprise, and it would be a great deal better to wait, and after awhile they would get the charter and issue the stock. So I did not file the bill in equity, and the thing just jolted along until the present time.

Q. I gather from your statement that you were not present at that second interview at the Judiciary room?—A. No, sir.

Q. Do you know when it took place?—A. I should say about May, 1884; some time in 1884. You can find the date in this way: A man named Harlan, a doctor, had been spoken to as a man who would take charge of the electrical department, and he came in while Senator Harris was in my room. Senator Harris turned to him, saying, "Dr. Harlan, I presume you will have to deal with other gentlemen than ourselves, as we will probably withdraw from this association." When they did refuse positively to go forward and get the charter contemplated and issue the stock, we invited them in a polite but firm way to take their instruments out of our private laboratory. The removal of those instruments will be indicated in the papers, so that you can get the date in that way.

Q. What time elapsed between the first and second interview?—A. Oh, I think it was the next day.

Q. Why were you and your son anxious to have this stock issued?—A. To sell it and to get money to build laboratories and pay electricians and mechanics.

Q. You wanted to put it upon the market?—A. We wanted to put it upon the market, as I stated in that pamphlet giving everybody warning. You have seen that pamphlet?

The CHAIRMAN. Oh, yes; I have it here.

The WITNESS. There is the whole plan. We say: "Here is this stock. It may be worthless. You must bring your own electricians and judge for yourselves and then take your chances. If you want to put \$1,000 in and sink it, it is your own business."

Q. That, then, was the point of difference between you and those other gentlemen; you wanted to issue the stock and put it upon the market, and they were opposed to anything of that kind?—A. Yes, sir; they were unwilling to issue stock with their sacred names upon it, mark you, but they sold State rights under which millions of stock went to the people.

Q. Do you know of your associates, or any of them, selling any part of their individual interest in this company?—A. I do not, sir.

Q. Do I understand you, then, they are still the owners of those interests, so far as you know?—A. So far as I know.

Q. Of their original interest?—A. Yes, sir.

Q. You have said something in regard to the formation of local companies. You may state how many of those companies have been organized or formed, and where they are.—A. Well, the first was in Missouri, in the city of Saint Louis. Colonel Looney, to whom I had sold a large interest, or rather, bargained it to him on condition of his making sales of stock if we could ever get it—which we never did—went to Saint Louis at his own expense and fell in with a kinsman of his, who was a man of influence, General Boyle, and they exhibited the telephone instrument in Saint Louis and soon reported to us that they had secured a contract upon which \$10,000 in money would be paid and one-quarter of the stock. I think Colonel Boyle told me they sold it for more, but that he and Dr. Arrington, a very nice gentleman in Memphis, having made the negotiation, got for their services the surplus, several thousand dollars. Our company having agreed to take \$10,000, if they sold for more than \$10,000 they considered the balance their right, and I acquiesced in it so far as that went. I would like to see everybody make money. I don't think there was ever any objection made to it. That \$10,000 was sent on in a check to Senator Harris, and the stock of a company therefrom was sent on, as Senator Harris informed me, to him.

Q. What territory was that company to cover?—A. I think it was to cover the State of Missouri.

Q. Was it a sale of stock or was it a sale of territorial right?—A. Territorial right upon which the stock was issued. We bargained that they should issue stock and give us one-quarter of it.

By Mr. MILLARD:

Q. You say the purchase price was \$10,000 and one-quarter of the stock?—A. One-quarter of the stock.

Q. And, as I understand, that sale was by the Pan-Electric Company?—A. By the Pan-Electric Telephone Company. The papers were signed by its officers.

By the CHAIRMAN:

Q. And you received \$10,000, which went into the treasury?—A. I suppose it went there. I got my pro rata of it, according to the amount of stock I had at that time

By Mr. RANNEY:

Q. Did you not get the stock, too?—A. We never got that; I can explain that, however.

The CHAIRMAN. I suppose that would belong to the company?

The WITNESS. The money belonged to the company also.

The CHAIRMAN. I can conceive of the difference, though, between money and stock. The money would probably be divided, and the stock would probably be held by the company, and the dividends as they accrued would be divided.

The WITNESS. Well, there were no dividends proper ever made.

By the CHAIRMAN:

Q. At all events it comes to this, that the money was divided and the stock was held by the parent company?—A. By the company, and is held to-day by the company. I would say just there in elucidating this thing, to show that everybody courts a fair investigation——

The CHAIRMAN. Yes; tell us everything you know.

The WITNESS. Yes, sir; but check me, please, if I state anything impertinent or use any surplusage. We wanted the stock from Saint Louis to put upon the market and sell it if possible, for we understood that first-class business men, the wealthiest men in Saint Louis, were on the paper.

Q. On what paper?—A. On the stock that was issued by the Saint Louis company.

Q. They were the stockholders?—A. They were the stockholders, and had signed the certificates as president, secretary, &c. My son and myself, in order to get some portion of the original idea carried out, wanted to get hold of our share of that stock, but it was sent in one large block, and was not cut up so that we could get any slice of it, which substantiates what you have just suggested, that we could not divide it into slices as we did the money; we wanted the money that came in antecedent to this, and as fast as it came it had to be appropriated toward developing these twenty odd patents; in one case, especially, we required about five patents to be obtained for a telemorph, so named by my son (tele, distance; morph, form). The telemorph was an instrument enabling you to see by electricity at a distance, and my son had so far developed it in his theories and practice and drawings which he had made that he was ready to obtain the patents; but these gentlemen said they didn't see any practical benefit in seeing a fellow at a distance. Well, I argued with them that it might be valuable. Suppose a man in New Orleans was to draw a check upon a bank here for a large amount of money, and there would be doubt about paying it; they could see him; they could touch a button, and he would stand before them in the bank in Washington, and so it might be of great commercial value; but they wouldn't put any money out on that or on many other of the things we had; there were patents he had applied for, that have since lapsed, that we wanted carried out; they put no money into them. When we spoke of developing all these ideas, we could not get the money to pay our electricians and mechanics, or to pay for the patents.

Q. Were you opposed to dividing this money?—A. Of course I was opposed to dividing this money, if I could get it put into developing my son's inventions; but if I couldn't do that, then I wanted my share of it and was anxious to have it divided.

Q. Why did you want the stock divided?—A. To sell it, because there were good names upon it, and it could be sold better than this stuff Colonel Young had issued with these names on it.

Q. In the view you held, would it not have been better for the company to have sold the stock and got money to develop these inventions?—A. I would have been very glad if they had done that; but they had it all in one big certificate, and couldn't do it.

Q. Did you ever get any other money from this Saint Louis company?—A. Nothing more from Saint Louis.

Q. You have stated that that was a regular corporation?—A. That was a regular corporation.

Q. Controlling, as you understood, the State of Missouri?—A. That is all. They bought the State right and issued their stock upon that right.

Q. What other companies were formed?—A. Colonel Looney went on his way with the same electricians he had hired, at his own expense, to Texas, and has put the telephone on wire fences, and he told me that the children and women began to cry for the telephones.

Q. Colonel Looney was a good-hearted man. Go on and state the result of the Texas enterprise.—A. The result was that he got another \$10,000 in cash, which was returned to the company, and I have understood, though I do not know it of my own knowledge, that his sons and their partner got a great deal more. Some one said \$30,000; I know nothing about that. I told Colonel Looney if they had done so I would be very glad of it. I wanted them all to make money. We got only \$10,000 in money.

By Mr. MILLARD:

Q. For what?—A. For the right of the State of Texas.

By the CHAIRMAN:

Q. Were you to have any part of the stock of that company?—A. One-quarter of the stock of that company.

Q. What was done with that \$10,000?—A. Well, it was now understood that the precedent had been given for dividing, and we all went for it as soon as it came in. It seems we could not get money to build laboratories and employ electricians and mechanics to develop the great scheme. We were still waiting for the big charter to come out, hoping it might come some day.

Q. And so you divided that \$10,000?—A. Yes, sir.

By Mr. RANNEY:

Q. Did the women and children cry for the loss of that money?—A. Looney told me the last time I saw him they were crying for stock.

By the CHAIRMAN:

Q. Was there any other company organized?—A. There is a point there that I am reminded of by seeing a gentleman present—a very celebrated lawyer, a great man, and a good man, no doubt. When we couldn't get any of this money to devote to laboratories, we came down to so small a point as this: We had two or three little bills, not amounting to more than \$30 or \$40, for work mechanics had done for some part of the apparatus. We sent this mechanic to Colonel Young, and the mechanic came back saying Colonel Young was tired of the thing, and didn't have any money and wasn't going to pay it.

Q. Was it the mechanic talked that way or Colonel Young?—A. Colonel Young. Then the bill was sent to General Johnston, and he wrote upon the back of it: "This is Mr. Rogers's bill." It was made out against Mr. Rogers by name. General Johnston is a soldier and a very exact man, and as it was made out against Mr. Harry Rogers, he just put upon the back of it "This is Mr. Rogers's bill"; but were so provoked, to tell the plain truth about it, after we had gone into this thing with these grand expectations that those small bills should be sent back to us by the company, that we took up our traps and went to New York to establish a telephone company independent of this concern.

Q. Were these bills sent in after or before the division of the money?—A. Before there was so much money. We had only assessed ourselves occasionally. I must do Colonel Young the justice to say it is probable there was no money in the treasury at the time; but it provoked us to think there should not be any money in the treasury. We were always ready to do our part.

Q. You have spoken of two companies. Were there any others?—A. It is very material, if you will excuse me, that I should explain in my testimony about going to New York to start the company there, for it will probably come out in this investigation. We went there to establish another company, and agreed with a gentleman whom I see present, I can't think of his name, but it is a Christian name—Beckwith—at any rate, it is a sacred name, because there is a great bishop named Beckwith.

Mr. BECKWITH. I never agreed to start any company.

The WITNESS. I know you did not. I do not say so. I went on to see you. (Addressing committee.) Beckwith entertained our proposal. He said he had access to hundreds of men in every part of the Union, through acquaintances which he had made while connected with the overland telephone, and if we would go in with him he could make us more than all these statesmen would ever make us. "Well," said I, "here are the instruments we have been making, ready for a new deal. What will you give?" Said he, "Not a cent; I put in my influence." Thereupon he consulted with a famous lawyer, a son of Abraham, named Jacobs, about our contract. We wanted to look into it to see whether Harry and I could diverge from the statesmen and go in with these business men. Jacobs, after examining the thing, came to the conclusion that Harry was sold, body, if not soul, to these gentlemen.

The CHAIRMAN. I am afraid you are wandering a little now. You told us to check you if you wandered.

Mr. RANNEY. I think he ought to finish.

The CHAIRMAN. I have no objection.

The WITNESS. It was a part of the contract that he had bound all his future possibilities and all his future labor. We had not understood it. We understood in signing the contract that it was for improvements on specific inventions; but Jacobs decided that whatever Harry might invent in electricity belonged to the Pan-Electric statesmen; and this arrangement we were trying to make with Beckwith was altogether broken up.

By Mr. MILLARD:

Q. To whom had you bound all the possibilities?—A. Harry had bound himself to Senator Harris, to General Johnston, to Colonel Young, to General Atkins, and to their associates who might legally go into that concern.

By the CHAIRMAN:

Q. Do I understand that you wanted to organize this New York company under the Pan-Electric Company or outside?—A. Simply as the Rogers Company.

Q. Independent?—A. Independent.

Q. Did you propose to use any of his inventions which had been transferred to the Pan-Electric Company?—A. Oh, no. So far from that, we brought the instruments here, after we had had Jacobs's opinion. We didn't make any concealment of it. We told these gentlemen that here were instruments that we had invented and we could have a new telephone independent of theirs, and they agreed to take them under a contract which said provided they paid for the work on the instruments they would be entitled to them. They paid us, I think, for those instruments what the mechanic had charged us, and put them into the Pan-Electric Company.

Q. That has no connection, then, with the subject of this investigation?—A. Well, it has a remote connection, most certainly, on this question of right, and not getting their charter out, and developing the original scheme; that that not being done here we tried to use what liberty we might have to make money in another direction and build laboratories.

Q. Do I understand, then, you were not satisfied with the course that these gentlemen were pursuing?—A. Satisfied? How could I be satisfied?

Q. Answer the question, if you please. Were you satisfied?—A. No, sir; never.

Q. And you proposed to set up for yourselves?—A. To set up a new concern, and leave them to run their own patents, and take the patents they had.

Q. State whether there was any other local company organized under the Pan-Electric Company.—A. Well, Colonel Looney continued on his pilgrimage around through Alabama and Tennessee, and went over to Colonel Oates's country and sold out Alabama for \$7,500 in money.

Mr. OATES. He didn't get so much for that.

Q. To whom was that sold?—A. I think that Colonel Looney, his son, and Colonel Upshur made the sale to parties in that great iron city—what is the name?

Mr. OATES. Birmingham.

A. (Continuing). Birmingham; and there established lines and got up a stock company.

Q. What was done with that \$7,500?—A. Tennessee was sold, and I think that with the Tennessee money all came together. Senator Harris had sent it, and he wrote word that the money was short. His letter is not here, probably. He wrote to some of us that he had taken his part of it, just kept his part; he was pushed for money, and kept his part, and we could divide the rest when it got here. That being done, of course each fellow wanted his money, and we divided it up. I am not saying anything unjust about Senator Harris.

Q. I understand you there was a company formed for Tennessee?—A. Yes, sir.

Q. So that the right for Tennessee was sold?—A. Yes, sir.

Q. Who sold it?—A. I think Looney was the main man selling it all. As a legal matter of course he couldn't sell; he was a mere agent. Senator Harris and General Johnston, as president and vice-president, and Colonel Young, as secretary, sold. Looney was the individual who made the sales.

Q. What was the money price for the Tennessee rights?—A. \$7,500 and one-quarter of the stock.

Q. Did you receive one-quarter of the stock of the Alabama company, also?—A. We never got any of the stock. It was generally sent in a big certificate, and it is on deposit in our treasury.

Q. The company got it?—A. The company has it now.

Q. Was it a part of the contract that you were to have one-quarter of the stock of the Alabama and Tennessee companies?—A. I think so; but this is partly hearsay. I was not a party to it.

Q. You may state what was done with the \$15,000 received from the Alabama and Tennessee sales.—A. Senator Harris kept his part, and very properly. It was very proper for him to do it, upon the precedents we had set of dividing it up as soon as it got in. We went for it, all of us, and got our checks from Colonel Young and went over to Riggs' bank and drew our money, and that is all I know about it.

Q. Were there any other sales?—A. Yes, sir; they didn't amount to a great deal, though. There was a sale in New York. I think New York was sold originally for about \$2,000,000 in stock. I am guessing at that. I do not know the amount. It was a large amount of stock. We were to have half of the stock and they were to pay no money. There were a lot of very enterprising and wealthy sons of Abraham there. Senator Harris's opinion was that they could make the stock worth more to

us than we could make it worth, and we had better take our pay in stock; that the sons of Abraham would run that stock up and make it very valuable, so that we agreed to let the sons of Abraham have New York for stock and no money.

Q. And you were to have one-half?—A. One-half of what the Jews made—that is, one-half of the stock that they made; that they executed, or put afloat.

Q. Who made the New York sales?—A. Senator Harris made that to Jacobs, the lawyer of whom I spoke.

Q. Do you know the capital of the New York company?—A. I do not know that they ever organized. I am only speaking of the contract. I think they failed to come up to some condition, and that the contract was subsequently annulled by our company.

Q. Was there any other territorial right sold to any other company?—A. Pennsylvania.

Q. State the facts in regard to that.—A. My son and I were at the Grand Central Hotel, New York, and saw some decision in Pennsylvania about the Drawbaugh concern, that we thought would make Pennsylvania a very favorable place, in view of the possibilities of Bell's suits. It was something against Bell; possibly it was the refusal of injunction in the Drawbaugh case. I think that was it. I telegraphed to our associates that we would be glad to take Pennsylvania upon the same terms on which they had already sold the District of Columbia and Tennessee to Dr. Harlan and Augustine and Bradley T. Johnston, I believe.

Q. To whom did you make that statement?—A. I telegraphed and wrote it both to President Johnston. He wrote back to me that the terms made for this territory were very favorable, and that they expected a much higher price for Pennsylvania, and that I and my son couldn't get it. I wrote to Colonel Looney about it, and suggested that it was rather a hard case that the inventors could not get Pennsylvania upon about the same terms that strangers had gotten this territory; and Colonel Looney called another meeting, or went with somebody, he told me, to see the gentlemen, I don't know which, and remonstrate with them; and thereupon General Johnston telegraphed me, "You can have Pennsylvania on your own terms." The terms we settled upon were that we were to pay \$2 a year on each instrument, or rather each set of instruments, as a royalty, and nothing beyond, for the right of Pennsylvania, and it was guaranteed to us from the company; that we sold to the company formed there, Klotz, Denver, Manning, Money, my son, and myself. I don't remember any others.

By Mr. RANNEY:

Q. What Money was that?—A. Hernando D. Money, of Mississippi.

Q. Was he a member of the House?—A. He was not at that time.

By the CHAIRMAN:

Q. When was that?—A. It was, I think, early in 1884. He might have been a member then.

Mr. HANBACK. He was a member of the Forty-eighth Congress.

Mr. RANNEY. He was the chairman of the Committee on Post-Offices and Post-Roads.

The WITNESS. Yes; he must have been in Congress at that time.

By the CHAIRMAN:

Q. That company, as I understand you, was organized by yourself and your son?—

A. Yes, sir.

Q. The territorial right of Pennsylvania was sold to that company?—A. Yes, sir.

Q. Was the parent company to receive anything except \$2 on each instrument?—

A. No, sir.

Q. It was not to have any part of the stock of the local company?—A. No, sir.

Q. Was there any agreement as to the protection of the patents for use in Pennsylvania?—A. Yes, sir; the agreement was that they would defend any suit that should be brought.

Q. Who would defend it?—A. The Pan-Electric Company guaranteed it. The contract shows for itself.

Q. Was that agreement in writing?—A. Oh, yes.

Q. Do you refer to the agreement already in evidence?—A. I do not know whether it has been put in evidence. It is the agreement the Pan-Electric Company made with my son and me.

The CHAIRMAN. Is it the agreement for the sale of Pennsylvania?

Mr. J. HARRIS ROGERS. No sir. It is in the book, I believe.

Q. You say there was an agreement that the parent company should defend the Pennsylvania Company?—A. Defend us against the Bell people; but there was a subsequent clause in which it said they would be bound for no damages, I think. It will speak for itself.

Q. Was it your understanding that they were to carry on the litigation, but not to

be bound for damages?—A. The contract will show what it is. I took whatever they gave me.

Q. I merely ask you because you undertook to state it. How much money did you and your son receive for Pennsylvania?—A. Never a cent.

Q. What were you to receive?—A. Nothing.

Q. How were you to be paid?—A. We were to be paid by selling stock.

Q. What proportion of the stock were you and your son to have?—A. Nearly all of it. I want to say a word in justice to Mr. Klotz, who was one of them. You asked my son the other day if Klotz came in as the Pan-Electric gentlemen did, and Harry said yes. The fact is that Klotz had a little of the stock that I gave him for the use of his name, and he then bought Pan-Electric stock, and paid me \$2,500 for putting up poles in the Lehigh Valley.

Q. From whom did he buy that stock?—A. He bought it from me. I furnished it to him at \$7,500. I call it stock. It was one of those things Colonel Young got us. It was in the Pan-Electric Company.

Q. To whom did the money go that Klotz paid?—A. It went for putting up poles and wires in the Lehigh Valley.

Q. Did it go in the Pan-Electric Company?—A. No; it went into the Rogers Telegraph and Telephone Company.

Q. As I understand, you and your son sold him a part of your interest?—A. My Pan-Electric interest; yes, sir.

Q. It was not a sale by the company?—A. Oh, no, sir; in no sense; but just ours. I want to say just there that though he paid only the \$2,500, as my son stated, he came down here and said, "I am a man that always keeps my contracts, and I will pay you the \$7,500 for those patents;" but we said we were not that kind of men, and made him a present of the balance of the stock, and let the thing stand in that way until we could see what would become of it. I want to say that in justice to Klotz.

Q. Did he have any other Pan-Electric stock except what you and your son sold him?—A. None that I know of, sir.

Q. And that he paid \$2,500 for?—A. Yes, sir; he paid it. He gave us his obligations for \$7,500, but had paid \$2,500 when we released him from the rest on account of the suit.

Q. Have you any recollection of his paying \$200 more for some reason?—A. He never paid me a cent, nor my son, that I ever heard of. He might.

Q. Did this company ever go into operation in Pennsylvania?—A. Yes, sir; we put up an exchange there with about thirty telephones, running out to some coal mines, and through the town of Mauch Chunk, and we were enjoined there.

Q. Where did those lines extend, if you know?—A. I think one line ran over that high hill there that they call the Switchback, and one went to Allentown. Klotz told me he had the poles put down almost to Allentown, I think, when I saw him at one time. I think that was about 30 miles off. There was some other coal place where it was carried—I don't remember what the name of the place was—and in different parts of Mauch Chunk.

Q. Where was the money raised to put up those lines?—A. I furnished about \$1,000 to start the thing, and Klotz put up those lines with the \$2,500 in addition to the \$1,000 I had spent in starting the machinery of the thing. Only about \$3,500 was laid out at the time we were enjoined. We were going on to make other connections.

Q. I gather from what you say in justice to Mr. Klotz, that Mr. Klotz has paid for all he got?—A. Every cent, and he wanted to pay more. He wanted to pay us \$5,000 more than we would take.

Q. You have given us Missouri, Texas, Alabama, Tennessee, New York, and Pennsylvania. Was there any other company formed? You said something about the District of Columbia.—A. Yes, sir; the District of Columbia, West Virginia, Virginia, and Maryland.

Q. One company?—A. All one company. They were sold originally to Dr. Harlan and a man named Augustine, and some gentleman, called Dr. Roseberry or Rosecrans, or something of that kind.

The CHAIRMAN. It is very important to get the right name.

The WITNESS. I do not know his name. It is all in the pamphlets. I must say in justice to myself that in those transactions I had no part. It is only what I heard, as a man interested would hear.

Q. Who made the sale of the District of Columbia and the adjoining States?—A. I presume the Pan-Electric officers. I don't know. Nobody else could make it.

Q. Do you know the individual who made the contract or the arrangement?—A. I know the president and secretary, by the by-laws, must make it. Do you mean the preliminary arrangement?

The CHAIRMAN. Yes.

The WITNESS. Dr. Harlan had become electrician after my son had the Pan-Electric instruments removed from his private laboratory, when they wouldn't issue the stock or get out the charter. Dr. Harlan became the electrician of the company, and he

was in conference with them thereafter, and he was the leading man in making that contract. Then Bradley T. Johnson came in with him and Dr. Henkle.

Q. Do you know the prices received or that was to have been received by the company for the territory named?—A. I think they were to have one-quarter of the stock.

Q. How much in money?—A. I don't believe those fellows had any money.

Q. They might have promised it. Was there any other company that you recall?—A. General Boyle sold Chicago, or sold Illinois, I suppose. It was in Chicago that the trade was made for \$10,000 in money. I heard, I think maybe he told me, that he got \$15,000 or \$20,000 for it. I am not sure of that. Somebody told me so.

Q. For himself or for the company?—A. Not for the company. I know what the company got, for I got my slice. The company got \$10,000.

By Mr. MILLARD:

Q. Was it the State of Illinois or the city of Chicago?—A. I think it was the State of Illinois, though it was done in Chicago.

By the CHAIRMAN:

Q. Was the company to have any part of that stock?—A. Yes, sir; I think they were to have one-quarter of it, the same as in Missouri and Texas.

Q. What was done with that \$10,000?—A. It was divided up as soon as it got in.

Q. You were pretty prompt in dividing?—A. Let me say that whichever was the last State—it might have been Tennessee and Alabama that came in last—it never was divided. It got so stormy with the Bell people that we thought we had better keep to the windward a little, and we held that in the treasury. I hope that is there now.

Q. Was there any other company formed?—A. No; no other.

Q. That was all?—A. Yes, sir.

Q. Did the Pan-Electric Company receive any of the stock from the Illinois Company?—A. I do not know, sir.

Q. You have stated, I believe, that no part of the stock received from the local companies was ever divided?—A. It was never divided that I ever heard of.

Q. Was all the money received from the local companies divided?—A. No; I have transcended the limit of truth in that, not meaning to be untruthful. We retained from either Tennessee or Alabama or Illinois, I don't know which, I think about \$13,000 in money and in notes. There were some notes from Alabama paid in addition to the money. You will bear in mind that I am not stating about these things from my own knowledge, but what was my understanding.

Q. Let us get at that fact. I understand you to say that \$7,500 in money was paid for Alabama?—A. I think so.

Q. And notes in addition?—A. I think so. That was the contract.

Q. Do you remember the amount of the notes?—A. I think some one said in a meeting that there was \$3,000 in notes. That was probably from Texas. I remember now the \$3,000 note was Texas business. The books show all that. I am only going from hearsay.

Mr. RANNEY. We will get the books after while.

Q. You stated that Texas had paid \$10,000 in money?—A. I think so. It may be that they paid only \$7,000 in money and \$3,000 in notes.

Q. As I gather from your testimony, nearly all of these sales, or the greater portion of them, were made by Colonel Looney.—A. I think every sale was made by him except New York.

Q. Colonel Looney and General Boyle?—A. General Boyle and Looney made all those out West and South, and Senator Harris made the one in New York.

Q. Where did Colonel Looney reside?—A. He resided in Memphis.

Q. By what means did he go into the Pan-Electric Company?—A. Expecting every day this stock to be issued under the great charter, and knowing he was a great operator I gave him \$600,000 to come in.

Q. Part of your stock?—A. Part of my stock.

Q. He did not derive any stock directly from the company?—A. No; they offered it to him, but it was so small a sum that he spurned it. They wrote to offer him \$50,000 when he came on, and he said he wouldn't turn around for that; he had just made \$30,000 in one operation in a coal mine in money.

Q. You say he spurned \$50,000?—A. Yes, sir.

Q. Because he had received \$30,000 in a coal transaction?—A. Well, he instanced that. He said, "I have just got \$30,000 in money on one stock operation, and I ain't going to take my time away from those operations to help run this concern for \$50,000 in stock." So, as he was a great operator, I agreed to give him one-half of all the money we made, and we drew up a contract accordingly, and I proposed that he should take a one-sixth interest in the whole concern.

Q. So he came in through you?—A. Through me.

Q. Was that agreement in writing?—A. Oh, yes.

Q. Where is it?—A. I guess among the papers. Is it not, Harry? (Addressing J. Harris Rogers.)

Mr. J. HARRIS ROGERS. I don't know; it is probably among the papers.

The WITNESS. If it is not, I will get it. He is an expert, and a thorough expert.

Mr. J. HARRIS ROGERS. Colonel Looney looked over that paper a short time ago—last month.

Q. All of the companies, then, except the New York company, and the District of Columbia, and the adjoining States, were organized by persons who held their interest in the company through you?—A. Through my son and me; yes, sir.

Q. Who was General Boyle?—A. General Boyle was a general, I think, in the Federal Army. He is a gentleman of prominence in Missouri, I think a distant kinsman of Colonel Looney, all of which is very honorable to him.

Q. Had he any interest in the Pan-Electric Company?—A. Yes, sir; he bought some stock from me and Looney.

Q. What did he pay for it?—A. I think he paid ten.

Q. Ten dollars a share?—A. Ten dollars on \$100; \$10 a share.

Q. How many shares did he get?—A. I think it was only about \$1,000 that he paid us; \$500 went to Mr. Looney and \$500 to me.

Q. Did Mr. Looney pay you any money for his interest?—A. No, sir; it was Mr. Looney's genius that I banked on, as I banked on these other gentlemen's names.

By Mr. MILLARD:

Q. Mr. Looney seems to have gotten a good deal of money?—A. He brought me in money continually.

By the CHAIRMAN:

Q. Were these local companies organized under the Pan-Electric Telephone Company or the Pan-Electric Company?—A. The Pan-Electric Telephone Company. The Pan-Electric Company never got into shape, never got their charter.

Q. Would these companies have been entitled to any interest in the Pan-Electric Company or the Pan-Electric Postal Company had they been organized, by virtue of their purchase of the interest in the Pan-Electric Telephone Company? They seem to have bought territorial rights of the Pan-Electric Telephone Company?—A. Yes, sir.

Q. Suppose you had gone on as you intended and incorporated the Pan-Electric Company and the Pan-Electric Postal Company, would these purchasers have acquired any interest in those companies by virtue of their purchase of Pan-Electric Telephone stock?—A. The only interest they would have acquired would have been in telephonic improvements which my son might make in the future.

Q. It was confined to telephonic improvements?—A. Yes, sir; whatever Harry might invent until doomsday would belong to them in ratio.

Q. You said something about some persons having received money in addition to what was paid to the parent company, Colonel Looney's son, I think, and some others?—A. Well, yes, I have heard that; I do not know that it is true.

Q. Did any of those companies make any money?—A. Do you mean the local companies?

Q. Yes.—A. I do not know.

Q. Did you ever receive any money, in addition to your share of the dividends, from any of those companies?—A. No, sir; none. I had no stock in them except that which belonged to us in common. But they have a system of lines and wires in Saint Louis and probably do make money. General Boyle told me that they had organized very thoroughly in the city and that they had some peculiar invention by which, if a fellow wanted to get an answer to anything, he just put in his money, and if the other fellow did not answer, that the money dropped out of its own accord—a very ingenious thing. [Laughter.] It had to be metallic money to make an electric connection, and when you dropped it in, if the fellow spoke at the other end, the money was all right, the money would stay; but if the fellow did not speak in a certain time, the money would come out and the fellow would go away. So, in answer to your question, I guess they are making money there. [Laughter.]

Q. Did you get any of it?—A. No, sir; I did not.

Q. Who did?—A. These gentlemen in Saint Louis who organized the company, the first merchants and bankers in Saint Louis.

Q. It has been published that you sent certificates of stock to the amount of \$10,000, together with a poem of your own composition to the Hon. Lewis Beach, of New York; was that a fact?—A. Yes, sir; I will tell you all about that.

Q. We do not want to go beyond the scope of the inquiry and do injustice to anybody. Was the stock Pan-Electric stock?—A. No, sir.

Q. What stock was it?—A. American Postal stock.

Q. It had nothing to do with this matter then?—A. It had collaterally a good deal to do with Pan-Electric operations, and I think the committee should allow me, in

justice to myself, as you refer to this publication, to state how it is connected with the Pan-Electric and why we did it.

The CHAIRMAN. I have no objection if the committee is willing.

Mr. RANNEY. I think he ought to state it.

The CHAIRMAN. You may proceed.

The WITNESS. This is a New York company. The Pan-Electric had nothing at all to do with it. It is the American Postal Company. I was in New York soon after, continuously through the summer after these gentlemen had made the Pan-Electric contract.

Q. What gentlemen?—A. These gentlemen I have been speaking of this morning; I mean the Pan-Electric gentlemen. The Postal Telegraph, of which you have heard a great deal, were banking chiefly upon a peculiar copper wire, a steel core and a copper covering.

The CHAIRMAN. Confine yourself, if you please, to the matter concerning Mr. Beach.

The WITNESS. Well, I will leave that out and say, in general, that there was a New York company (I will come as directly to Mr. Beach as I can) who had their stock engraved at a very considerable cost, \$400 or \$500, I think, to put on the New York market. They are very strict there as to what kind of stock you shall have engraved. The parties who went in with me went in as friends in an enterprise of this kind and were not famous men, but they said to me at a meeting, "Any of us will drop out if you can get any of those great men in Washington, who have a national reputation, to go in with you." I came down and made this offer to Senator Harris, General Johnston, and the rest of my Pan-Electric friends. I made two propositions. One was that while we had a certain system of telegraphy, which I thought very valuable—the cylinder which Harry had sold them, and on which the Pan-Electric Telegraph is founded—we would give them \$1,000 in money and \$1,000,000 of American Postal stock for that cylinder that ground out messages. This proposition was declined. We then proposed to raise this \$5,000,000, for which this was chartered, to \$10,000,000, as was permitted by the charter, and that the Pan-Electric gentlemen should take charge of it; that my friends not being so famous, would drop out. We had a meeting to effect that at the Metropolitan Hotel. Senator Harris was complaining, and I went up for Mr. Garland myself. He came down and when they came to consider the matter I withdrew. It resulted in their sending me word by my son that they would make a counter proposition, which, however, they did not make, and after a reasonable time to carry out the suggestion of my friends, I cast about in Congress to see what men would take their places and be more efficient.

The CHAIRMAN. Just state what you did in regard to Mr. Beach.

The WITNESS. I am coming to Mr. Beach.

The CHAIRMAN. But before that let me ask you this: That counter proposition related to the sale to the American Postal Company of certain instruments and improvements owned under this agreement by the Pan-Electric Company?

The WITNESS. The first proposition related to the sale which Harry had made originally to the Pan-Electric. We wanted to buy back, and offered \$1,000 in money and \$1,000,000 in stock for them. The second proposition was that we would club together and let the officers of the Pan-Electric be the officers of the American Postal Company, and that would give us all the fame we wanted, and we had in instruments enough foundation for a great company.

Q. That was not done?—A. No, sir; that was not done. Then I cast about to find another great man—

Q. And wrote to Mr. Beach?—A. I did not go to him yet. Mr. Money and Mr. Manning were old friends of mine from Mississippi. I do not think Mr. Manning was connected with the House, but Mr. Money was; but I would as soon put my head in a lion's mouth as to think of bribing them in regard to legislation. I offered them the mere trifle, I think it was, of \$10,000 apiece, and I think if I had given them nothing they would have permitted me to use their names; but beyond that I had no other reason. They were at the New York Hotel with this new Senator from Mississippi, Mr. Walthall. Senator Walthall, Mr. Money, and Mr. Manning were at the New York Hotel with our Pan-Electric friends when we made the contract, and told me they were running a railroad through the pine lands of Mississippi, which could be bought for \$1.25 an acre, and that after running the road through they could make the land worth \$10 an acre. I thought it was a legitimate enterprise and I wanted to go in with them. They had said "Oh, yes, you shall come in," and I said "I will tell you about my enterprises, as you are going to reciprocate about yours." Now there were two men I sent my stock to just about that time when I was casting about for men. One was Dr. Hassell, who lived in Thirty-fourth street, New York; a famous man and a member of the St. Vincent de Paul Society. Some gentlemen here may know what that means. He said "If I can help you in any way, by any friends I have, in this changing of your company (he was a director of it), I shall be glad to do so." He then introduced me first to Mr. William E. Robinson, the "British lion" man—"Richelieu." We went around to Mr. Robinson's

house, and I told him about this enterprise, and that we wanted to interest men especially who had influence in the New York market (he was a Brooklyn man) to sell this stock; that we had put so much money on New York. He said he would entertain the idea. I gave him the pamphlet to read, and we did give him \$10,000 of stock. I said "You will get this; it is nothing at all." I will say this, that whenever a fellow came to buy stock I always said to him, "There is only one place where you can get cash for it, and that is at Wheeler's, on Seventh street. There you can get cash for it, a cent and three-quarters a pound, and that is all I guarantee, but it may be it will develop into something very valuable."

Q. You mean they could sell it for waste paper?—A. Yes, sir; for waste paper. I told Mr. Robinson that the thing should be further developed with good lines and sufficient capital—the plan was to run lines and tap Mexico—for without lines we could do nothing.

Q. Why did you give the \$10,000 of stock to Mr. Robinson?—A. Because I wanted to get Mr. Robinson after awhile to join us in American Postal Company as a director.

Q. Why would you select him; for what reason?—A. Because Dr. Hassell told me that he was an influential man—I knew nothing about him—that he was in Brooklyn and could be of service to me in Wall street.

Q. Did you know that he was a member of Congress?—A. Yes, sir, I knew that he was a member of Congress as well as I knew that Senator Harris was a member of the Senate. Well, he said, Mr. Beach is another man who will be of great service to you in New York. We came down to Washington and looked for Mr. Beach. We looked for him in the gallery, and he was not in. We looked for him in the restaurant, but he was not there. But we met him afterwards. I think he says in his impudent card that I introduced myself to him. It is possible that I sent my card in and said that Mr. Hassell, his friend in New York, had told me to call on him in regard to an enterprise, and that I would send him papers which would explain the matter. At any rate I thereupon did send him the pamphlet and some rhymes. You gentlemen may not know it, but I write poetry.

Q. You did, in point of fact then, send him some poetry?—A. I sent him rhymes, but I think I said to him in the note that I would bribe him to look into my enterprise by sending a poem.

Q. Why did you ask him to read your poem?—A. You had better ask Senator Harris when he gets on the stand, for I wrote to him the same as I did to Mr. Beach, and he said that it took no bribery to get him to read my poems. [Laughter.]

Mr. RANNEY. Which one was it that said it needed no bribes to make him read your poems?

The WITNESS. Senator Harris.

Q. Please explain seriously for what reason you gave to Mr. Beach \$10,000 of this American Postal stock.—A. As I had given it to Mr. Robinson. I had an idea of reforming the company and thought I would use his name. I gave it just as I did the \$500,000 to Senator Harris and Senator Garland.

Q. Why did you put it in that way, that you sent him \$10,000 of stock to induce him to read your poem?—A. That was mere pleasantry. Any gentleman would have understood it, and if he had been a gentleman he would have understood it. [Laughter.] I thank you for allowing me to explain the matter, because the Post here—Stillson Hutchins (who slipped around to get the Vest stock back and tried to cover up tracks when nobody needed to be covered up)—refused on the Beach occasion to insert a card from me in my own town, and permitted a citizen here to be maligned by a blackguard from New York.

Q. Did Mr. Beach decline, as a member of Congress, to have anything to do with that sent to him?—A. No, sir; nothing more than Dr. Hassell told me—

Q. Never mind that. How much stock did you send to Mr. Cox, the member of Congress from New York, and what stock was it?—A. It was the same and he was the only man I sent it to.

Q. What stock did you send to Mr. Cox?—A. The same stock. When I wanted to form a company I thought if I could get Sunlight on it I would have life.

Q. Did you send him a poem?—A. No, sir. I think if I had sent him the poetry he would have gone in it with me. [Laughter.]

Q. It did not seem to carry Mr. Beach into it?—A. Oh, Mr. Beach is too stupid to understand anything. [Laughter.]

Q. You did send Mr. Cox \$10,000 of American Postal stock?—A. Yes, sir.

Q. Did you send any to any other member?—A. Never; to none of them.

Q. I believe all of these gentlemen declined the stock except Mr. Robinson?—A. No, sir; Mr. Money and Mr. Manning did not decline.

Q. I am speaking of the three, Mr. Cox, Mr. Beach, and Mr. Robinson.—A. Mr. Robinson took his, and so did Mr. Money and Mr. Manning.

Q. How much did Mr. Money take?—A. Ten thousand dollars.

Q. What did he pay you for it, anything?—A. He was going to help me. He paid me just as these other gentlemen in the Senate paid me, by letting me use his name.

Q. Did Mr. Manning pay anything?—A. No, sir; they all paid in the same way.

Q. Mr. Beach, you say, declined?—A. Yes, sir; he declined both the poetry and the stock. He saw no value in the stock, or he would have pocketed it.

Q. It has been stated, also, that you offered stock in some one of these companies to Mr. Randall; is that a fact?—A. Yes, sir; I did.

Q. Just give us the facts.—A. That brings us to the Rogers Telegraph and Telephone Company. In forming that company I wrote to several gentlemen of the House saying I wished to use their names, just as I have stated before a dozen times, as I hoped to use the names of honorable men to go into the enterprise, for I felt the names of such men would be a protection to my son, to the public, and to myself. I wrote to Mr. Randall, telling him that if he would go into that Pennsylvania enterprise we would give him, I think, \$100,000; I am not sure, it may have been \$50,000, but I wanted him specially because he is a Pennsylvanian.

Q. What was the capital of your Pennsylvania company?—A. Five million dollars.

Q. You may proceed.—A. Mr. Randall wrote me a very courteous letter, saying that he did not know enough about the matter—

Mr. RANNEY (interposing). Have you got the letter?

The WITNESS. I think my son has a part of it, which says, "Yours respectfully, Samuel J. Randall." But the balance of it is missing. His clerk probably keeps copies of his letters. The amount of it was that he did not know enough about the matter, and I think he intimated that he wanted to hear more about it.

Q. Have you made search for Mr. Randall's letter?—A. Yes, sir; we made search but found only his name.

Q. Where did you find that?—A. In a barrel.

Mr. RANNEY. Did you send any poetry with that?

The WITNESS. No, sir; I do not think I sent Mr. Randall any poetry.

By Mr. HALL:

Q. Mr. Randall declined to receive the stock?—A. Yes, sir; he did.

By the CHAIRMAN:

Q. It is also said that you made some overtures to Mr. Carlisle?—A. Yes, sir; I had that published myself.

Q. State what it was.—A. It was a letter, if not in the very words, at the same time about the same letter I had written Mr. Randall. Mr. Carlisle wrote me a very respectful letter, contrary to the newspapers, which said that he wrote me very sharply. He wrote as one gentleman would write to another.

Q. Have you that letter?—A. No, sir; I have not been able to find it, but he said distinctly "If there is any legislation connected with this affair I can have nothing whatever to do with it."

Q. What stock was that?—A. The Rogers Telephone Company stock. We had some men who wanted to drop it, but I thought if I could get Mr. Randall and Mr. Carlisle into it, their names would give prestige to the stock.

Q. Did you ever offer stock in any of these companies to any other member of Congress?

Mr. RANNEY (interposing). How much did you say that you sent to Mr. Carlisle?—A. I sent the same to him as to Mr. Randall. I did not send it; I just wrote a letter saying that I gave them \$100,000.

By Mr. RANNEY:

Q. Did you name any price for it?—A. Oh, no; but they understood that. The letter would run about like this: "I will put to your credit on the books of the company \$100,000 in this stock if you feel like going into the enterprise with us and assisting us," meaning for them to be elected directors when the time came for the others to withdraw.

Q. I want to get the reply of Mr. Carlisle.—A. As near as I can state he said something like this: "Dear Sir: Your letter received. I have noted its contents. If any legislation is contemplated I can have nothing to do with it." I think you will find if you look at his letter-book that that is about what he wrote to me.

By the CHAIRMAN:

Q. You may state what Mr. Cox said in reply.—A. He said, wittily, "I do not think the thing is worth anything; if it was, you would not be distributing it around here so fluently." I had sent it to Mr. Beach at the same time and I suppose they had been comparing notes. At any rate, he wanted more light about it before he would keep it. He sent his clerk down to my office to say that Mr. Cox did not know anything about this thing and would not take stock unless he knew enough about it, and he returned the stock to me at the same time.

Q. Did you offer the stock to any other member of Congress?—A. No, sir, I think not—let me see now; I began this morning with the Senators who went into the first enterprise. About that time I went to Senator Windom and offered some to him, and to Mr. Cox, and to Ben Le Fevre, the same amount that I offered to Senator Harris and Senator Garland. But they all declined. I did not offer enough to any of them.

Q. That is your inference. Did they say that you had not offered enough?—A. No, sir; that is my own inference.

By Mr. RANNEY:

Q. Did Mr. Money or Mr. Manning take shares?—A. Yes, sir; they took shares; they would do almost anything I would ask them to do which was honorable, and they knew I would not do anything else.

Q. Did they pay you anything for it?—A. No, sir.

By the CHAIRMAN:

Q. You may proceed.—A. I was telling you the names. Senator Windom and Mr. Clark are the first ones.

Q. How much did you offer to Senator Windom?—A. I should have to guess; it might have been \$50,000.

Q. Did he reply by letter?—A. Oh, yes, sir; in a very courteous letter.

Q. Have you the letter?—A. I think it is in that book. Senator Windom had some time ago owed me \$10,000, and was going to send his check to me to New York, and when we got there we found that Tom Ewing had disturbed the arrangement we had there, and I telegraphed Senator Windom not to send the money, and I saved him \$10,000. I could have put it in my pocket the next day. Hence when he got this note from me he treated me very courteously, but said he was so much engaged in other business that he could not go into it.

Q. This \$10,000 was for what?—A. It was to give him an interest in the National Secret Telegraph Company on which the improved company of Van Bethuysen was founded.

Q. You do not recall then, as I understand, other members of Congress to whom you offered any stock in any of these enterprises?—A. There was Mr. Money, Mr. Manning, this fellow Beach, Sunset Cox, and Mr. Robinson. I do not remember any others.

By Mr. OATES:

Q. Mr. Manning was not a member of Congress then?—A. No; I know he was not. I know when he was at the New York Hotel with us he was afloat.

By the CHAIRMAN:

Q. Can you give us the time when you made this offer to Mr. Manning?—A. It was some time in the summer of 1884.

Q. Was he at that time a contestant for a seat?—A. I am inclined to think he did have some sort of a contest with somebody. But it should be said in justice to them that these two gentlemen were my own personal friends, and if I had offered them anything they would know it was all right.

Q. You have stated that. Did you offer stock to any gentlemen who were not members of Congress?—A. Oh, yes, sir; why I have given away millions. [Laughter.]

Q. At the time you were offering stock to members of Congress, did you offer it to any other person?—A. Oh, yes, sir; every day. [Laughter.]

Q. You have stated, now, that you have given away millions.—A. Yes, sir.

Q. Are you a man of large means?—A. Oh, no, sir; very slender means; I am as poor as Job's turkey.

Q. Were you poor at the time you gave these millions away?—A. Yes, sir. Always poor excepting in the prospective value of my son's patents. I thought they were very valuable, and, if properly managed, that I would be worth millions in gold.

Q. You do not mean millions of dollars?—A. No, sir; millions of stock.

By Mr. RANNEY:

Q. You were casting your bread on the waters, and you thought it would come back again?—A. Yes, sir, and it is coming back now. Mr. Looney and Mr. Boyle offered me \$7,500 in cash for some Pan-Electric stock and I would not take it. They said there was a banker at the Ebbitt House who would give me \$17,500 for \$500,000 of it.

Q. When was this?—A. About three weeks ago.

Q. Since this exposure?—A. I don't know that there has been anything exposed yet; since this controversy and illumination, this electric shock.

By the CHAIRMAN:

Q. You may state whether you offered this stock to any of these gentlemen with a view to influencing their official action in any way.—A. Why it never crossed my mind to do it with that view, but simply just to get them to help me in the enterprise. I never dreamed that Senator Harris would take a bribe.

Q. I speak particularly of the last gentlemen named?—A. They were all in the same boat. I supposed they were all gentlemen or I would not have dealt with them.

By Mr. RANNEY:

Q. It seems that you confined yourself to one political party?—A. Yes, sir; I am a Democrat, and "birds of a feather flock together."

By the CHAIRMAN:

Q. Senator Windom is not a Democrat, is he?—A. No, sir; but there are some great and good men outside of the Democratic party, and Senator Windom is one of them. Well, there are a great many of them, you will find, if you know them as well as I do. But since you put the question I will explain. These gentlemen were for the most part my old associates in the South, and it was natural that a man should keep in his own family.

Q. Did you offer it to them because they belonged to any particular party?—A. Oh, no, sir; money has nothing to do with party. It was just a natural affiliation of men who were acquainted with each other. Most of the people are Democrats down in my country.

Q. So that there are some things into which party differences do not enter; business operations are separate?—A. I was never more shocked than when Father Rochfort, to whom I gave \$100,000, went to the Bank of Washington, and Mr. White, the clerk, said to him, "Father Rochfort, you gentlemen just need one thing to make these things go," and he said, "What is that?" and Mr. White said "You should put Jeff. Davis on it." [Laughter.]

Q. As I understand this agreement, these gentlemen each were to receive one-tenth of the stock of the Pan-Electric Company?—A. Yes, sir.

Q. Your son retained four-tenths?—A. Yes, sir; a little more than four-tenths. There was \$170,000 to come pro rata from everybody's stock.

Q. Not to come out of the other tenth?—A. No, sir; the other tenth was for Abram S. Hewitt, or for some other commercial or Wall street man. When we made the contract that \$170,000 was to come off of the stock of all of us; it would come out of that fellow's, his ratio.

Q. I gather from the written agreement that this tenth was to remain the property of the company.—A. Well, it was the property of the company in this sense: Mr. Hewitt had declined, and we did not know anybody else to give it to, though I was in correspondence with C. P. Huntington, whose letter is in the book. But the company had sole control of it to dispose of it to the Wall street man, whoever might be selected. It was not, as I see from looking at the contract, expressly stated that it was to go to a Wall street man; but it said it was to be disposed of as the company directed, in that mutual confidence of men who understood the matter perfectly. However, as time went on, we got John C. Brown cheaper, whom he said was a Wall street man, a gold man. He came for \$100,000, and it was proposed to sell some of the other, and Harry and I acquiesced, and it was sold to Senator Vest and some ladies, and to a man named Howard. Those are the only sales I know of.

Q. Do you know of any stock being sold by the company?—A. I know I got money for stock that was sold to Senator Vest, my ratio. I had but comparatively little then, but whatever it was I got a portion of the certificate I had.

Q. Do you know of sales to any other persons?—A. Yes, to a man named Howard, I understood. I do not know that of my own knowledge at all, but only through my son.

Q. Perhaps you can tell whether you received any dividends?—A. No, sir; I did not receive any dividends specially; I could not tell; it was all lumped together. I never received any dividends from Senator Vest or the ladies, for example.

Q. Did you receive dividends other than those arising from the sale of these territorial rights which you have mentioned this morning?—A. Yes, sir; we received from sales part of that \$170,000 that was sold by the company.

Q. Was there \$170,000 sold by the company?—A. I say a part of the \$170,000.

Q. Was any part of it sold by the company?—A. If the \$170,000 became part of the remaining sixth in its ratio, a part of that would be sold to Senator Vest for example, the six-tenths part I mean, which was to go to Mr. Hewitt.

Q. The one-tenth of the whole?—A. Oh, yes, sir; I mean to the sixth man; I got it confused.

Q. I understood the \$170,000 was set out for your son?—A. Yes, sir; and to come out of all.

Q. Was any part of it sold for money?—A. Oh, no; that all went as a gift to these friends of ours. I say it "went"; it has never gone yet; I have never been able to get hold of it to give it to them yet. In the hands of Hunton & Chandler is a claim from a man named Price under an engagement I entered into three years ago to give him some Pan-Electric stock. I wrote to him that I would give him the telephone

stock if they would get up my certificates, so far as they will go, and that is not anything more than a written thing by Colonel Young.

Q. The formation of this company and the allotment of the interests as you have stated was before the Presidential election?—A. It was.

Q. It was in the spring of 1883?—A. Yes, sir.

Q. It was before the nominations were made by either party?—A. Do you mean at the time we made the contract?

Q. At the time of the allotment of interests.—A. Yes, sir.

Q. At that time had you any knowledge as to who was likely to be nominated as the Democratic candidate?—A. Oh, I had heard of speculations in the papers, but I did not know anything about it.

Q. Was there much said in the spring of 1883 in regard to the nomination of President Cleveland?—A. I think after he was elected Governor of New York by that overwhelming majority, I saw it adverted to very frequently.

Q. Was there anything said about that time as to the probable selection of Mr. Garland as the Attorney-General of any Democratic administration?—A. Oh, no; we said jokingly that he would be the next President and hoped he might be.

Q. Was he taken into this enterprise because of the probability of his being connected with any Democratic administration?—A. Oh, no, sir; how could he be? It was taken the year before.

Q. I do not think he could; but I ask you. I have an impression that I have seen it published in the papers that you claimed to have made Mr. Garland Attorney-General.—A. The man who said that wrote falsely. I never said such a thing as that, although I am weak enough in the upper story. Some one wrote to me from Baltimore to know how I assisted to make Mr. Garland Attorney-General, and I telegraphed back that all I had said was that I had contributed my efforts towards making Mr. Garland Attorney-General, and added, *ambages longè sunt*—it will take too long to explain.

Q. Had you anything to do with making Mr. Garland Attorney-General?—A. Precious little, I guess. I did my best, though, as the little boy said. I was about publishing a book, the second edition of a book in which I had eulogized Mr. Cleveland in contradistinction to the "Plumed Knight," and I naturally thought that the verses were worthy of Mr. Cleveland, and before Mr. Garland was made Attorney-General I dedicated the book to Attorney-General Garland, predicting in it that Mr. Cleveland would choose the wisest and best and purest of men to be the Attorney-General of the United States to reform the jurisprudence of the country.

By Mr. MILLARD:

Q. What was the date of that book?—A. It was entitled "The Plumed Knight against Governor Cleveland," or "Arlington," and I expressed in that dedication the hope that such a man being at the head of the Department he would render Mr. Cleveland's administration as illustrious as that of Edward the First or Justinian.

Q. Can you give the date when you wrote it?—A. I think it was about two months before Mr. Garland was made Attorney-General. I sent it to Mr. Cleveland, and this notice was published very extensively in the papers; at least I saw it in some of the papers in New York, and I hoped that it might contribute a modicum, something towards Mr. Garland's advancement, although I never alleged that it did.

By Mr. HALL:

Q. You spoke of him as Attorney-General in your dedication, you mean?—A. Yes, sir; I spoke of him as Attorney-General. I also made a special point to see Mr. Looney when he was going to Albany on some business as an elector and impressed on him to try and get Mr. Garland appointed Attorney-General.

By the CHAIRMAN:

Q. You never have said, then, that you had Mr. Garland made Attorney-General?—A. Never, sir.

Q. In what you did towards that end, had you in view any advantages to be derived by the Pan-Electric Company from his position in case he was selected?—A. None in the world. Mr. Garland would be an incidental advantage, as he would be a member of my company, and it would render his name still more illustrious.

Q. There is a publication in the New York World, a dispatch from Washington, dated February 3, purporting to be an interview with you; do you recall it?—A. I cannot recall it.

Q. Allow me to read it, then. It says, "Dr. Rogers, the promoter of the Pan-Electric scheme, said to-day that the publication of so many letters from his book had annoyed some of his friends exceedingly." Do you recall that?—A. Yes; I recall that, and I got the correspondent of the World, who is here present, to put it into writing (lest he should die. I knew he was a true man and would keep his word, but I like these things in writing in the uncertainties of human life); that I gave this

book to him with the distinct pledge that nothing of a private nature should be published and that the persons annoyed, as I heard, were Colonel Wintersmith and General Wright; that letters had been published that had nothing to do with the controversy.

Q. This interview, then, is authentic?—A. So far as you have read.

Q. I am coming to other parts of it.—A. I wish to say in that connection, in justice to the World, that their interpretation was that while there was nothing of a private, delicate, family nature to be published, that matters like Wintersmith's and Wright's letters referring to Pan-Electric had nothing in them that could injure anybody, and they interpreted their agreement with me that they had a right to publish them, and perhaps they had, though I regretted that these gentlemen should be annoyed.

Q. Did you state in that interview this, after referring to the case of Mr. Randall and Mr. Carlisle, "I pressed none of these gentlemen, for the first of the Senators and Congressmen—scores of them—were anxious to get in on what they called 'the ground floor,' and I only let in those whom I deemed fit"?—A. Yes, sir; I said that.

Q. Who were the scores who were anxious to get in on "the ground floor"?—A. I cannot give their names as scores. That arose from a conversation between Colonel Young and Senator Harris and General Johnston. He spoke of one score at least; he said "twenty of them have been to me to get hold of this stock, and want to get in on the ground floor, and I want instructions about it." Colonel Young was instructed to make sales of the stock, as stated substantially by the witness yesterday, and he represented there were at least twenty gentlemen who wanted to get in; that they were at him every day.

By Mr. RANNEY:

Q. I understand you to say that he did not say who they were?—A. No, sir; I do not remember any names.

By the CHAIRMAN:

Q. Was it upon what Colonel Young had said that you based that statement?—A. Yes, and a general knowledge of it. I never have seen any who would not go in if you would give them enough.

Q. You made the broad statement here, without giving Colonel Young the inference of being the authority, that "I pressed none of these gentlemen, for the first of the Senators and Congressmen—scores of them—were anxious to get in on what they called 'the ground floor,' and I only let in those whom I deemed fit." You say you made that broad statement to the press and let it go out upon the authority of Colonel Young, without stating the fact in the publication that it was upon such authority?—A. Yes, sir; I did it without stating either of the two reasons. One was a general analogy, in which, whenever I offered enough, they went into it, and I inferred there were scores who would do the same thing, just as I say the sun will rise to-morrow.

Q. It was just an inference that because certain gentlemen had accepted stock there were scores of others willing to do the same thing?—A. Yes, sir; I can say without any fear of impeachment that the sun will rise to-morrow or the day after to-morrow without giving any one as my authority for it; I say so from analogy.

Q. And then because certain members of Congress did a certain thing you say from analogy that scores of others of the leading members of both houses will do the same thing?—A. I do.

Q. You put it on the same certainty that you do the rising of the sun day after day?—A. Perhaps there are different degrees of probability. I did not perhaps put it so high as the rising of the sun when I considered that they would go by their interests. Where they risk nothing, where it is an honorable enterprise and a large number of members of Congress and Senators had gone into it freely, I believed there were scores who would do so, and I reiterate what the World stated.

Q. I see it stated in this same publication, speaking of your son, "when he sought reappointment [as electrician of the House], it was for the sole purpose of advancing the Pan-Electric Telephone Company in securing a place where experiments could be made at the expense of the Government, and at the same time advertise to the world and future subscribers of the company the advantages of the various properties owned by the company." Did you make that statement?—A. No, sir; I think not. I think that the reporter misunderstood me very seriously, for I know the truth of the matter is that we believed that my son's antecedents in advancing the public interests and saving thousands of dollars to the Government would be advantageous, and I could not say that those gentlemen would not have that in view.

Q. It is not given here as having been stated by you?—A. I do not know that I did state that; I do not want to do injustice to the World.

Q. Do you remember using any language or saying anything which, in your judgment, would have warranted the reporter in stating that fact as I have read it?

Mr. RANNEY. The article does not state it in that language. Are you reading what purports to be his statement?

The CHAIRMAN. I stated that there was nothing here to indicate that the witness had made that declaration.

The WITNESS. I said something very like it, I can tell you. I did not say it was the sole object, though. I said it was one of the objects, and it was one of the prominent ones we all thought.

Q. You have stated here that that was not the object?—A. I have stated distinctly that our prime object was to advance the public interests. These gentlemen may have had, though, for their prime object, that they would not be bribed by their private interests to simply put their telephone in there, and I do not say, or did not intend to say, that we did not have the collateral object of the advantages of using the engine or tools and the paraphernalia of the electric department for developing our various Pan-Electric instruments, for that was an object.

Q. Was anything said by any of the gentlemen who were associated with you that warrants you in saying that they sought this appointment for your son with a view to the advantages that you now speak of?—A. As a collateral thing?

Q. Anything they said collaterally or directly?—A. Well, my son at a meeting stated to them that it would be a great advantage to us to put the electric light in; that we had a system of electric lighting which we had patented, and if he had their influence in the electrical department it would be an advantage in developing it and we could do it more cheaply than to buy the engines and dynamos ourselves.

Q. Who was present at that meeting?—A. It was a meeting of the board. Mr. Garland was there, Senator Harris and General Johnston and my son, and I think probably Colonel Looney was there, because he was very anxious about the electric light. I do not know it, though. I remember one thing that is probably in that very article, that I told the reporter about, that Mr. Garland had said in his dry way, a mere jocular thing. My son said, "I do not care a cent about the salary, the little salary that comes in, but I want to be in the Capitol for the purpose of developing these instruments," and Mr. Garland said, "Well, Mr. Rogers we will take the money." Every gentleman will understand it; he meant it merely in pleasantry. But with that before me I know we had it as a secondary object, and it was but a secondary object—our prime object was to do it, because we might not be so patriotic as these statesmen. But I am willing to do these gentlemen the justice to say that there is reason to suppose that the prime object was to advance the public service, and with Mr. Clark's report before them that my son had saved money every year to the Government, they would naturally wish to gain advantage, and at the same time develop these things.

Q. You have said in this interview also, that the company "never needed any legislation or wanted any for the Pan-Electric Company, and if anything was ever done in that way I never heard of it, except perhaps a bill mentioned to me by Casey Young for an appropriation for underground telephone lines." You may explain that, if Colonel Young ever said anything of that kind.—A. I do not think there is anything in that. The reporter wanted to know if there was any Credit Mobilier in the thing and I wanted to tell him all of it.

Q. We want to know all the facts.—A. Colonel Young met me, or I met him, at his rooms, and he said he would like for me to come up to Congress and look at a bill there about something in reference to underground wires running up to the Smithsonian Institution and other parts, and he said that the Bell people were trying to get hold of that by some kind of legislation, and he wanted me to come up and look at the bill that had been prepared there. I did not go. The next day he rather reproached me for not coming and I told him then that I would come up, but I did not; I was very busy. But that is the only thing in the way of legislation I know of, and that was legislation for running a little wire up here, a temporary thing, and I did not attach much importance to it.

Q. It is only fair that I should read the rest of that part of the statement so that it may go in the record. "He said that he had so shaped this bill that the Bell people could not monopolize the wires."—A. I think he said he wanted it so shaped.

Q. (Continuing to read.) "And requested me twice to go up to the House and look at the bill, but I was indifferent to it, and only know what I have stated. I wanted the Pan-Electric inventions to stand on their own merits. I wanted a company honestly managed, organized with names of well-known men, under a great charter, something like that of the East India Company, and floated by stock which would make all who bought it rich." You gave that to the reporter?—A. Yes, sir; I gave that, substantially.

By Mr. RANNEY:

Q. Is that true as you have stated there?—A. Oh, yes, sir; it is true except that it is possible that Colonel Young did not say that he had formed it so. I think he said that he wanted it so formed. I think he went on to say that he, being in a telephone company, did not want to do it himself, or something of that kind, which implied that he did not want to do anything that was improper. I do not suppose that he did

anything improper in it. I do not know anything about it, though; the records will show.

By the CHAIRMAN:

Q. From what you stated to the reporter, which I have read, did you intend to say, or did you say, that the Pan-Electric Company was expected by yourself or Colonel Young to derive any undue advantage from the position of certain of its members as members of Congress or otherwise?—A. No, sir; I said that was the only legislation I had ever heard of, and I did not know anything about that.

Q. Was there anything in the bill, as you understood it, which gave to the Pan-Electric Company an advantage over the Bell Company?—A. Well, it was something to prevent the Bell Company from taking an unfair advantage of the Pan-Electric; that was my idea.

Q. You have spoken of an American Postal Company?—A. That is the Beach Company.

Q. That was the New York Company?—A. Yes, sir.

Q. Who held the stock?—A. I held nearly all of that myself.

Q. Who organized it?—A. I may be said to have organized it.

Q. Have you any recollection of the first suit brought by the Bell Telephone Company in which the Pan-Electric was involved, or which was brought against the Pan-Electric?—A. I think the first one brought against us was the Pennsylvania suit.

Q. That was brought against the Rogers Telephone Company?—A. Yes, sir; a branch of it. But they brought it also again against the Pan-Electric. They were the acting party. But they demurred to the bill on some ground, and the demurrer was sustained and they got out, and the Rogers Telegraph and Telephone were enjoined.

Q. You say that the defendants demurred to the bill?—A. Yes, sir; in some way.

Q. And the demurrer was sustained?—A. Yes, sir.

Q. Then, why was there an injunction?—A. The injunction was against the other company—against the Rogers Telephone and Telegraph Company, the Klotz Company.

Q. It was the Pan-Electric Company, then, that demurred?—A. Yes, sir.

By Mr. RANNEY:

Q. They demurred for want of service?—A. Yes, sir; I think so; and we were unwilling to defend it. I would say, in justice to our company, the Pan-Electric Company, that the reason we did not defend this suit was—

The CHAIRMAN. We will come to that. If you know what was the ground of demurrer or of the plea in abatement or any objection of the Pan-Electric Company you may state.

The WITNESS. I do not know whether it was a plea in abatement or a demurrer. I do not know what it was.

By the CHAIRMAN:

Q. It was suggested that it was because of want of service on the Pan-Electric.—A. I think I have heard that, but I do not know.

Q. Then the Pan-Electric had no Pennsylvania domicile?—A. No.

Q. Was there anything said by the members of the Pan-Electric association about not defending the Pennsylvania suit?—A. Yes, sir.

Q. State now what was said and by whom.—A. Colonel Young was spokesman for the Pan-Electric people on that subject chiefly. He went on to Pennsylvania and came back persuaded that we could not have a fair hearing in Pennsylvania.

Q. Why not?—A. I do not know the reasons exactly, but he said the lawyers there who knew a great deal about their own localities advised him to bring the suit somewhere else; that the judges of Pennsylvania would almost certainly decide against us.

Q. Did he give any reason for that?—A. No, sir; I do not think he did.

By Mr. RANNEY:

Q. Who said that?—A. Colonel Young.

By the CHAIRMAN:

Q. Was that anything affecting the integrity of the judges?—A. No, sir; I do not think it was anything affecting the integrity of the judges, but I think the judges had probably decided cases there, and he might have had an idea that they were prejudiced.

By Mr. RANNEY:

Q. They had decided cases in favor of the Bell telephone?—A. Possibly.

By the CHAIRMAN:

Q. What was the resolution reached?—A. The resolution reached was that if we defended there then it would become *res judicata*, and could be pleaded in any other suit, and that we had better let it go over so that that plea could not be made.

Q. And that the injunction would affect only the local companies there; that is your view?—A. Yes, sir; only the local companies.

Q. It would not determine the rights of the Pan-Electric?—A. No, sir.

By Mr. RANNEY:

Q. Notwithstanding the Pan-Electric had agreed to defend the patents and hold them harmless under it?—A. Yes, sir; but there was so much prejudice against it that although I, too, for a long time urged them to do it, I was more interested in that company than the other, and I wanted it defended and was willing to take my chances. I first went to see Colonel Young and then Senator Harris on that subject, and he said he had been to see Mr. Garland about it two or three times, and he could not get the old fellow to move, and he thought that he would see him again and try to move him. However, time went on and I became uneasy lest we should have some heavy amounts of money to pay anyway to the Pan-Electric, for a clause of their agreement with me and my son said that they would not be responsible for any damages, or something like that. The president called a meeting, at which I was present, and we proposed to the Pan-Electric that they should bear all expenses of this suit in Pennsylvania, and that we would give our consent as far as a director could give it for them to do what they said they were going to do. I do not think I ever made a formal answer, but Colonel Young said it would be all right, that the damages would be merely nominal.

By the CHAIRMAN:

Q. Where was the next suit brought against the Pan-Electric Company?—A. I do not think another suit was brought.

Q. Was there a suit brought by the Pan-Electric Company?—A. Yes; I have been told so, in Memphis, or the bill was prepared. I read the bill, but whether it was ever served or not I do not know.

Q. Before we come to that I will ask you whether a suit was brought in the western district of Pennsylvania to which the Pan-Electric gave any attention. A suit by the Bell Company against some local company?—A. The company as a company gave no attention to it, but some of the officers did.

Q. What did any of them say about it?—A. Well, Colonel Young was in the city, and the officer who told me was my son. He came to see Senator Harris about it, and Harry Rogers told me that Senator Harris said he had sent Colonel Young off to Pennsylvania without his carpet-bag, or something to that effect, in great haste to be there, as there was a suit to be tried. My son went to see Senator Harris with the Electrical Review, in which it was represented that the court-house was like a laboratory full of electric instruments, and Senator Harris said he had seen that in a newspaper, and had sent Colonel Young right off without going to his room, without allowing him to go to the Pan-Electric Company or to assist them.

Q. The Pan-Electric was not a party to that suit, I understood you?—A. No, sir. But there it was, so Colonel Young said, so he reported at the last meeting I ever heard of, that Van Benthuyzen heard for the first time that the Government could bring a suit to cancel the Bell patents. It was Van Benthuyzen who was chiefly interested in New Orleans, and who went to New York and wrote a letter to Mr. Garland—

By Mr. RANNEY:

Q. Colonel Young had suggested it at a meeting?—A. Colonel Young told us at a meeting that he sent his card to Van Benthuyzen, and suggested to him this procedure.

By the CHAIRMAN:

Q. Did Van Benthuyzen represent any companies which were parties to the Pittsburgh, Pa., suit?—A. I do not know that. It is the same genus of a company. It is the National Secret Telephone.

Q. You may state what Colonel Young said as to his interview with Van Benthuyzen.—A. I think I have stated that; that he sent in his card and told Van Benthuyzen about it.

Q. Then what did Van Benthuyzen do?—A. I only know the rest from what I saw in the press; it is not testimony.

Q. You need not state that. Do you know of a suit having been brought in Memphis by the Pan-Electric Telephone Company?—A. I saw the bill; I do not know that it was ever filed.

Q. Who had the bill when you saw it?—A. I think Colonel Young gave it to me when he was at my house. It was a bill prepared by George Gantt and some other lawyers; I think Messrs. Wright and Young.

Q. Have you the bill?—A. I think there is a copy at my house. My son would know.

Q. Can you state how that suit came to be instituted in Memphis?—A. Yes, we talked it over frequently before it was instituted.

Q. Who talked it over?—A. Colonel Young, General Johnston, myself, and Mr. Looney. I have heard them all talk about it.

By Mr. RANNEY:

Q. And Mr. Garland?—A. No, I never heard Mr. Garland ever say anything about it.

By the CHAIRMAN:

Q. State what was said and when?—A. We were at the Ebbitt House—no, it was at Colonel Young's room in the neighborhood of the Ebbitt House, in which he said that the cotton-tie men had brought a suit against fellows who had slandered them by a circular some years ago, and that the man who had issued a circular analogous to this one Bell had issued against the Pan-Electric was mulcted in the sum of \$100,000 and it was sustained by the Supreme Court, and that we should file a similar bill to that one of the cotton-tie people, to the circular of the Bell people which they had printed in Memphis, and it was understood that that should be done and Colonel Young went there and the next I saw was the bill. That is about all I know about it.

Q. Do you know what became of that proceeding?—A. No, sir; I do not.

Q. That, as I understand you, was a proceeding by the Pan-Electric Telephone Company against the Bell Telephone Company to restrain the circulation of a circular or paper?—A. Yes, sir.

Q. Did it go beyond that?—A. Oh, yes, sir; I remember it embraced the very validity of the Bell patents, and I remember it struck me that George Gantt had put the thing very strongly.

Q. You say you do not know what became of that suit?—A. No, sir; I do not.

Q. Do you know of any other suits being instituted by the Pan-Electric Company?—A. No, sir; I do not think there was any other.

Q. You may state if you know what was said or done by any of the members of this association with reference to the institution of a suit by the Government to test the validity of the Bell patent. Give us all you know about it?—A. Well, on the 24th of May, that is, if a letter which I had is dated right—sometimes I make a mistake of a day—I have a copy of a letter written the 24th of May, which I sent to Mr. Garland, asking him as Attorney-General to institute proceedings against the Bell Company.

Q. Have you that copy here?—A. It is in among the letters. The preceding Sunday there was an article in a paper published in this town—not the Gazette, not the Capital, but in the Chronicle—the preceding Sunday to the date of this letter there was a very able article on the subject of the rise of the patents preceding the Bell. I think it was Monday morning that the 24th of May was. At the same time I saw the Washington Post, which stated that Attorney-General Brewster had ordered a patent for painting on glass to be investigated, or procedure to be instituted by the United States authorities in New York, and it now had been consummated and that the patent was canceled. That was in the Post either that morning or the preceding morning. I went around to the National Hotel and bought a half a dozen copies of the Post and Chronicle and cut out these two slips, as they went together, and inclosed them in letters to nearly all our Pan-Electric people; one to Mr. Garland, urging him to have the suits instituted, and one to Senator Harris, with these documents in it; one to Colonel Young, one to Colonel Looney, and one to General Johnston.

Q. You say that was the 24th of May?—A. That was the date of that letter.

Q. Was it 1884 or 1885?—A. 1885.

Q. Prior to that time had anything been said to your knowledge by any of the Pan-Electric Company with reference to the institution of a suit by the Government for testing the Bell patents?—A. I never heard them say a word about it.

Q. So far as you know, the idea originated with you as suggested by these publications?—A. Yes, sir. There was no great originality about it, but seeing these publications it occurred to me that as Mr. Brewster had done it Mr. Garland might do it, and as this was a very striking argument I thought I would inclose them, and I made an additional argument of my own in the letter.

Q. Did you receive any reply?—A. No, sir.

Q. Did you receive a reply from any members of the association?—A. Colonel Young wrote me—

Mr. RANNEY. You need not tell what is in that letter.

Q. Have you the letter?—A. I do not know. There are about two hundred and forty letters there. He wrote acknowledging the receipt of my letter, as Colonel Looney did, and said, I think, that he thought Mr. Garland might feel a delicacy about it, being interested.

By Mr. RANNEY:

Q. The letter is the best evidence?—A. The letter will be there probably.

By the CHAIRMAN:

Q. Did you have any conversation with any members of the association after that with reference to the bringing of a suit by the Government?—A. I talked with my son about it very often, but I do not remember any other person. He is one of the directors. Yes, I talked to Colonel Young once about it at my house, when he was on a visit here from Memphis, after he wrote that letter to me, and he told me that Mr. Gantt, of Memphis, had found a great many precedents for it, not only that of Attorney-General Brewster, but many others.

Q. That was after that publication which you speak of here?—A. It was after I wrote my letter.

By Mr. RANNEY:

Q. Is that all Colonel Young said about it?—A. Yes, sir; I think that is all he said, that Mr. Gantt had found many precedents for it.

By the CHAIRMAN:

Q. Did you ever have a conversation with Mr. Garland about bringing the suit?—A. No, sir; never a word.

Q. Did you have any conversation with Senator Harris about bringing the suit?—A. No, sir; I wrote to him and received no reply.

Q. Do you know of a suit having been brought in Memphis in the name of the Government?—A. I have heard that it was brought.

Q. Have you any recollection of Mr. Young's ever coming to your house and telling yourself and your son of an interview he had had with Mr. Garland?—A. Perfectly.

Q. State what was said and when it was?—A. He said, enlarging on that thing about Mr. Gantt having found precedents for it, that the suits would now be brought and with good prospects, and I asked him if Mr. Garland had promised, and he said that he had.

Q. How did you come to ask him whether Mr. Garland had promised?—A. I thought it would have to come through the promise of Mr. Garland.

Q. Did he indicate that he had had an interview with Mr. Garland?—A. Oh, I think so. It was predicated upon that.

Q. Give his words as near as you can.—A. It is difficult to give the very words, but I can give you the substance. I think I would be more apt to give the words in that case than in most others, because I had felt great interest in that thing from the time I wrote my letter, and I said "Well, if Mr. Garland has promised, he will do it." Then Mr. Young said "But Mr. Garland will leave the matter or refer the matter to Mr. Goode." I saw in some paper that I had said that he would leave Mr. Goode; that he would go home to Arkansas and leave Mr. Goode to attend to it. I probably used the word "leave," but it was not said that he would leave it with Mr. Goode.

By Mr. RANNEY:

Q. Is that the conversation of Mr. Young with you?—A. Yes, sir, with me. I said, "How would Mr. Goode act; would he do as well as Mr. Garland?" "Oh yes," he said, "I believe I would rather have Mr. Goode than Mr. Garland. He is a friend of ours, and it will be all right." That is the substance of it; I cannot remember the very words.

By the CHAIRMAN:

Q. Did he state whether Mr. Garland had given any reason for feeling a delicacy in the matter?—A. None at all. That was in the letter I think that he wrote me from Memphis, that Mr. Garland would probably feel a delicacy.

Q. It was not in this conversation?—A. I am not clear upon that. When my son made that statement the other day I could not recall that definitely. I remember the letter, and I thought my son might have coupled the letter with what Colonel Young told us at that time.

Q. In that conversation are you sure he said Mr. Garland had promised?—A. Oh, yes, sir; I am quite sure.

Q. You are not sure that in that conversation the words "delicacy of feeling" were used?—A. No, sir; not sure.

By Mr. RANNEY:

Q. You are clear that Mr. Garland had promised it to be done?—A. Yes, sir; completely, as I understood. I will stake my salvation on it. I jumped up and said, "If Mr. Garland has said he will do it, he will do it." I was delighted, of course.

By the CHAIRMAN:

Q. Do you remember anything else being said in that conversation about it?—A. We talked over the matter of these proceedings to some extent. He relied to a

great extent upon Colonel Gantt's ability and great energy, and said that he thought with George Gantt there would be no doubt in the world of our succeeding if the Government went into it; that Colonel Gantt had been studying the matter very thoroughly.

By Mr. RANNEY:

Q. Was there anything said about who was going to be employed by the Attorney-General?—A. I think it was just mentioned. He did not say there was any promise made, but he considered that Colonel Gantt would be, I think.

Q. Colonel Gantt was at that time your lawyer?—A. He was the lawyer in the suit which we were bringing against Bell in Memphis, yes, sir.

By the CHAIRMAN:

Q. Did Colonel Young say that anything had been said to Mr. Garland as to who should be counsel?—A. Oh, not a word. I think I have given you just the conversation so far as it touches Mr. Garland.

Q. Did you have any other information from any of your associates as to any action upon the part of Mr. Garland?—A. No, never; not one.

Q. Do you know that the suit was brought?—A. I have seen it so stated in the papers; I presume it was brought.

Q. Brought in the name of the United States?—A. Yes, sir.

Q. I understand you then, never from first to last had you any talk with Mr. Garland?—A. Never in my life; I never said a word to him on the subject of this suit.

Q. Did you have any conversation with any of your associates?—A. Never, except with Colonel Young about this Government suit. We saw them seldom, as we lived out in the country and saw them by accident at the time we saw Colonel Young. We were living in the country at the time.

Q. I observe a statement published over your name in the New York Tribune, dated September 29, in which you say that it was in the letter from Colonel Young that he said that the Attorney-General felt a delicacy in the matter on account of his ownership of stock in the company?—A. That is the letter I have been referring to.

Q. It was not, then, in the conversation?—A. No, sir, it was not; it was in the letter. It might have been in the conversation, and my son, I observe the other day, thinks it was. If it was, I do not remember that anything more was said about it.

Q. In your statement of last September you said it was in the letter?—A. I said so, and I say so now, and I have been saying so.

Q. Do you think it was made known to you twice, first by letter and then in conversation?—A. I think it was possible, from my son's great truthfulness, that he probably said it; but it could not rest much on my mind as he had already stated it to me in a letter.

Q. Which was first, the letter or the conversation?—A. Oh, the letter was the first.

Q. As I understood you, the first knowledge you had of any movement in the matter was when Colonel Young came to you and told you that the Attorney-General would proceed in the matter?—A. It was.

Q. Then could you have known before of any intention on the part of the Attorney-General to bring a suit or have it brought?—A. You do not understand the testimony—I will go over it again. It is my own stupid way of expressing myself. I see you are very bright. I meant to say this, that on the 24th of May when I wrote all these letters with the documents inclosed to Colonel Young, to Senator Harris, and to General Johnston, Colonel Young in answer to that letter, before we had heard anything from Mr. Garland, before Colonel Young could have heard anything from him on that subject, Colonel Young writes back that he thinks Mr. Garland would feel a delicacy in the matter.

Q. You did not state it in that way?—A. I intended to do so.

Q. You said "Mr. Young reporting to me by letter that the Attorney-General felt a delicacy in the matter?—A. I meant to say that he felt a delicacy in the matter, but I thought it was Mr. Young's inference.

Q. You did not state it so?—A. I did not mean that the Attorney-General had told him so, for he was in Memphis.

Q. Is not that a fair inference from this statement: "Mr. Young reporting to me by letter that the Attorney-General felt a delicacy in the matter on account of his ownership of stock in the company"?—A. I think it would be the inference.

Q. You say now, at the time you wrote that letter, Mr. Young did not write to you?—A. No; not that he had seen the Attorney-General.

Q. And he did not write that the Attorney-General felt a delicacy in the matter?—A. He suggested it as a supposition; that is my remembrance of it. The letter will speak for itself.

Q. We have the letter. Have you had any transactions with the Bell Company—any business transactions?—A. Nothing more than talking over their telephones.

Q. How is your Pan-Electric stock now held, not your Pan-Electric Telephone stock?—A. It is held by the company.

Q. As owners of it, or are you and your son together the owners?—A. I and my son have certain interests in it, but the stock has never been issued.

Q. Have your interests been pledged or hypothecated in any way?—A. Except what I have sold directly or what I have given away, I have now all my interest, all except what I have either given away or sold.

Q. That you have already stated in your testimony.—A. I do not remember to have said anything about that.

Q. You stated about selling or giving away large amounts?—A. Oh, yes, but I was speaking of stock in general when I was giving millions. I did not give so many millions of this.

Q. In other words, is any part of your Pan-Electric Telephone and Pan-Electric Postal stock in any way pledged to the Bell Telephone Company?—A. Oh, no.

Q. Was it ever pledged?—A. Never. None of mine was, and I never heard of anybody pledging any.

Q. Do you know whether the Bell Telephone Company holds any Pan-Electric stock?—A. No. I heard, somebody told me, that they had offered to buy Colonel Young's; that some overtures had been made to him and that he would not entertain them. That is the only whisper I ever heard of it. I do not know that there is any truth in that. But somebody said so, that he would not entertain it for a moment. I never heard of their buying it. There was a negotiation once—

Q. Has anything ever been said to you by any official of the Bell Telephone Company, or by any person assuming to speak for the Bell Telephone Company, with reference to these publications or this general controversy?—A. Never one breath by any mortal man connected with the Bell Company or any of the Bell people. They have never said one word to me or my son, that he has ever reported to me, and I do not think to any of us.

Q. Has any person other than the gentlemen of the press said anything to you about furnishing matter for the press for publication?—A. Never; my family have talked matters over, of what I should do.

Q. Have you ever received anything for information, for matters furnished for publication?—A. Never one farthing from any paper, or the Bell Telephone Company, or from anybody whom God ever made.

Q. It was just a voluntary act?—A. Yes, sir.

Q. Why did you furnish these letters which had passed between you and your associates?—A. On account of an article in the World, which represented me as being the head devil in a kind of Oakes Ames Credit Mobilier affair, and represented the Senators associated with me, and Congressmen, as being my own and my son's dupes.

Q. Did you furnish this material and make that publication with a view of vindicating the gentlemen associated with you, or maligning them?—A. First of all to vindicate myself and collaterally to vindicate them. In order to vindicate myself I had to vindicate them.

Q. In your view, then, the publication vindicated the gentlemen who were associated with you?—A. So far as I knew (there may be things I do not know anything about); I hoped that it would.

Q. The letters, if I recollect right, were furnished on the night your son and yourself had some personal difficulty with the other members of the association?—A. Yes, sir; but that had nothing to do with it. The only thing at that meeting which prompted the letters was this: After the difficulty had all been settled, I offered a resolution, the burden of which was that they should pass a vote of confidence in my son as the electrician of their company, or one of their companies, who had not imposed upon them by selling to them patents which he had previously sold, as had been charged, to the National Secret Telephone Company, upon which the National Improved Company was founded. I offered that resolution, and I think it was Senator Harris who said, "All lawyers know that if you answer one part of any series of allegations without paying any attention to the rest of them, you virtually admit the rest;" and on that ground he was unwilling to do it.

By Mr. RANNEY:

Q. Had something been published in the newspapers?—A. Yes, sir; just the day before. Colonel Young said there was a lie in every line. It was an article in the World.

By the CHAIRMAN:

Q. Was it a history of the affair?—A. It was a kind of history of the thing. It was in the main true, I think, but Colonel Young thought not.

By Mr. RANNEY:

Q. That was before the fracas?—A. Yes, sir; it was published before the fracas, and the resolution was prompted by an article in the Electrical Review. My son

got up and said "Why, gentlemen, I want to be protected; I want this thing answered. It has gone broadcast from the press that I have swindled you gentlemen and have duped you into it."

Q. Was there ever a publication of that kind in the World?—A. No, sir; it was in the Electric Review, and my son wanted that resolution to cover it all. He went on to say: "When this thing was first started, years ago, you employed Mr. Marble to look into it, and Mr. Marble gave a thorough examination, and reported that there was no infringement between the first patent you sold and this last patent, on our suit about the infringement of that." I offered a second resolution that they should simply state that their agent, Mr. Marble, had been employed to sift the matter to the bottom, and there was no truth in the allegation of Mr. Rogers having sold the same patents the second time. But they refused to do it. I had got from several sources that these gentlemen were not so friendly as they ought to be toward us, and wanted to get rid of us, and I proposed to my son that he should retire, and I said to these gentlemen, "Then I can answer for myself." Upon that we retired and went to the World office and reported to them that I had a bag of letters, and that if there was any Credit Mobilier about the matter it would be at the service of the World. I went out home that night. The correspondent of the World said he would come out to my house and get them. He was to come on a certain train. He did not come on that train. I therefore came into town with my son and met him at the depot as he was going out on the next train. I thereupon went up with him to the World bureau and opened the letters before him, and I said, "Now here is the great bulk of the correspondence, and there are other letters scattered here and there. Here is this correspondence and the letters from these gentlemen for the last three years. Now, if there is any Credit Mobilier or rascality in any shape or form connected with this matter, take these letters and show it. I do not know what is in there; there are a good many private things probably, and you must pledge me your word that private matters will not be published," and he pledged me that he would not publish them; and, going over the same part again—

Q. It is not worth while. Had there not been some previous publications in the Tribune?—A. That letter which you read this morning I published on September 29

Q. You had furnished a letter to the Tribune before that?—A. Yes, a letter of mine that I had written to the Tribune.

Q. Had you not furnished letters of Colonel Young to the Tribune before that?—A. No, sir; I think that was the first one, and then the Tribune reporter came out and told me that Colonel Young had been interviewed—I had seen it in the paper, and he called my attention to it in the Tribune where Colonel Young said that he had paid for his stock, although I had said in my card that the stock was a donation to these gentlemen.

Q. My recollection is that there had been a number of publications in the Tribune before the history was published in the World?—A. Nothing from me except one letter.

Q. And that Mr. Pulitzer stated that the first publication in the World was the history. I may be wrong about that.—A. Well, I do not remember anything, but my letter of the 29th of September, that you speak of; and when he stated that Colonel Young had denied positively that my statement was truthful about donating the stock, I said, "His very letters will show it," and he said, "Can I see some of those letters?" I said, "I have no objection. There is a letter which thanks me, and says he is indebted to me for the whole thing." "Yes," I said, "You may see all the rest of them;" and some others have been found since.

Q. As I understand, you gave these papers for publication because your company had refused to pass the resolution?—A. No, not because they had refused to do it. If they had passed that resolution to sustain my son, there would have been no need for the publication, and they probably would not have been published. I thought he was probably to be crushed in the bud, and I intended to defend him at all hazards compatible with my honor and his.

Mr. MILLARD. I notice, in looking over our record, that it is not a full statement of our proceedings here; that it does not contain the statement of Mr. Casey Young, and the decision of the committee as to the manner of proceeding with the witnesses. It seems to me that ought to be made a part of the proceedings.

The CHAIRMAN. The stenographer asked me as to the propriety of publishing the discussion as to what the members had said on that subject, and I told him that was not necessary.

Mr. MILLARD. But it seems to me that Colonel Young's statement ought to be made a part of this case, and also the decision of the committee as to the manner of procedure.

The CHAIRMAN. The stenographer has the notes of Colonel Young's statement, made at the opening of the investigation, and will write them out.

Mr. MILLARD. I think it is due to Colonel Young that it should be done.

The CHAIRMAN. It may be done at the end of the day's session. This is only the

proof-sheet of our record. The statement may be written out and submitted to the committee.

Mr. RANNEY. We want it *verbatim* from the beginning.

(The chairman directed the stenographer to write out his notes and submit the transcript to the committee.)

The WITNESS. I want to make an explanation; it is very short. Dr. Beckwith, who is present, understood me to say that when I went to New York on this expedition to get a new telephone into operation, he understood me to say that the Pan-Electric Telephone, as he expresses it, was a "new lot." That is precisely what I meant to say. It was a new lot of telephones I had gotten up, and we consulted Mr. Jacobs, as a lawyer, as to whether Harry's inventions belonged to the Pan-Electric or whether we were at liberty to go in with a new lot.

Dr. BECKWITH. That is true. That is my understanding.

Mr. OATES. I move that the committee go into secret session, and that when we adjourn it shall be until 12 o'clock to-morrow.

The motion was agreed to, and the committee, after an executive session of 40 minutes, adjourned.

WASHINGTON, D. C., *Thursday, March 18, 1886.*

The committee was called to order at 12.14 p. m.

The CHAIRMAN. Dr. Rogers will take the stand again.

Mr. HALE. Mr. Chairman, I notice some errors in the report of the testimony.

The CHAIRMAN. It was suggested yesterday that each member of the committee should make a note on his copy of such errors as he may find, in order that they may be corrected hereafter.

Mr. HALE. To whom shall we report these errors?

The CHAIRMAN. To the clerk.

Mr. RANNEY. I think if there is any change to be made in the substance of the testimony, the attention of the whole committee ought to be given to it.

Mr. HALE. The errors I refer to are not of substance.

Mr. RANNEY. The wrong name?

Mr. HALE. That is all.

J. W. ROGERS then resumed the stand, and his testimony was continued as follows:

The CHAIRMAN. I want to ask a few additional questions.

The WITNESS. Mr. Chairman, if you will permit me, I desire to make a preliminary statement in regard to two points of my testimony yesterday, with reference to which I think there might be some room for misunderstanding.

When you questioned me as to a certain report in the *World*, in which, if I remember rightly, it seems to say that the only object my associates had in commending my son to be appointed electrician of the House was to use the machinery of the Government and the appliances of the electric department, I went on to say that there might have been a higher motive, as my son had saved a great deal of his money in past years. Patriotic statesmen, of course, would make that the higher motive. Reflecting about it afterwards, I thought it would be understood that I had told the *World* that that was their motive. If I was so understood, I wish to recall that, for I was only explaining to the committee that there might be a higher motive. In my interview with the *World* correspondent I don't remember to have adverted to that at all, and it might seem to put the *World* in the position of omitting something that would be material. What I meant to say was, that they were not my words in that report; that that was not the only consideration of these gentlemen. I meant further to say that it was my chief motive. They may be more patriotic than I was. But my object was to get my son appointed in order to have the advantages of the Government machinery. That is one point.

The other point was, when you questioned me about the conversation with Colonel Young at my house, you asked me to recall what he said, or whatever he might have said upon that subject. On that subject I answered, I think, that there was nothing more material that I could recall, excepting that he had insisted that Colonel Gantt, of Memphis, had examined precedents and was thoroughly satisfied that the Government could bring the suit. Then we passed on to something else. That question and the answer, as they appear, might imply that I never heard any other conversation, whereas I was present at the conversations related by the witness on the stand who preceded me at Colonel Young's room. As we passed over that, it occurred to me that I might possibly have led your honors to believe that the only conversation I ever had with Colonel Young at any time was that one which I had related, whereas I suppose the question pertained to other conversations on that occasion or during that visit of Colonel Young's to my house.

Those are the two points.

Mr. RANNEY. Let that conversation be stated.

The WITNESS. I stated the conversation at my house, but not the conversation I had with Colonel Young at his room on a subsequent occasion.

The CHAIRMAN. State it now, sir.

The WITNESS. The colonel had sent out for my son to come in. I drove in with him in a buggy. Upon meeting the colonel he was in very fine spirits about the prospects of this Government suit; I don't remember the words exactly, but I know the general tenor of his conversation was that the Pittsburgh people had had experts in many parts of Europe, and that they had accumulated about \$75,000 worth of testimony, which, in fact, he had referred to in the previous conversation, and that they wished to put that testimony against what they supposed to be some little influence which we might have. His way of expressing it, "Some little influence," impressed me, for I had an idea that although the \$75,000 was a very material thing to us in the depleted state of our treasury, yet I thought our influence ought to be worth a very great amount to that company, and that the colonel was very modest in saying "some little influence which they supposed we might have." The general drift of the conversation was relative to that which I related yesterday, not, of course, going over the same ground, but merely adverting to it as a thing we well understood.

Mr. RANNEY. What thing?

The WITNESS. That the Government had promised us, or Mr. Garland had promised, that this suit should be brought and that it would be undertaken by Mr. Goode.

By the CHAIRMAN:

Q. Had the suit at that time been commenced in Memphis?—A. No, sir.

Q. How long was it prior to that?—A. Some weeks; I couldn't fix the date. I know that I told some persons, to cheer them up about their stock, that the Government would certainly bring a suit, and within a very short time, and I think that the suit was brought probably two or three weeks afterwards.

Q. Mention has been made of a company called the American Improved—

The WITNESS. If you will pardon me, with reference to the conversation at my house I was going to say that immediately after the colonel left my house, my son James, a student of law here, who has been very much interested in that matter of Attorney-General Brewster bringing the suit, more directly interested in my efforts to get the Government to bring suit—my son James was a little indignant that these people in Pittsburgh and New Orleans (the Van Benthuyzen people) should get the prestige of bringing that suit. Said he, "Now the Pan-Electric will lose all the credit of that." That was in my dining-room, in the rear of the parlor, immediately after the conversation with Colonel Young. My son Harry was present, but he told James that he was not after glory now, but was after money.

Q. What suit did he refer to?—A. The conversation with Colonel Young was related to him. I refer to the suit that Mr. Garland had promised to bring, and as Colonel Young was saying there, it would be brought in the name of the National Improved Telephone Company. James said, "Then the Pan-Electric will lose all the credit of it, and the advantage it might be to the stock," or something to that amount.

By Mr. RANNEY:

Q. Do you know why it was brought in the name of that company, and not in the name of the Pan-Electric?—A. I do not; there was no conversation on that subject.

By the CHAIRMAN:

Q. In the name of what company was the Government suit?

Mr. RANNEY. In the name of the United States *ex rel.*

J. H. ROGERS. Will the committee allow me a word of explanation? My name is James Harris Rogers, and I have a younger brother named James, and he is the one to whom my father has just referred.

Q. Was there any arrangement that it should be brought in the name of the National Improved Telephone Company?—A. I don't think that was touched upon, any more than I suppose it must have been brought in their name.

Q. Your son James was fearful that it would be brought in the name of that company?—A. I don't remember that point, but they must have told him that it was going to be brought in their name, or he would not have been so stirred up on that subject.

By Mr. RANNEY:

Q. Did Casey Young state anything about Garland having it brought in the name of that company because he was more interested in that company than he was in yours?—A. No; he did not give that as a cause. That might be an inference of yours or mine, but it was stated that it would be brought in the name of that company. Van Benthuyzen was at the bottom of it. I supposed it would be brought in the name of the people.

By the CHAIRMAN:

Q. Was that the same company that had the testimony?—A. The same company that had the \$75,000 of testimony.

By Mr. RANNEY:

Q. The talk about putting their testimony against the influence that your company had, was that before the Government brought suit?—A. Long before, several weeks before.

By the CHAIRMAN:

Q. What was the name of the company defendant in the Pittsburgh suit?—A. The National Improved Telephone Company. I am supposing that to be the name; I am not sure. I only know this, that the National Secret Telephone Company of New York, which was founded on ten of my son's earlier patents, gave leases, through Hine, Hume, and Dean, of this city, to the Pittsburgh people, and their name might be the National Improved Telephone Company, or some other name.

Q. Were you a party to the organization of the National Secret Company?—A. Yes, sir.

Q. Who organized that company?—A. Mr. Hine, an eminent lawyer of this city; Mr. Frank Hume, one of the most famous merchants here; General Thomas Ewing, of Ohio, and of silver fame; and Mr. Dean, a wealthy gentleman of this city.

Mr. OATES. I object to this line of testimony, because we are not instructed by the resolution under which we are acting to inquire into these matters.

The CHAIRMAN. I thought it might be important in the investigation.

Mr. OATES. My object is to save time and to keep within the resolution.

The CHAIRMAN. It belongs to the same class of questions that have been asked, but the testimony will have to be closed on that subject if the objection is insisted upon.

Mr. OATES. Go on.

By Mr. HALE:

Q. Was this company organized prior to the Pan-Electric?—A. Some two or three years prior.

Mr. HALE. I think it is totally outside of the resolution.

The WITNESS. The National Improved leased from the National Secret, and subsequently came into partnership with our Pan-Electric.

The CHAIRMAN. That is the view I took of it. They seem to have run together in some way. Were there any others connected with the organization of the National Secret Telephone Company?—A. There may have been other stockholders, but I think I have named about all who were on the board.

By the CHAIRMAN:

Q. What was its capital?—A. \$5,000,000, with the privilege of raising it to \$10,000,000.

Q. How was the stock made up? Who controlled the capital?—A. My son furnished all the capital in his patents.

Q. How did these gentlemen named by you come into the company—by what arrangement?—A. We gave Mr. Hume and Mr. Hine one-half the patents we owned; I think about six at that time. Afterwards they got out others, making ten.

Q. You gave them \$2,500,000 stock in that company?—A. This was before it was stocked. The general impression was that it might be about that. We gave them half of the enterprise, whatever it might be.

Q. Just like the Pan-Electric?—A. With this difference: Mr. Dean, for instance, paid us \$10,000.

Q. For what interest?—A. His must have been one-fifth, as he was the fifth man. He paid \$10,000 to me and my associates, Frank Hume, L. G. Hine, and my son. He (Dean) was the fifth man in. Then General Tom Ewing was the next.

Q. What did he pay?—A. He first paid for one-sixth; he paid for his sixth the same time Dean paid for one-fifth.

Q. \$10,000?—A. \$10,000; and then had an agreement under which he could, at the end of thirty days, get the option of taking another sixth at \$20,000, or two other sixths. Yes, he got about half of it in that way—two-sixths for \$20,000, and he paid us \$20,000 at the end of thirty days, making in all of his payments \$30,000 in money.

Q. And that was paid to you and your son, Hume, and Hine?—A. And Dean, the fifth man.

Q. Is that company yet in existence?—A. I think so; yes.

Q. A telephone company, is it?—A. Yes; and they leased to the Pittsburgh and New Orleans people, as I am informed.

Q. I was coming to that. You have spoken of the National Improved Company.—A. Yes, sir.

Q. Do you know by whom that was organized?—A. I have heard that it was organized by a man named Van Benthuyzen, of New Orleans.

Q. And as you have stated, that company acquired the right to use some of the inventions owned by the National Secret Telephone Company?—A. The original ten patents on which that was founded.

Q. How much of the stock of the Secret Company did you and your son retain?—A. It has been a long time, and I forget. The books could be brought in here. We had our original half, and sold out as I told you. I and my son had a very large amount of it, even after these sales.

Q. Can you state about what proportion?—A. I would have to guess; six or seven or eight hundred thousand dollars; but the books would show.

Q. Do you still hold that stock?—A. No, sir; I sold it.

Q. To whom?—A. It was a man by the name of Caboon, a projector in New York, living at the Astor House, a friend of Col. Thos. Ewing's, and who was subsequently identified with this National Improved Telephone Company. Caboon came to us purporting to desire to buy it, in answer to advertisements I had put in the New York papers, and I made a sale. The circumstances of the sale, if that is what your prompter wishes to know, can be stated very explicitly.

Q. If you wish, you may state.—A. There was formed what is called a pool. We bound ourselves in writing—all these parties whose names I have mentioned—that no persons in the pool should sell except to members of the pool.

Q. Who composed that pool?—A. These very names I have mentioned, all the original purchasers, Gen. Tom Ewing, Hume, Hine, and so on.

By Mr. HALE:

Q. Did that pool include any of these men who are under investigation, Garland and others?—A. No; that was before their day.

Mr. HALE. Then I object to it. It is clearly outside the scope of our inquiry.

The WITNESS. As the gentleman is prompted, let me say that the point ought to be limited, and it will be, to an agreement to deliver that stock.

Mr. HALE. I object to it, unless it has some connection with these men who are included within the scope of our investigation.

The CHAIRMAN. It is not, except as has been brought out already by the testimony.

Mr. HALE. It has nothing to do with these transactions?

The CHAIRMAN. No, sir; but whether any part of that money—

Mr. OATES. If we look to the resolution we will see just what we are instructed to do, and we shall see that we shall have work enough before us without going outside the scope of that resolution.

Mr. HALE. There is no end to such a line of inquiry if we allow it to go outside of its proper limits.

The CHAIRMAN. I have decided, unless the committee should determine otherwise, I will submit the question to the committee. Is it the sense of the committee that the testimony shall be pursued in the line we have been following?

Mr. OATES. Before a vote is taken, Mr. Chairman, I want to be heard for a moment.

The CHAIRMAN. Upon this matter?

Mr. OATES. Yes, sir; because this will be a precedent, and I would like for the question to be settled now as to how wide a range the evidence is to take in the case—whether we are to be confined in our investigation to the resolution under which this committee was raised, or whether we shall go outside of that and investigate the private conduct of people who may be incidentally connected with this telephone business. I have carefully analyzed that resolution, and would be thankful to any gentleman to point out, if he can, any other inquiries which this committee is instructed to make, or has any jurisdiction to make, than the following:

(1) We are to inquire into any expenditures upon the part of the Government incurred relative to the rights of the Bell and the Pan-Electric Telephone Companies to priority of patents, &c.

(2) To make full inquiry into the issuance of Pan-Electric telephone stock, or stock of any company springing out of the Pan-Electric Telephone Company, to any person connected at the time of such issuance with either the legislative, judicial, or Executive Departments of the Government of the United States, and the amounts, to whom, when, consideration paid, &c. I presume that this part of the resolution was framed without a knowledge of the character and origin of these companies, because the language here is: "Stock of any company springing out of the Pan-Electric Telephone Company"; whereas, from the evidence we have there is no company that has sprung out of the Pan-Electric Telephone Company; but the Pan-Electric Telephone Company sprang out of the Pan-Electric Company, and I am willing to put that construction upon that part of the resolution, because I think that is what the Committee on Rules intended when they drafted the resolution, but, from lack of accurate information, got the minor proposition instead of the major.

Mr. EDEN. You are willing to construe that part of the resolution in that way?

Mr. OATES. Instead of the Pan-Electric Telephone Company, it undoubtedly should read, "or any company springing out of the Pan-Electric Company, to any person connected at the time of such issuance with either the legislative, judicial, or executive departments of the Government of the United States."

(3.) As to what opinions, decisions, and orders relating to said stock have been made by any of the officers connected with the Government, and all the circumstances thereof.

(4.) As to what suit or suits, if any, have been brought in the name of the United States to test the validity of patents issued, or any other rights between the Bell and the Pan-Electric Telephone Companies, and not suits that may have been brought between these companies, or one against the other, in Pennsylvania or elsewhere.

(5.) As to what contracts have been made and money paid or to be paid for assistant counsel to the Attorney-General or Solicitor-General in such suit or suits.

(6.) As to the reason and authority for constituting the United States a party to such suit or suits, and all matters connected therewith.

(7.) As to whether the telephone companies mentioned, or their agents, officers or employes, have in any manner improperly influenced or attempted to influence officials or official action—now mark the manner—by or through the public press; and if so, by whom, when, what newspapers, &c.; and not whether they have attempted to exercise influence in any other manner, but only through the newspaper press of the country.

It is very entertaining to hear these gentlemen talk, but my time is too valuable to me to sit here and fritter it away during a good part of this summer when other matters demand my attention. I do not wish under such circumstances to sit here listening to things that are not within the scope of the inquiry at all, and of which we have no jurisdiction to inquire. And from this time forth I shall vote, whenever the question arises, to exclude and keep aloof from any inquiry that is not pertinent to the questions named in that resolution. We are here in an official capacity, and I have no interest in it, and no duty to perform, except as I am instructed by the House of Representatives in the resolution upon which is based the appointment of this committee.

Mr. RANNEY. It seems to me, Mr. Chairman, that this resolution, or these resolutions, are of broad scope, and we ought not to confine ourselves to any technical, narrow view of them. We ought to comprehend in this investigation everything and anything that will throw light on the subject-matter we are instructed to inquire about, and one subject matter of inquiry relates to these suits.

Mr. OATES. What suits?

Mr. RANNEY. Suits brought by the Government?

Mr. OATES. Exactly, and I do not object to it.

Mr. RANNEY. Wait until I am through.

The CHAIRMAN. The gentleman from Massachusetts has the floor.

Mr. RANNEY. "All the reasons and circumstances connected therewith" constitute one prominent subject of an inquiry. We want to find out whether that was brought for the public good, or whether it was brought at the instance and in the interest of private individuals or private companies, using the name of the Government for an improper purpose. If these companies that joined in it had an interest in it, all their transactions are proper subjects of inquiry, as bearing on the question of whether the people have been injured, and the influences that were brought to bear upon the Attorney-General to cause him to lend the name of the United States and furnish the services of United States officials at the expense of the country. All these companies seem to be interlaced, interlocked; they are acting in combination, each having purpose in this thing in connection with others; and this matter of inquiry, it seems to me, comes within the scope of the resolution.

Mr. OATES. I want to say, in reply to the gentleman from Massachusetts, that no man is willing to go more fully into this investigation about every matter we are instructed to inquire about than I will, but I am not willing to go outside and bring in irrelevant matter—matter which no court upon the face of God's earth would allow to be adduced before it. This discussion, which occurred three or four years before the organization of the parent company, out of which sprang this rival telephone company that got into the courts, has had no influence whatever, and there has been nothing done here to show that it had any influence, even the slightest, upon anybody in causing him to bring suit in the name of the Government; and, therefore, I think the objection is well taken.

Mr. RANNEY. We must take one thing at a time. I believe the world was made in that way. We cannot comprehend everything in one inquiry. It may lead to something else to furnish a starting point.

Mr. OATES. I am opposed to this inquiry about private parties, whether it leads to blackening or to whitewashing.

Mr. EDEN. I do not understand that the objection applies to making the inquiry as

to any influence that may have been brought to bear by anybody upon the Attorney-General to bring suit. The objection is to going into the inquiry about stock issued by this company; that it did not spring out of the Pan-Electric Company at all. I do not understand that any evidence is objected to as to any company bringing improper influence to bear. Certainly, upon the question as to the issuance of stock, by the resolution we are confined to stock issued to officers of the Government and to influences brought to bear upon the officers of the Government.

Mr. RANNEY. What is the objection to ascertaining what relation this company had to it? You must confine the question to somebody in the first place.

Mr. EDEN. If there are any Government officials in it—

RANNEY. Perhaps influences were brought to bear upon Government officers. We are talking about men in the dark until we find out who has been influenced.

Mr. OATES. Every lawyer knows that it is a rule of evidence that you cannot bring in evidence which is irrelevant on its face until you show its relevancy.

Mr. RANNEY. We are on a voyage of discovery.

Mr. OATES. I am not with you on any voyage of that description, and do not propose to go on it.

Mr. MILLARD. "From the Pan-Electric Company or for any other purpose." The inquiry is very broad.

Mr. RANNEY. Anything else that is melted into this, as kindred drops of water are merged.

Mr. MILLARD. It not only includes all companies that may have sprung from the Pan-Electric company, but every other company that is in any other way connected with it. "Or for any other purpose," says the resolution, and it does seem to me that it could not be broader.

Mr. HALE. Were these gentlemen in any way interested in the Pittsburgh company?

The CHAIRMAN. I will state to the committee what led me to this line of examination. I would not maintain here that it is relevant to this inquiry, but it appeared from the testimony of Dr. Rogers or of his son, that this National Improved Telephone had been consulted or had taken a part with the Pan-Electric Company, or with members of the Pan-Electric Company, with a view to the institution of this suit at Memphis. Van Benthuyzen came on here to consult with Colonel Young, or with some of the company, and it seemed to me in that view that, with a view to show the character of the transaction, to show what was moving this Pan-Electric Company and its associates, it was pertinent to inquire what the National Improved Company was. That is all.

Mr. HALE. If the witness will state that any of these gentlemen had any connection with the Pittsburgh company, all right; but if they had no connection, and got any of the proceeds of the stock, it is not a proper subject for investigation by us.

Mr. RANNEY. As I understand, Dr. Rogers invited the Attorney-General to bring suit, and then one Van Benthuyzen made application to bring suit; for some reason or other it was shifted to Van Benthuyzen. It may be an important question whether the Attorney-General, being connected with the Pan-Electric Company, and being interested in it, thought it not wise in fact to proceed in their behalf, and so took Van Benthuyzen as a mere makeshift.

The CHAIRMAN. As I have stated, I will not maintain the relevancy of this evidence, and will refrain from further examination of that kind. If any other gentleman wishes to pursue it, the question will then arise.

Mr. MILLARD. You withdraw further examination on that point?

The CHAIRMAN. Yes; and when the time comes for further examination of the witness by other gentlemen of the committee, the question may arise then, if at all.

Mr. RANNEY. What was the question?

The CHAIRMAN. I have yielded to the objection and withdrawn the question.

The CHAIRMAN. The objection was to the inquiry as to the National Secret Telephone Company and the National Improved Telephone Company, and was not as to what became of the stock.

Mr EDEN. Yes, that was the point.

By the CHAIRMAN:

Q. I inquired of you yesterday what disposition you had made of your stock in the Pan-Electric Company or the Pan-Electric Telephone Company. Have you stated to us all the transfers you made?—A. I don't remember to have stated them.

Q. Will you do so now, if you can?—A. I will do so as near as I can from memory. transferred to Col. Robert Looney, first, in the Pan-Electric enterprise, a one-sixth interest. The agreement I made with him in writing was to sell stock in this original company—for we had only that idea at that time—as soon as the charter should be obtained and the stock put into his hands—one-half of the proceeds to be mine and the other half his; but whenever he should sell stock and give me money I was to supply stock in the place of that which he sold, in ratio—that is, my half—of which he was to make regular reports to me. Soon after that, this difficulty that we ad-

verted to somewhat yesterday, came up in regard to the stock, and the charter was never obtained.

The CHAIRMAN. You need not go over that; I only want to get the transfers.

The WITNESS. Colonel Looney reported to me that he had made one sale very early in the transaction. In the development of the Pan-Electric Telegraph and Pan-Electric Telephone Companies—if you mean that—

The CHAIRMAN. Yes.

The WITNESS. The telephone and telegraph patents were taken out and a kind of certificate which we ordinarily called stock was given by Colonel Young to Col. Robert F. Looney, entitling him to some \$600,000 or \$800,000—I don't know how much—you can count it. It was one-sixth of stock in the Pan-Electric Telephone Company. With that writing in hand he tried to make headway in sales. The first sale he made was to Mr. Neely, a wealthy merchant of Memphis, to whom he sold \$100,000 for \$2,000. His next sale was, I think, to Colonel Boyle; I think he got about \$1,000 at \$10, but I am not clear on that; I stated that yesterday with some doubt; I don't remember the exact amount; it was something like that; that is my remembrance. The next sale I think he made was to the late Hon. Jacob Thompson, formerly Secretary of the Interior, to whom he sold \$50,000 of this stock upon this certificate which he had—that is, that much interest in his certificate—for \$5,000 cash, one half of which he forwarded to me by check, retaining the other half himself. Then orders were made by Mr. Neely, Jacob Thompson, and others, upon Colonel Young, bearing Colonel Looney's orders therewith; I understand that he sent to them a similar certificate to that which he had given to Looney; that they were entitled to so much Pan-Electric Telephone stock. The next sale that I remember was to the Rev. Dr. Watson, of Memphis, Tennessee. I think Looney got from him \$2,500 in money and \$100,000 in some kind of mining stock; I don't remember the name of the company, but it was \$100,000 in mining stock. I do not recall any other sale that he made. The last time he was here he had made a *quasi* sale, as I believe I stated yesterday, to some banker, whose name he gave me, but which I forget, of \$500,000 for \$17,000. Colonel Looney at that time did not have quite that amount, and I had a certificate, that I have at home, and what I had in the hands of some friends, made about that amount; so he proposed to me to take the \$17,500 for myself. He and Colonel Boyle came out to my house on that business. I declined the proposition. Whether he made any sale I do not know; he has not reported to me.

Q. Did any of this money received from Colonel Looney go into the company?—A. That is my own private interest.

Q. That is what I understood you. You stated that you transferred to Colonel Young one-sixth. Did you make any additional transfers?—A. Not that I remember. I don't think we ever had but one writing.

Q. To any other person, I mean?—A. Oh, yes.

Q. State to whom the transfers were made?—A. I transferred \$100,000 to my wife.

Q. Who else?—A. I transferred some \$40,000 or \$50,000 to a gentleman in this city named Thomas Mitchell, for some land he sold me in West Virginia; and to Dr. Dean, I believe; at least, there was a man named McEwen connected with him; that transfer was made for some land in Georgia; the amount of stock transferred was \$30,000.

Mr. OATES. Mr. Chairman, I do not like to be captious, but I would like to know what this has to do with our inquiry. It strikes me that we ought not to be inquiring with reference to the issuance of stock to parties not shown to be connected with the Government in any manner whatever. It may not do any harm.

The CHAIRMAN. Then we had better go on with it, if it does no harm. It looks to me as if it were a matter of some importance, as showing the disposition made of the stock and the character of the enterprise.

Mr. OATES. We are not directed to inquire into that.

The CHAIRMAN. If we confine ourselves to the letter of the resolution we will get nothing; but, take the resolution in its spirit, and I think we may be allowed to go into such matters as explain the matters spoken of in the resolution. That is my view of it.

Mr. OATES. I cannot see how that explains anything.

Mr. RANNEY. We may trace that very stock into the hands of some official of the Government.

The CHAIRMAN. I do not put it in that view.

Q. Have you transferred any of your stock to a gentleman named Cummings or Cummins?—A. I know a Dr. Cummings in Memphis, and I know one Cummings in New York, who is connected with a telegraph company as superintendent, but I never transferred any stock to him or had any dealings with him.

Q. Do you know a Mr. Cummings who is a member of the firm of Cummings & Baker, attorneys?

The WITNESS. Where do they live?

The CHAIRMAN. I do not know, sir.

A. I don't know any firm of Cummings & Baker. I remember a Presbyterian clergyman, of Clifton County, Tennessee, by the name of Cummings.

Q. Have you had any transactions of any kind with a man named Cummins or Cummings relating to the Pan-Electric, Pan-Electric Telephone, or Pan-Electric Postal stock?—A. None that I can recall in making the transfers I was going on to tell you about. There may have been a man named Cummings who was introduced to me, but I do not recall any such man.

Q. Have you pledged or hypothecated any of your stock?—A. None but what I sold or put into the hands of others for sale. I have hypothecated none.

Q. Did you not receive \$500 from a gentleman named Cummings on a pledge of a portion of your Pan-Electric or some part of this stock?—A. Never. I know nothing of it. I don't remember receiving any \$500 as a pledge. I had one transaction with Mr. Mitchell; the \$500 may put you on the clue of what you are seeking. Mitchell engaged with me to take a block of Pan-Electric Telephone stock by a given day, for which he was to pay me, I think, \$3,000 in money and about 30,000 feet of ground near Boundary street; and, as a pledge of his doing that, he put up for the option, one week, \$500. When it came to the end of the week he said some people in Baltimore had disappointed him, and that he wanted another week, which I gave him. At the end of that week he was unable to fulfill the engagement, and the thing stands just so; it has not been touched, except I met him yesterday, and he said, "Ain't you going to give me a chance to make that \$500 back?" I said, "O, yes; any time."

Q. Are you acquainted with any gentleman named Cummins who is connected with the Bell Telephone Company?—A. There is a man named Cummings connected with this same telegraph company that Robinson, of New York, and John B. Alley, of Boston, and several other parties, are connected with. What is the name of that telegraph company?

Mr. RANNEY. The Postal Telegraph Company.

The WITNESS. That is it. I know that Cummings. I will tell you all about him. I was introduced to him when I went to look at some of Elisha Gray's instruments, but I have not seen him from that time to this.

Q. Have you had any transactions with him?—A. Except I went up to look at some instruments, and was introduced to him, and walked out.

Q. Did you ever receive any money from him?—A. Never a cent.

The CHAIRMAN. That is all I have to ask.

The WITNESS. That was four or five years ago that I saw him, before the Pan-Electric was organized.

The CHAIRMAN. The gentleman from Massachusetts (Mr. Ranney) can proceed with the examination of the witness under the rule.

By Mr RANNEY :

Q. You spoke yesterday about your associates being unwilling to have any stock issued by the Pan-Electric Telephone Company and have it put upon the market, for the reasons that you stated. I wish now to ask you whether they were aware of the sales of rights to these subordinate companies and of the issue of stock by them?—A. Of course it was part of the bargain that the parties should sell stock and give them one-fourth of it.

Q. Did they make any objection to the other men about issuing stock by subordinate companies and putting the certificates on the market?—A. No; in one case I preferred the stock to the money, thinking it would make it as valuable as money.

Q. Did they suggest that there was any difference between issuing stock of the Pan-Electric Telephone Company, and putting it on the market, and issuing stock of these subordinate companies who were using the same patents?—A. I see a very obvious difference. When any company issues its stock, the members look to it for the obligation; when a party who buys the rights and issues stock, that company which buys is the responsible party to which people look in case of disaster.

Q. But the basis of your companies was the validity and value of these patents?—A. Of course.

Q. They stood on the same ground in that respect?—A. Identically.

Q. And when these individuals simply signed certificates of stock in their official relations to the company, that did not create any obligation on their part, did it?—A. No further than it would affect a man's reputation being connected with a company that might fail.

Q. Can you see any difference between the moral responsibility in the two cases?—A. The moral responsibility is the same.

Q. I understand that when you sent the stock to Mr. Money you sent it by letter?—

A. I know I wrote to him, and I think I sent it by letter; I am not sure but I handed it to him; I don't remember.

Q. I wish you would state whether your negotiations with him were by letter or verbally?—A. Perhaps it will enlighten the committee if I enlarge upon that. Yesterday the question was about the American Postal Telegraph stock. I said we sent

him \$10,000 of that. I subsequently informed this committee that the Rogers Telegraph and Telephone Company, when I tried to get Mr. Randall and Mr. Carlisle to go in with me, sent Mr. Money, I think, \$50,000 as an inducement for him to come in and aid us in the enterprise of the Rogers Telegraph and Telephone. I think in other instances I sent it by letter.

Q. Have you a copy of the letter which you sent?—A. Hardly, in a case of that kind. In some important matters I would have copies, but I do not think that I probably took a copy of a letter like that.

Q. Have you any reply of his to your letters?—A. I am inclined to think I have replies from all the gentlemen whose names I used, because I wanted something to show that I had the right to use their names. I expect the names of all those gentlemen, or most of them, will be found among the papers.

Mr. RANNEY. I should like the letter of Mr. Money now.

The WITNESS. If it is in that book it is at your service; or if it is among the papers which we are still searching, I will produce it.

Q. It was the understanding that he was to retain the stock?—A. Yes, sir; it was the full understanding that he was to be a director, and he met these others at the meetings of the board.

Q. Did he buy the stock, or was it given to him?—A. It was just a donation, just as I gave it to these other gentlemen.

By Mr. OATES:

Q. I want to know exactly what company this was in?—A. The Rogers Telegraph and Telephone.

By Mr. RANNEY:

Q. It was one of the subordinate companies. How was it in regard to Mr. Manning? Was your correspondence with him verbal or in writing?—A. I think I wrote to him. My remembrance is that I wrote to a whole batch of them from the Continental Hotel, Philadelphia, and they answered me there, and I remember that I wanted to keep their letters, because when using gentlemen's names in a pamphlet before the public you want something to show your authority for doing so.

Q. Have you Mr. Manning's name to any letter?—A. It may be among the letters.

Mr. OATES. I object; Mr. Manning was a private citizen at that time, in no manner connected with the Government.

The WITNESS. I think Mr. Manning went out at the end of that session, when we were organizing the Pan-Electric. I was at the National Hotel with Walthall and Money, and my recollection is that Manning was out of Congress at that time.

The CHAIRMAN. He claimed to have been elected to Congress in 1883.

Mr. OATES. At first he declined to take the certificate and declined to be sworn in, but afterwards he changed his mind. The question was up for discussion in the House whether the certificate entitled him to a seat. Governor Curtin moved that he be sworn in, but the Speaker declined to administer the oath to him. The contest then went on before the committee, and was decided by the committee. I don't remember what date.

Mr. RANNEY. I remember the fact, but Mr. Chalmers got the seat originally.

Mr. OATES. Chalmers was seated.

Mr. RANNEY. Mr. Manning held the certificate, but originally declined it, and claimed the right to the seat *prima facie*. Mr. Chalmers protested, and claimed the right to the seat. The contest went before the committee, and was under investigation for a long time, and the committee reported upon it quite late in the session. Mr. Manning was then before the committee all the time, claiming the seat. He did not decline taking it in that way, but he declined taking it until it was decided that he had a right to it.

The CHAIRMAN. He changed his mind about it.

Mr. RANNEY. The election case had been for some days under discussion in the House, and when we closed the argument Mr. Manning stepped up with Governor Curtin, just before the vote was to be taken. It had been argued that the gentleman did not claim the right to the seat, and if he did not claim it he ought not to have it. If you will look at the case you will find that decision was not reached until very late in the session. My recollection is now—I may be mistaken—that it was near the end of the second session; it may have been the first. But at this very time, as I recall the dates, Mr. Manning held the certificate and had the *prima facie* right to the seat if he had asked for it and taken it, and his case would have been heard before the Committee on Elections while he was still claiming the seat. He did claim the seat to the last moment—claimed it through the discussion and until the discussion was ended, and claimed it then, but the Speaker refused to let him be sworn in.

Mr. OATES. It will take more time to send up and get the evidence than it will to let the testimony come in.

Mr. EDEN. Go on and ask the question. The objection is withdrawn.

By Mr. RANNEY:

Q. Did you have your correspondence with Mr. Manning in writing or verbally?
—A. I did.

Q. Which was it?—A. It was in writing. I say that in every instance where I used a gentleman's name in publications I have his letter, but I do not remember otherwise whether I had it or not.

Q. How much stock did you give him in all?—A. \$50,000 of Rogers' Telegraph and Telephone Company stock, and \$10,000 of American Postal.

Q. Did he pay anything for it?—A. No, sir.

Q. It was a gift outright?—A. Just the same kind of a donation we have been talking about, for assistance in my enterprise.

Q. He did not give you any assistance, did he?—A. Oh, yes; he came to the meetings of the board; he was one of the company.

Q. Were you aware, when you had your dealings with Mr. Money, that he was chairman of the Committee on Post-Offices and Post Roads?—A. Oh, yes; I knew that; I had been intimate with him.

Q. You knew that he occupied a prominent position in the House?—A. I knew that; yes, sir.

Q. Did you not know that he was a candidate for Postmaster-General under this administration?—A. When I made the donation he was not; he was subsequently.

Q. Did you do anything to further his interests in getting appointed Postmaster-General under the present administration?—A. No; I don't remember that I did. I would have done it if I could.

Q. In this conversation with Mr. Young, where he was to attend to the disposing of stock to members of Congress, your son testified to a meeting of the board where it was suggested that there were certain members who would like to come in on the ground floor, and it was left to Mr. Young. A. Yes; I was not present at that meeting. The conversation I related occurred up at Col. Young's room; it was on the same subject, and we were there together and talked it over.

Q. Do you know to whom, if any one, this disposal of the stock to members of the House was left?—A. Except as reported to me from one of the meetings, that Colonel Young had been authorized to make the disposal.

The CHAIRMAN. You need not state that.

Q. Were you aware yourself that Mr. Young was authorized—did you so understand—to determine to what members the stock should be delivered?—A. Some names were mentioned, but I forget them; and parties were anxious to buy. Colonel Dunn came to see me afterwards, and I tried to trade him some stock for a store he has in Arkansas, but the trade fell through.

Q. Did you sell him any?—A. No.

Q. As I understand, the stock was given outright, and not sold, to all the men you have named connected with the House?—A. I never sold any to anybody in the House.

Q. Do you know any one member of the House who bought any stock; that is, who paid anything for it?

The WITNESS. You mean the House of Representatives?

Mr. RANNEY. Yes.

A. No; I never heard of any, unless it was that man Howard. I don't know who he is; he might be a member.

Q. Who?—A. Some stock sold to a man named Howard.

Q. What you proposed to give Hewitt was proposed to be given outright, I understand?—A. Precisely; yes.

Q. What was given to Mr. Robinson was given outright?—A. Oh, yes.

Q. And what was given to Mr. Manning and Mr. Money was given to them outright?—A. Given outright, with the understanding that they were to come in and contribute their influence.

Q. I mean without money consideration?—A. Yes, sir.

Q. And that was the case with what you sent to Speaker Carlisle?—A. Precisely; they were all in the same boat you are passing just now.

Q. If there was any member of the House to whom you sold any, or proposed to sell, state who it was.—A. I don't know of one.

Q. Did you give the stock broadcast to members of the House?—A. No; I didn't cast it very broad; I stated yesterday about five or six persons to whom I gave it.

Q. You did not mean to distribute it among all the members of the House?—A. Oh, no.

Q. What real distinction did you make?—A. I stated the real distinction yesterday. I can give it over again. With reference to the American Postal I had my eye upon the New York market—the Stock Exchange. They had gone to great expense to get stock made for that. Of course, between you, on the one hand, and Mr. Robinson, Mr. Cox, and Mr. Beach, on the other hand, the distinction would have been that you lived in Massachusetts and they lived in New York.

Q. How about those in Mississippi?—A. The discrimination in that regard was

stated yesterday, but I can state it again, that they were not like these other persons, new men to me, but they were old friends and acquaintances; and they also had an enterprise to run a railroad through Mississippi and make the pine lands very valuable. And they had been promised a great deal of capital from New York to effect that object, and I was anxious to get in with them, and they told me I should. I think the general manager told me that. Certainly he was to let me in, just as we say, "You must let me into that."

Q. Why did you confine your gifts to one party, with the exception of Mr. Windom? You spoke about him.

The WITNESS. You mean the Democratic party?

Mr. RANNEY. Yes.

A. Being a Democrat, and having been brought up in a country where nearly all the white people are Democrats, the men with whom I was best acquainted happened to be Democrats, and the chances happened to be that I would fall in with them rather than the Republicans. Windom was the only exception, I believe. Yes; Architect Clerk is another Republican to whom I offered some stock. I didn't do it because they were Republicans or because they were Democrats; I did it just on account of the fitness of the men whom I happened to know.

Q. Why did you select members of the House and men in prominent positions?—A. Because I wanted the biggest men I could get.

Q. The men who had the most influence?—A. Yes, sir; of course. I will say, in general terms, that in proportion to a man's political influence he has moral influence, and in proportion to the amount of political or moral influence that stockholders have will they give value to the stock, and that was the thing I was aiming at.

Q. Did any of your associates know that you were distributing that stock among members of Congress?—A. I never concealed it. Whatever I do I generally do on the house tops, but I don't remember telling any of them about it.

Q. Did you ever speak with Mr. Young about it?—A. No, I never said a thing to him about it.

Q. As you knew that he was engaged in disposing of stock to members of the House, how was it left to him to know whether you and he might not be working on the same men?—A. I was running my private interests, and he was running the company's interests, and I would not like to mix up the company's interests with mine, but I never asked him anything about it.

Q. Did you try to ascertain which of the members of the House he was dealing with?—A. No; I think there was one fugitive conversation in which some names may have been mentioned, but I don't recall any except Dunn, and I don't know that I would recall his name but for the fact that I was trying him myself. He said that Colonel Dunn was a man that would probably come in with us.

Q. Did he mention anybody else?—A. I think he did mention some other name, but I don't recall anybody but Dunn.

Q. Young was a pretty efficient man; did you ascertain whether he was successful in his endeavors to sell stock to members of the House?—A. I suppose he would have reported if he had made sales.

Q. Did you ever find out to how many he had sold except Dunn?—A. No, I never heard of any sale being made. If sales had been made I suppose they would have been reported to us and we would have got our slice of the money.

Q. I do not understand you to say that you know of any being actually sold to Dunn?—A. No. The reason I happened to remember Dunn specially, if you will allow me to make the explanation, is because he is the man who told us an anecdote, which is not evidence at all here, but is very funny. He said that when he was a boy he thought the woods were full of fish. I don't remember anything else that fixes in my mind the name of anybody else.

Mr. RANNEY. If you did not remember any others I will pass from that.

Q. You have been asked about the value of your Pan-Electric stock and the stock of the subordinate companies. Do you think that if the Government suit had been prosecuted and the Bell telephone patent had been vacated it would have affected the value of your stock?—A. Of course. I said to my son yesterday, "Wherever I have traded for lands I would cancel those trades now, and give them and a slice over in order to get back the stock."

Q. If the Department of Justice should succeed in destroying the Bell telephone patents—A. My stock would be worth par, I think.

Q. So that it was esteemed to be a great object?—A. Why, of course.

Q. Do you think it would have been an advantage to you if Corncross had passed the postal telegraph bill that was pending, and would it have affected your patents?—A. In this way: that if Congress had passed the bill which contemplated taking hold of lines and managing them by the Government, we would have had a new customer for new supplies of instruments. The Western Union, for example, has its instruments, which cost them hundreds of thousands of dollars, and they would not be likely

to lay aside those hundreds of thousands of dollars to take up an altogether new set of instruments.

Q. I do not want to go into the details, but will simply ask this question: Did you not suppose that if Congress would pass a postal telegraph bill and establish a system of postal telegraphy or telephony that would be a great advantage to your interests?—

A. Unquestionably. We would have a rich customer who might come in and buy all our patents and interests.

Q. So that it would have been a great object with you men and your associates to have had Congress establish a telegraph and telephone system?—A. Oh, beyond question. I was looking forward to it. I found there were three bills put in, and I was going to have another put in myself, but—

Q. You did know that before Congress bills of that kind were pending?—A. There was Mr. Edmunds's bill before the Senate and two or three before the House.

Q. How long had Mr. Edmunds's bill been pending?—A. About two years ago that was introduced, I think.

Q. Was not that subject agitated before Congress when you formed this association and distributed this stock?—A. I think the stock was formed before that postal business had assumed the definite form of bills, but it was always in my mind to have a postal bill. In the pamphlet which I published, and which is there in the book, I say that Congress will some day pass a postal bill.

Q. Then you knew that, and you had that in your mind when you were distributing stock among members of the House?—A. I knew that, but I did not distribute the stock with a view of corrupting these great and good men, either in the House or Senate.

Q. I did not ask you that; I simply asked whether you knew the fact.—A. I knew that the fact constituted a factor in my finances.

Q. Why did you select men in Congress instead of prominent business men outside of Congress?—A. Prominent business men generally have a local reputation, while Congressmen are universally known, and I wanted this stock to go all over; I wanted everybody to get the benefit of it.

Q. Were you in the canvass in this last Presidential campaign?—A. A horse ran away and broke my shoulder, so I could not take the stump, but I wrote that book for Cleveland; that is all I ever did for him.

Q. Did you not electioneer in New York for Cleveland?

The CHAIRMAN. What relation has that to the subject-matter of inquiry?

The WITNESS. No; not for Cleveland. I did for Tilden and Hancock.

The CHAIRMAN. Just suspend your testimony.

Q. Did you have any recommendations from either of your associates?—A. Yes, sir; lots of them.

The CHAIRMAN. Recommendations for what?

The WITNESS. That I was a good, sound Democrat, and a man that could talk pretty well to the people; perhaps a man that was a popular speaker.

The CHAIRMAN. Do you propose to investigate that?

Mr. EDEN. I judge by the published letters that that was away back in 1880.

Mr. RANNEY. I mean since these associates were in with you, did you have any letters from them commending you?

The CHAIRMAN. Suspend a moment. I do not think this has any relation whatever to the matter under consideration.

Mr. OATES. If there has been an attack upon the witness—

Mr. RANNEY. There has been an attack upon the witness.

The CHAIRMAN. There has been no attack made on the witness here.

Mr. RANNEY. I do not wish to go into it to an unreasonable extent.

Q. Had Mr. Garland or Mr. Harris indorsed you in that respect?

The CHAIRMAN. The witness need not answer that unless the committee so directs.

Mr. HALE. At what time?

Mr. RANNEY. After the association was formed.

Mr. HALE. Indor-ed him personally or for a position?

Mr. RANNEY. I do not know what the fact is; I only wanted to inquire. If this investigation develops the fact that there was a design here to influence the officers connected with the administration, using their influence politically in that way, it has a bearing. It has already been gone into.

Mr. OATES. I do not understand that he has been attacked in this testimony. If his credibility is assailed by these parties, then, if any of them are entitled to credit—

Mr. MOFFATT. It seems to me that, in view of the relations existing between these parties, it is perfectly competent testimony to be given here.

The CHAIRMAN. For what purpose?

Mr. MOFFATT. For the purpose of giving the influence which he might be able to exert on the administration.

The CHAIRMAN. The administration was not Democratic at that time.

Mr. MOFFATT. It is now, and the inquiry is directed to the witness with reference to one who is now constituting a part of the administration.

The CHAIRMAN. As I understand it, the tendency of the testimony is only as to the purpose of these gentlemen in giving commendatory letters to the witness at that time. That was before the election. There may have been no such purpose. It is too remote, at all events. I am in favor of the broadest inquiry, of which the committee must be satisfied, but I am opposed to giving it a political cast or turn.

Mr. MOFFATT. We all know that it has been charged in some of the papers that the witness and others did what they could to secure Mr. Garland's appointment as Attorney-General. If his acquaintance and intercourse had been such that he had any sort of influence or standing with reference to this matter, it would seem to me to be perfectly competent.

Mr. OATES. I would suggest that my friend from Michigan ought to have moved in the House to amend this resolution so as to get that in, to instruct us to inquire about it.

Mr. RANNEY. It is not a matter of form; it is a matter of using influence.

Mr. MOFFATT. I do not believe in being bound to the strict rules of evidence in investigations of this kind. We ought not to stick in the bark.

Mr. OATES. I want it settled. I do not want to inquire about everything in the world.

The CHAIRMAN. I have stated my own view. The determination is for the committee, if the question is raised by any gentleman.

Mr. RANNEY. I will pass it for the moment, but will come to it again.

Q. After Mr. Cleveland was elected were you a candidate for any office?—A. Yes; I made an application for some assistant attorneyship in the Department of Justice.

Q. Did you have indorsements for that?—A. Oh, yes; I had the best indorsements in the world.

Q. Who were they?—A. I think I have the names here in my pocket.

Mr. RANNEY. That would be the best way to get at it.

Mr. HALE. I suggest that if he gives names he gives the dates connected with them.

A. His grace the archbishop of Baltimore, primate of the United States, now his eminence cardinal elect; his grace the archbishop of Philadelphia—

Mr. HALE. I object to any names being given aside from those connected with this investigation.

The WITNESS. I give them as they come.

The CHAIRMAN. If the gentleman from Massachusetts will suggest the pertinency of this inquiry, we can determine its relevancy.

Mr. RANNEY. The purpose is as one of the investigators, to get at the facts.

The CHAIRMAN. That does not give the committee much light as to your purpose in making this particular inquiry. I assume that we all want to get at the facts, but we must confine ourselves to the relevant facts. I cannot see that it is material or relevant to inquire as to an effort to get office under this administration unless it is intended to affect some matter connected with this inquiry.

Mr. RANNEY. It may affect the witness.

The CHAIRMAN. In what way, as to giving him standing, or how?

Mr. RANNEY. Perhaps it was a disappointment to fail to get the office.

The CHAIRMAN. If you say that you will give that as the purpose of the inquiry—

Mr. RANNEY. You have no right to put me in the position of espousing anybody's side or anybody's cause, or cross-examining or examining in anybody's behalf. I stand as an independent member of this committee, and I want the facts upon which ever side they cut.

Mr. HALE. I am in favor of the question if you confine it to the parties under investigation.

The CHAIRMAN. The gentleman from Massachusetts understands that I do not question his purpose, but he must state something to indicate its relevancy, or know its purpose. If the chair is called upon to rule upon the question we must have it in such shape that it may be ruled upon.

Mr. RANNEY. I do not make any charge, one way or the other, nor do I state whether I believe one thing or the other. It may be that his associates and those connected with him sought to get him into a position in this Department in order to further their interests. That may be another reason, I see. It may be that a bias will be disclosed on the part of the witness.

Mr. OATES. Mr. Chairman, I just want to remark that I think the question put by Mr. Ranney would be pertinent for the purpose of showing the animus of this witness.

Mr. RANNEY. It is assumed quite too strongly that some of us are here as counsel, espousing one cause or the other, that we are trying somebody. I want to say again that I am here as an investigator. I do not put questions for any purpose, except it bear on one side or the other of this investigation. You must understand it.

The CHAIRMAN. I have heard no gentleman take any such position, unless it is the gentleman from Massachusetts, as to being on sides here, one side or the other.

Mr. RANNEY. Brother Oates says that he can see a way in which it is material. Now, if he says that he sees a way in which it is material, he ought not to say what my purpose is.

Mr. OATES. I take it on your own words. You said that one of your purposes was to show the bias of the witness. I say in that light it is material.

Mr. RANNEY. I have said that I had no purpose except to discover facts that might be on one side or the other, and personally I do not care on which side the facts are. I represent nobody but the public.

The CHAIRMAN. In my view, it is irrelevant to inquire as to his application for office under this administration and to any indorsements he may have had, because that does not relate to the inquiry. That is my view.

Mr. HALE. I propose myself, when it comes to my turn to make inquiries on that subject, to ask if he was recommended by his associates for a position in the Department of Justice. I think that is important. If he failed to secure his position after having made application, it might show an animus with reference to Mr. Garland or somebody else. In that case I think it would be proper.

The CHAIRMAN. I agree with the gentleman from Missouri (Mr. Hale) that if Dr. Rogers made application for that position and was indorsed by his associates in this enterprise, that is not only relevant, but it may be important.

Mr. RANNEY. Why stop me then? I have asked him who indorsed him.

Mr. HALE. He can single out the names of his partners very readily, if on that list.

Q. Have you your papers?—A. They are in that album.

Mr. RANNEY. Let us have the written papers; that is the better way to get at it. You produce a written paper containing an indorsement.

The WITNESS. It is in the custody of the committee.

The CHAIRMAN. If any of your associates in this Pan-Electric Company, or any of these companies, indorsed you, there is no objection to your stating that fact.

Mr. RANNEY. I object to his stating it without the paper itself. That will show for itself.

Mr. MILLARD. Mr. Hanback is not present.

Mr. OATES. I saw Mr. Hanback a short time ago in another committee room working on these papers.

Mr. RANNEY. I think the proper way is for the paper itself to be shown, if we find the paper here, but we cannot undertake to find it now.

By Mr. HALE:

Q. Can you answer the question outside of the paper?—A. Yes, sir.

Q. Can you answer the question correctly?—A. Yes; as near as I can.

Mr. RANNEY. You need not answer it. If the committee please, this is one of those cases where I think the paper itself should be referred to, and, therefore, I insist upon the rule of evidence.

Mr. HALE. I am not asking the question now.

Mr. RANNEY. I should think you were asking a question.

Mr. OATES. I take issue with the gentleman's legal proposition. It is only where a suit is founded upon a paper and it is brought into that suit that you have to produce the original, and the witness cannot speak of its contents in the collateral way.

Mr. RANNEY. We will not discuss that question now. I am directing my attention to the witness. I ask him to produce the paper; I do not ask him to state what is in it.

The WITNESS. I will produce it if I can get it from Colonel Oates and Mr. Hanback; it is in their custody.

By Mr. RANNEY:

Q. Did you get the office?—A. No, sir.

Q. Did you apply for another office connected with the Departments?—A. Yes, sir; I began to think that Mr. Garland moved very slowly, and I sent duplicates of some of my recommendations to the State Department. I believe I wrote in my application that Mr. Garland had moved very slowly in the matter. My daughters were at that time thinking of going to Italy, and I thought of having a consulate at Milan or Marseilles, somewhere in that region, to help me pay expenses, and give me a kind of standing abroad.

Q. Did you apply to any other Department?—A. No.

Q. How early was that application made to the Department of Justice after Mr. Garland was appointed?—A. Very early; the papers will show the date, which I don't remember.

Q. Had the subject-matter of bringing this suit in the name of the Government to vacate the Bell Telephone patent been broached at that time?—A. I don't remember.

The first broaching of it was on the 24th of May, I think, in my letter to Mr. Garland on the subject, and the application will show the date at which they were made.

Q. I want to know whether you presented to the Department of Justice any paper of Mr. Garland's relating to the commencement of suit by the Government to vacate the Bell telephone patents?—A. I wrote a letter to him and mailed it, and wrote simultaneously to all our associates.

Q. Have you a copy of that letter?—A. I happen to have a copy of that letter; yes.

Mr. RANNEY. I suppose that would be one of the papers, the originals of which we shall have to ask to be furnished by the Department of Justice?

The CHAIRMAN. I have no objection.

Q. You did not hear from them?—A. Not directly. Colonel Looney went to see Mr. Garland on the subject of my appointment to some place, and he reported to me substantially—

Mr. RANNEY. That was an official communication, and you need not report what anybody else said to you about it.

The WITNESS. Mr. Garland wrote to me about it.

Q. Have you the letter from Mr. Garland about it?—A. I think I have.

Q. Where is that?—A. I guess it is among the papers.

Q. A reply to your application to have suit brought?—A. No; it was in the nature of a complaint I made as to what he should have said to Colonel Looney.

Mr. RANNEY. We are now on the subject of the application to bring suit.

The WITNESS. I thought you meant my application for office.

Mr. RANNEY. I am speaking of your application for suit to be brought.

The WITNESS. He never made any reply to that; his writing was upon the subject of the other application.

Mr. RANNEY. I am now on the application to have suit brought.

The WITNESS. I never had a scratch of the pen from him; nothing except those incidental things that came through Colonel Young.

Q. Can you give the date of the request made to have suit brought?—A. The letter was dated May 24; I presume that is the right date. You can get the date more certainly from this fact: that I had just gotten it from the mail, and the Morning Post has in it an account of Brewster's action in the premises; and a Sunday paper, the Chronicle—

Q. Right there, you have spoken before about those articles in the Washington Post and Chronicle. Do you know who wrote those articles?—A. No; I have no idea.

Q. Did you ever inquire?—A. No; I don't think I did. I was accosted several times about the article in the Sunday paper. People would say, "I saw your article in the Chronicle," and I was rather pleased that they should think I was capable of writing it, because it was an admirable thing; but I did not write it.

Q. Did you get any one to write it?—A. No, sir; not a word of it.

Q. Do you know whether any one of your associates wrote it?—A. I do not. I never heard.

Q. How was it about the Washington Post article?—A. The Washington Post did not refer to the Reiss or Bell patents, or anything of the kind. It was just simply an item of news to the effect that, pursuant to an order of Attorney-General Brewster, suit had been brought in New York, by the United States authorities, to vacate a patent for some painting on glass, which patent had been made so broad, or had been obtained through fraud, that Brewster's agents in the Department of Justice had canceled it absolutely. Seeing that, I thought ours was a much stronger case than that presented in the article.

Q. I do not care to go over your thoughts about it. I want to know, first, if you know who wrote the article?—A. No; I do not.

Q. That immediately preceded the writing of the letter to Attorney-General Garland, did it?—A. Yes; that stimulated me to do it just at that juncture. I went and bought a half dozen of each of these papers—

Q. Yes, you have said that. Did you know anything about Van Benthuyzen putting in a similar application?—A. No; I didn't know that until our last meeting of the board, as to Van Benthuyzen being instructed by Colonel Young about the matter. I had seen an article in the papers that he had applied to the Attorney-General, but knew nothing of it in person until Colonel Young spoke of the matter at our last meeting of the board.

Q. When was that?—A. About three weeks or a month ago. It was the day after the first article appeared in the World, which purported to be a history of the Pan-Electric Company.

Q. You had no knowledge of Van Benthuyzen applying to the Attorney-General, or of the application being referred to the Secretary of the Interior and being withdrawn?—A. Nothing except what I saw in the newspapers.

Q. We do not want that. You had nothing to do with it? Were you up in Penn-

sylvania when Van Benthuyzen was there?—A. No, sir; I might have been there when he was there, but I don't know that he was there.

Q. Do you know whether he had anything to do with the initiation of the suit brought against your company there by the Bell Company, letting it go by default, and injunction issuing?—A. No; I don't suppose he had; I never heard anything about that.

Q. You don't know whether he had anything to do with it?—A. I do not; I suppose not.

Q. He was connected with the other company?—A. Yes, sir; with the National Improv.

Q. What interest did you say your company, or any of your subordinate companies of the parent company, got in the stock of the National Improved Company?—A. Nothing in that stock, but we were to get \$75,000 of testimony which they had got in Germany.

Q. You had made an arrangement with them?—A. I understand so; I understand that an agreement was signed; I have never seen it; my son Harris told me the agreement was signed.

Q. As you understood it, had that junction been made before you made application to the Attorney-General?—A. Oh, no; long after. This was done some time in July or August.

Q. Was it done before or after the suit brought by the Government to vacate the Bell telephone patents?—A. Before the suit was brought.

Q. Do you know how long it was after that arrangement had been made that the suit was instituted?—A. I think not more than two or three weeks from that time. I only knew of its institution through the press, but it was long after I had understood that it would be brought, and long after this agreement with Van Benthuyzen. The agreement can be produced, and will show for itself. I have never seen it.

Q. Do you know who has it?—A. The secretary of our company should have a copy of it, at least.

Q. The secretary of your company, whom you suppose has it, is who?—A. Colonel Young.

Q. He was the one that told you of the proposition?

The WITNESS. What proposition?

Mr. RANNEY. That they should put in the \$75,000 worth of testimony, and you should put in—

A. That we should put in "some little influence that they supposed we might have."

Q. Do you know whether Mr. Goode had any stock in these subordinate companies?—A. I do not. I heard a rumor that he had.

The CHAIRMAN. We do not want rumors.

The WITNESS. I do not know anything about any stock except my own.

Q. Do you know who has any stock in that Improved company with which you made an arrangement?—A. No, sir; I don't know a man who has any of it. Hine and Hume were interested in it, and I presume they had stock in it. I think Mr. Nicholas Shea, in this city, has; I don't know it of my own knowledge; I have heard it.

Q. I do not care about that. Do you know of anybody in Maryland who had stock in this Maryland, District of Columbia and West Virginia Company?—A. I have never seen any stock in the possession of anybody; but Bradley T. Johnson was one of the officers, and officers of these concerns generally have a block of the stock.

Q. Who holds the books of that company?—A. They are kept, I think, by a gentleman named Gardiner, in the Pan-Electric Company office, at the corner of Thirteenth and F streets.

Q. Did you ever have any stock in that company?—A. I had only my pro rata of the one-fourth which they agreed to give us, but I never got it in my possession.

Q. You never looked to see to whom that stock was disposed of or given?

The WITNESS. You mean that Washington Telephone Company stock?

Mr. RANNEY. Yes.

A. No; I would have to look at their books to find that out.

Mr. RANNEY. We have not the books in here yet. We began at the other end of the investigation; we will have them by-and-by, perhaps.

Q. You have no personal knowledge?—A. None at all. Mr. Gardiner told me he had some of the stock; he is their secretary. He is the only man that I ever heard say that he had any. Yes; Harlan told me that he had some.

Q. Do you know whether any man from the State of Maryland, connected with either house of Congress, had any?—A. No, sir; I don't know any Congressman from Maryland.

Q. Have you any knowledge as to whether any of it was offered to any member of the House who was on the Committee on the District of Columbia?

The WITNESS. Any stock?

Mr. RANNEY. Any of that stock?

A. No, never.

Q. You had nothing to do with it in any manner?—A. Nothing at all, except my one-fourth that I suppose Senator Harris has put into our treasury; I have never seen it.

By Mr. OATES:

Q. Was General Atkins an officer of the Government at the time when this organization was effected?

The WITNESS. Which organization; the Pan-Electric Company?

Mr. OATES. The Pan-Electric, in March, 1883.

A. I should think the general, like Manning, was probably going out at that time. The session had ended. You can tell better about it than I can.

Mr. OATES. It ended the 4th of March, 1883.

The WITNESS. He was in the preceding session. Whether that lapped over to the fall or whether he came back there I don't remember. I don't think he did. I am pretty certain he did not, because I didn't see him for a great while afterwards. I don't think he was a member of Congress when he went into this thing.

Q. You stated in your direct examination that he was the chairman of the Committee on Appropriations?—A. I think, so; yes, sir.

Q. Let me ask you if you are not mistaken about that. In the Forty-seventh Congress he was a member of that committee, but the House was Republican?—A. Oh, yes; I was mistaken.

Q. He was a chairman in the preceding Congress?—A. Yes, sir; I had known him as the chairman of that committee, and as a Democrat.

Q. In the Forty-sixth Congress?—A. Yes, sir.

Q. What is the state of feeling between you and Attorney-General Garland at this time?—A. Well, sir, that is very general.

Q. Is it friendly or unfriendly on your part?—A. I expect he is very friendly to me. I wouldn't say I feel very friendly to Attorney-General Garland, or that I was very unfriendly to him. I think he has acted badly to me.

Q. Your feelings were wounded towards him because he did not give you an appointment?—A. Yes, sir; partly that and some other matters.

Q. So that you do not feel very friendly towards him now?—A. No; but I have no malice against Garland. I think that when he had opportunities to act generously he didn't do it, and I think he acted meanly to me.

Q. Did you write a letter that was published in the Tribune September 29, 1885?—A. I did.

Q. About him in this connection?—A. Yes, sir.

Q. What do you say about the statements in that article; are they all true, as stated?

Mr. RANNEY. I object to that.

The WITNESS. You had better read it to me again; it has been written a long time.

Mr. RANNEY. I object to that examination on the rule of evidence. If you will let him read the article, you can ask him.

The WITNESS. You read it, Colonel, and I will answer seriatim as the sentences come on.

Mr. RANNEY. If the article is read, I do not object to your asking any questions about it.

Q. After you failed to get the appointment that you thought you ought to have, did you write any poetry in the nature of satires upon the Cleveland administration, and especially Garland?—A. (Producing pamphlet.) I have got it this morning fresh from Baltimore; do you want it?

The CHAIRMAN. You may put in whatever you want.

Mr. OATES. I am just asking for the fact. I will ask you to state the fact. I am not asking you what the poetry was, but simply as to the general character of it.

The WITNESS. I wrote the poetry.

Q. Was that poetry a satire upon the administration, and especially upon Garland as the Attorney-General?—A. It speaks for itself. The committee can have it read.

Mr. OATES. No; I do not ask for that. I just ask you to state.

Mr. RANNEY. I think it is taxing a man's modesty too much to ask his personal opinion on his own writings.

The WITNESS. Yes; I am abashed.

Mr. OATES. I am conducting this examination now, and I ask him for the animus and purpose with which it was written. (To the witness.) What do you say about that?

The WITNESS. What is the question?

Q. Was your poetry written for the purpose of ridiculing or satirizing the Attorney-General and the administration?

Mr. MILLARD. I object to the question, Mr. Chairman, on the ground that the poem is the best evidence.

The WITNESS. There it is.

Mr. OATES. That rule does not apply to everything that comes in collaterally.

Mr. MILLARD. I cite your own authority.

Mr. OATES. I ask the question merely for the purpose of showing the animus of this witness. It is not relevant in any other way. The doctor has already admitted he did not have the best of feelings toward Mr. Garland.

The WITNESS. The animus might have a great many complexions to it.

Q. I merely ask you whether it was a friendly or an unfriendly feeling?—A. Well, a man who will tell his friend unpleasant truths is sometimes the best friend, and does a friendly thing. I think that is a friendly thing that will help Garland if he will read it.

Q. I don't call for the paper, but merely ask you why it was written?—A. It states on the the first page that it is the first of a series of satires, to be followed by "Parthenon," "Whitewash," and "The Last of the Dog-carts." The question is answered on the first page. It is a satire.

Q. (Handing newspaper slip to witness). Look at this and see whether it is your letter in the Tribune.—A. That is all true, with such explanations as may be necessary. There are condensations in letter-writing that might need explanation. They are subject to several interpretations sometimes; but with my interpretation of that, which would be the natural one, I think all is true that is said in that letter.

The following is the letter referred to:

PARTHENON HEIGHTS LABORATORY,
Bladensburg, Md., September 29, 1885.

To the Editor of the New York Tribune:

SIR: My attention having been called to your criticism of Mr. Garland's conduct in bringing suit in the name of the United States for the Pan-Electric Company against the Bell Company, I wish, in justification of a faithful public servant, to give you a complete history of the proceedings, and believe that you will at least see the matter in a new light and give the salient points of my defense to your readers. I have been for several years attorney for my son, J. Harris Rogers, the inventor of "The National Secret Telephone" and of the "Pan-Electric Telephone" systems, and had been for a long time anxious to have a suit brought by the Government against the Bell Company to cancel their patent, which claimed "the art of telephony," known to have been invented by Phillip Reiss, of Germany. Three years ago I donated to Mr. Garland \$500,000 stock in the original Pan-Electric Company, which carries with it \$500,000 in the Pan Electric Telegraph and \$500,000 in the Pan-Electric Telephone, making in all \$1,500,000 (one million five hundred thousand dollars) stock in the company. This donation was made with the understanding that he and other prominent persons associated with us should assist in monetizing some twenty-five patents belonging to my son. All the parties incurred considerable expense in experimental work, renting of telegraph lines between New York and Washington, manufacturing, &c., but were soon reimbursed about \$10 or \$11 from sales of State rights (still retaining all their stock). Mr. Garland and Senator Harris had both given their written opinions that our patents did not infringe the Bell patent—a copy of which I send herewith.

Soon after Mr. Garland's promotion to the office of Attorney-General I applied to him to move against the Bell Company, but he declined doing so. I then by letter requested Senator Harris, Gen. Joseph E. Johnston, the Hon. Casey Young, and other members of the company to urge him further, but he still declined; Mr. Young reporting to me by letter that the Attorney-General felt a delicacy in the matter on account of his ownership of stock in the company. I had always appreciated his high sense of honor, but could not see how his *private feelings of delicacy* should deprive me and my associates of our right as citizens if we had a right to try the validity of our patent in the manner proposed. Furthermore, Mr. Garland being indebted to me not only for his \$1,500,000 stock, but for my efforts in getting him appointed Attorney-General, I began to feel that he was not inclined to reciprocate the favors I had done him; but to relieve him in a measure of the delicacy referred to, I prevailed (through my agents) on the National Telephone Company—a small corporation founded on several of my son's earlier patents—to press once more upon Mr. Garland my favorite plan for canceling the Bell patents; and he, having no stock in this company, consented; but said (so the Hon. Casey Young reported to me and my son) that he would leave the matter with Mr. Goode, Assistant Attorney-General, and so he did; and accordingly the suit was commenced by the United States in behalf of a company in which Mr. Garland held no stock, and in behalf of citizens of the United States who had made out a *prima facie* case against the Bell Company to the satisfaction of Mr. Goode. How Mr. Garland or Mr. Goode could have acted otherwise as faithful public servants passes my comprehension.

Respectfully,

J. W. ROGERS,
*Attorney for J. Harris Rogers,
Inventor of the Pan-Electric and National Telephone Systems.*

Q. Were either of your sons applicants for appointment to office under the Attorney-General or the administration?—A. No; not the Attorney-General.

Q. Were they applicants for appointment under the administration?—A. My son Harry made application for the electrical department, but he made no application since that I remember for any departmental work.

Q. He didn't get what he applied for, did he?—A. He did not apply to the administration for that. It is the same yarn we went over yesterday, about getting the position of electrician.

Q. I ask you whether either of your sons applied to Mr. Cleveland's administration or any of the Departments for appointment to office?—A. I think not; not that I know of.

Q. Who of the Pan-Electric Company or of the Telephone Company first suggested to get the Government to bring the suit, or who first spoke of it?—A. I don't remember any one of our company ever speaking of it except through my suggestions after the 24th of May. It had occurred to me in a floating way that such a thing could be done, and I would have been very glad to have done it, but none of our associates ever said anything about it to me.

Q. You were the first one to suggest that idea, were you not?—A. I don't know what ideas other people might have had.

Q. To get the Attorney-General to bring suit in the name of the Government against the Bell Company?—A. I am the first one I know of. I think I originated it, probably, but I don't know what other men might have done.

Q. It was soon after that you wrote the letter to the Attorney-General, that you spoke of a few moments ago, asking him to institute the suit?

The WITNESS. Soon after what?

Mr. OATES. It was soon after this suggestion which you made to your associates that you wrote the letter that you spoke of in answer to the question?—A. I don't think I had suggested it to them. I wrote on the spur of the moment—the very moment I saw these articles in the Post and the Chronicle; the papers were at my feet, and I wrote it without suggesting it to anybody; but I wrote that day letters to all of these gentlemen inclosing the same articles that I inclosed to Mr. Garland.

Q. Did you go with your son to the correspondent of the World about the publication of these letters?—A. I did, sir.

Q. And sanctioned the turning over of the "album" to him?—A. With the understanding that no private letter should be published—nothing except those connected with the charge of Credit Mobilier, &c., in this Pan-Electric business.

Q. What was your object in turning them over to him for publication?—A. My object was to make what I thought would be the best answer possible to the charge of a Credit Mobilier operation in Congress, of which I was supposed to be one of the chief instigators and promoters.

Q. In answer to the charge which had been made in some of the newspapers?—A. Yes.

Q. That was the way the charge had been made, as I understand it?—A. Yes, sir; especially in the World. It had suggested it in the article which we were anxious for our company to answer. The World was a paper that had given what purported to be a history of the Pan-Electric Company, and it mentioned the Credit Mobilier and something about my sons having been dismissed, and three or four things that I excepted to; but the history of it, as to the books, &c., was in the main correct.

Q. Did the proprietor or correspondent, or other person connected with the World, or any one else, pay you anything, or propose to pay you anything, for these communications which he furnished for publication?—A. Of course not. I went straight from our meeting when these gentlemen refused to make that answer, which I thought ought to be made to the people, defending my son. I got in my buggy and drove straight to the World, and told the correspondent I had a book of letters which would convict us all of rascality if there was any rascality going on, and I would bring the book and he could have the book. He said pursuant to that he would come out on the next day's train at 10 o'clock. He failed to come, and I brought the book in and met him at the depot, going on another train. I took them up to him, and he reiterated the promise to publish only those things that appertained to the Pan-Electric Company. I told him to just ransack the whole correspondence of three or four years, and if there was any Credit Mobilier, or anything that indicated anything improper, to let the World have it.

Q. It was for the purpose of vindicating yourself and your comrades from this charge of Credit Mobilier that had been made in the newspapers?—A. I would like to be a little more explicit about that than I probably was yesterday. My object was to vindicate me and my son, and as I could not do that without vindicating them at the same time, my parallel or co-ordinate object was to vindicate them. I was not so chivalrous as to go in to a fight just to vindicate gentlemen who I thought had not treated me or my son well, and I wanted to vindicate them in order to vindicate myself and my son.

Q. You were not influenced through any hard feelings toward these other gentlemen in doing that?—A. Well, it is difficult for a man to analyze his feelings with that nicety which some people trained in casuistry might exercise. I think my leading motive was to vindicate my son, and being of the stock of old Adam I think I had some little feeling toward my associates that would naturally arise with any man who thought his son had been treated badly by them.

Q. That correspondence that was given to the newspapers embraced, did it not, all the letters which you had received from any of these associates of yours touching the Pan-Electric and the Pan-Electric Telephone Companies?—A. Oh, no, sir; the very disorder of the letters will show you we are not that kind of business men that keep everything. These letters were ordinarily laid about loose in my study—what we had been receiving for two or three years. Some time ago my son began to gather them up as he could and put them into a book. I would answer that question in this way: They embrace the great body of the correspondence, but not all the letters. Some of them are probably in old barrels or trunks about my house now. I have had one of my children looking for them, and they exhumed two or three yesterday that I think my son brought in. Others may come to light. I think there are many others.

Q. You say some of these letters published you did not intend should be published?—A. That letter of Dick Wintersmith's I think had nothing to do with it, and I was a little pained at its publication. I was afraid he would be offended, for it looked like putting him unnecessarily before the public, but Mr. Crawford, the correspondent of the World, explained to me that he thought, as it was on the Pan-Electric matter and could do no harm to anybody, it was not violating a private correspondence. He said, in fact, that Dick had told Pulitzer that if he could write that letter for stock he would write him a better letter for money, showing he was not offended.

Q. Did you intend the publication of Young's letter of recommendation of you as a good Democratic speaker, &c.?—A. I didn't know it was in the book. I didn't know it until I saw it in print. I think I just threw the book down with about two hundred and fifty letters in it. I didn't read those letters over, and wouldn't read them for a Pan-Electric Company.

Q. Did you intend the publication of General Butler's letter?—A. Yes, sir; I sent it especially to be published.

Q. With reference to bringing the suit?—A. Yes, sir.

Q. Was Butler going to bring the suit?—A. Not Butler. He declined. He said he had too much business to attend to it, and didn't want to take a suit to be tried in the newspapers.

Q. Are all the original letters touching this Pan-Electric Company that you received from Mr. Young in the correspondence that your son has delivered to the committee?—

A. Perhaps not half of them. I have been receiving letters for several years, and my son but lately picked up what letters he could and put them in that book. I think it has been about six or eight months ago since he began to put them in that shape.

Q. Have you any others?—A. I think probably I have a lot of them. I have got my children looking through old boxes and barrels of papers now. My wife told me of one that was marked "Confidential" that she had laid away.

Q. There is a letter or letters purporting to be from you to Attorney-General Garland published here. Of course they must have been published from copies which you furnished. Were they actually written to him and mailed to him?—A. I don't know what letters they are.

Q. Those that are published?—A. I don't remember what was published. I will say this, that I read at the time I think nearly all the publications, and the letters that I have seen published met with my approval. As to that, they were letters that I had—

Q. The originals were actually mailed to Garland?—A. Oh, yes; though there might have been letters published that I don't know about, but that is true of what I have seen. I think I saw all the letters in the World and Tribune.

Q. I only inquire about those that were published.—A. There might have been some publications that I never saw.

Q. How much stock did you originally hold in the Pan-Electric Telephone Company?—A. In the ratio of four-tenths, minus Colonel Looney's one-sixth. When I say "me," I mean my son also.

Q. How much of that have you sold?—A. I have only sold about \$400,000 or \$500,000 worth. I have sold it short. I never sold for much more money than we went over this morning, but I have traded some of it away and given some of it away.

Q. In addition to what you already stated in your former testimony?—A. Yes; there was a number of transactions in which some of that stock went in trades. Most of those deeds came through trades in telephone stock, but the bulk of it was the Rogers Telegraph and Telephone stock.

Q. Have you ever hypothecated any of it—put it up as security?—A. No, not formally; I used to put a whole lot of stock, some million dollars' worth, in Nick Shea's

safe up here. He is a wealthy man. It was not formally hypothecated; but it was a suggestion to him that whenever I wanted money I was a pretty wealthy man, and he generally let me have money, but I just asked him to keep those millions for it. It was not what you lawyers would call hypothecating; no bargain about it. I said "Put these in your safe and I will draw on you sometimes," and he generally honored my checks.

Q. Have you ever deposited or hypothecated elsewhere?—A. No, sir; I think not; if so, it does not occur to me. If you can suggest any place I will tell you the truth about it. I would have hypothecated it in a moment for money.

Q. Have you advertised your stock for sale in the newspapers?—A. Oh, yes; in nearly every paper in the United States, directly or indirectly. I don't mean particular advertisements formally, but I have seen it advertised in all the papers.

Q. Did you ever advertise to sell it at auction?—A. No; I don't think we ever did. I saw an advertisement here of some stock that Duncanson was to sell, and they called it "Pen stock," I supposed it meant "Pan," but I don't know whether it was sold or not. It was not mine, and I know nothing about it, except that I saw some "Pen" stock was for sale at auction and supposed that meant "Pan."

Q. Did you sell or give away the greater amount of it?—A. Well, I gave away the most of the Pan-Electric stock, I guess. It is very hard to answer that question without some circumlocution. To illustrate: In the Klotz case, he was to pay me \$7,500 in money, to be expended, as we said yesterday, in the Lehigh Valley. When the injunction came the old fellow had paid but \$2,500, and said he never would go back on his word and would pay us the other \$5,000. We told him no; he might keep the stock and we would give him absolution for the \$5,000. It is hard to say whether I gave it to him or sold it to him.

Q. You say you have advertised in pretty much all the papers in the United States. How many advertisements have you ever put into the Washington papers in this city?—A. You do not understand me as saying I advertised?

Q. You and your son?—A. No, not me; because it would take a hundred Pan-Electric companies to advertise as I advertise—long columns in every paper in the United States; but I have seen through these advertisements and through our suits that the companies have been advertised in vast numbers of papers, and I suppose in all the papers of the United States. My paid advertisements, for which I paid, were numerous. I advertised in three papers in Memphis for nearly a year, a column, and I advertised in three or four papers here about a column, and I advertised in a paper at Newport News, and I put a short advertisement often in the New York and Philadelphia papers. That is about it.

Q. Did the company authorize these advertisements or were you merely advertising your own stock?—A. That was the Rogers Telegraph and Telephone, but that company owned Pan-Electric, and incidentally advertised Pan-Electric stock, which, by the by, they ought to pay.

Q. Did the Rogers Telegraph and Telephone Company spring out of the Pan-Electric Company, or was it organized independently of it?—A. Independently of it, but I transferred \$1,000,000 of the Pan-Electric stock to the Rogers Telegraph and Telephone corporation, that fictitious body, that man called the Rogers Telegraph and Telephone Company, became the recipient of \$1,000,000 of Pan-Electric stock, and Klotz has it now.

Q. Was any officer of the Government in that corporation, the Rogers Telegraph and Telephone Company?—A. I don't know. I don't think so. I can give you the names: Denver, Manning, and Money.

Q. You say that was an independent company, and the only connection it had with the Pan-Electric Company was some stock of yours in the Pan-Electric Company which you transferred to that company.—A. I say that was one of the connections it had. It had other connections.

Q. What were they?—A. One was that we were bound to them to pay them \$2 on every instrument as a royalty every year as long as our corporation used their instruments. That was one. Another connection was that they were to defend suits. A great many things might be called connections.

Q. Then it was derived from the original Pan-Electric Company?—A. Oh, yes, sir; all our powers over the instruments came from them. The instruments belonged to the Pan-Electric Telephone Company. I do not want to confuse the sales made under that corporation you are speaking of with those of the Pan-Electric. Those deeds will indicate to you as to all the contracts, &c. I got about \$250,000 worth of lands, at pretty high prices, I suppose, for stock. I was very uneasy about it at one time. I got so rich on it, and our people had got the thing in such a jumble, that I was afraid we might get into trouble, and I went to Mr. Garland and got the whole thing written out properly. I wrote it out myself and submitted it to him, and he indorsed it, and we sent it to Colonel Young as a proper way of transferring all the patents, and so on. For a long time it was not in ship-shape, but I believe finally they got the transfers made.

Q. Have you seen published in the New York Tribune on the 22d of February, 1885, a letter from Casey Young to you?—A. I don't know the date. If you will read the letter I will tell you all about it.

Mr. OATES. We will find it.

The WITNESS. While you are looking for that letter I want to advert to a matter you asked me about. You passed from the subject abruptly, and I am afraid what I said might be liable to a misconstruction, without I explain it while it is yet warm. You asked me if I was friendly towards Mr. Garland, and I said I thought he had acted meanly toward me, but I didn't mean that that applied especially to his not giving me an office. I felt exceedingly disappointed that he should not help me, but, of course, I did not blame the man for that; but when he came back from Hominy Hall and made statements which seemed to reflect upon my letter of the 29th I thought that as a man he ought to have come out squarely and said that what I had stated in the letter was true. I believed it to be true, and I think that his silence in that regard has impaired him greatly in my estimation.

By Mr. MILLARD:

Q. What was the date of the letter you refer to?—A. The letter I wrote was dated the 29th of September.

Q. Last year?—A. Yes, sir. In writing to the President upon that subject-matter it struck me, from reading his letter, that he meant to discredit my statement in that letter of the 29th; I thought there was nothing to his discredit in the thing, and it would have been very easy, or at least a graceful thing, for him to have treated it with that consideration for truth which it deserved.

Mr. OATES. In order to save time, let Mr. Millard go on now, and I will recur to my examination when I can find the letter I want.

Mr. MILLARD. I only desire to ask three or four questions.

Q. The first question I will ask you is this: Do you know of any Republican member of the House of Representatives or of the Senate of the United States that has accepted any stock in the Pan-Electric Company?—A. No; I don't think I ever offered it to any Republicans but Windom and Clark, the architect, unless Beach is a Republican. What is he?

Mr. MILLARD. He is not a Republican.

Q. Colonel Oates has referred to a certain letter recommending you for some purpose; by whom was that letter written?

Mr. OATES. I did not refer to any letter.

Mr. MILLARD. Yes you did.

Mr. OATES. You are mistaken.

Mr. MILLARD. You asked him about it a few minutes ago, and I asked the chairman for the letter.

The WITNESS. The letter I had last was written by me.

Mr. MILLARD. I refer to a letter indorsing you as a Democrat, &c.

Mr. OATES. Oh, that was Casey Young's. I asked him why he published it; if that had any reference to the Pan-Electric Company.

The WITNESS. And my answer was I did not know it was to be published. It was in the book of letters.

Q. [Handing slip to witness.] Is this a copy of that letter?

A. That is the general substance of it.

Q. Is not that a copy of the very letter that Colonel Oates called your attention to?—A. I don't think he did.

Q. You don't think it is a copy?—A. Oh, he might have referred to this. I guess he did; but I don't know what he referred to.

Q. Is that a copy of a letter that Colonel Young did write?—A. It is substantially. I can't say positively without I have the two together.

Mr. MILLARD. Read it aloud, so that the stenographer can get it on the record.

The WITNESS. I would blush to read it. [Reads:]

"MY DEAR SIR: I think the services of J. W. Rogers, esq., of Washington, D. C., could be used with great benefit to the Democratic party in the present canvass, and I write this to suggest that they be engaged at once, and he be sent to speak in the Northern and Western States. He is a gentleman of much scholarly culture and extensive knowledge, and possesses superior powers of oratory. I know of no man who is likely to arouse more enthusiasm among the masses than he is.

"Yours, very truly,

"CASEY YOUNG."

That is the substance of a letter the colonel once gave me.

By Mr. EDEN:

Q. You didn't give the date. What is it?—A. September 30, 1880.

By Mr. MILLARD :

Q. To whom was the letter addressed?—A. Hon. John G. Thompson, Washington, D. C. Thompson was managing that Ohio campaign. He was not here, but I went out there and spoke under his administration through the northern and western part of Ohio.

Q. And you took this letter with you. Did you go up into New York?—A. Yes, sir. At that time I only went into that country to fight Credit Mobilier against poor Garfield, and hence I felt more pain when they accused me of being in the same box.

Q. Mr. Oates called out the fact of the publication of this poem. I will ask you if you sent this poem, or a copy of it, to the Attorney-General?—A. No; that is just published. I got it last night.

Q. To whom was it dedicated?—A. You are referring to another one. Oh, my rhymes are as thick as blackberries.

Q. You spoke of a poem dedicated to three dignitaries; who are they?—A. Their names are there.

Q. Can't you state them? There is objection to the poem going in.—A. That was dedicated pursuant to an article in the Tribune, asking me to write a new poem dedicated to the three G's—Goode, Garland, and Grover—and pursuant to that I dedicated it to those three gentlemen.

Q. You have compared Garland to Lord Bacon?—A. Yes; a great lawyer.

Q. Was there anything else that suggested it?—A. Well, Bacon had some timidity in his elements that was not characteristic of greatness after all, and I think Garland has some of the same.

Q. You have quoted from another poem the following :

Little Jack Horner sat in a corner
Eating a Christmas pie.
He put in his thumb and picked out a plum,
And said "What a good boy am I!"

A. Yes; I put that in for such men as Beach. [Laughter.]

Q. How does the plum apply to Beach? What was the plum, and why did you cite this particular verse?—A. The context shows it.

Q. Is not that the telephone plum?—A. Yes, sir.

Q. That is what I supposed. Does not "Jack Horner" refer to the Attorney-General?—A. Yes, sir.

Q. Not to Beach, then?—A. No; but Beach can understand that. [Laughter.]

Q. You compare Grover to the Arkansas owl? Why make that comparison?—A. I don't think it is said there he is compared to the owl.

Mr. MILLARD. I offer this poem in evidence without further examination.

Mr. OATES. I object to that going in evidence now. Mr. Millard can wait for that until we go into executive session.

Mr. RANNEY. I think it is important to show the animus.

The WITNESS. It will show my feelings toward Mr. Garland pretty clearly, and if Colonel Oates wants the animus he will find it in there.

Mr. MILLARD. It has been made proper, I suggest, by the examination of Mr. Oates.

Mr. OATES. I do not object to your putting it in evidence, but only to your doing so at this time.

Mr. MILLARD. You are willing that it shall go in after awhile?

Mr. OATES. That which you prove by him you can offer afterwards. It is printed matter, and you have proved it.

Q. You spoke yesterday about the Attorney-General visiting your house some time during those transactions. Can you fix the date?—A. Well, I think early in 1883; probably in February.

Q. Was it prior to the signing of the articles in New York?—A. That was March 13, I think.

Q. How did he happen to come to your house?—A. Well, we had selected him in a meeting at my house as one of the parties to whom the \$500,000 was to be given, and after that meeting he came in with Senator Harris and went up to the laboratory and examined the instruments as a party either already interested or thinking about being interested. I don't think it was said definitely whether he was a party or not, but he examined all the instruments.

Q. His visit there was in reference to the formation of the Pan-Electric Company?—A. Oh, yes.

Q. You have spoken of two meetings in the Judiciary Committee room in the Senate. As I understand, you attended one of them?—A. I think I attended two there.

Q. Was Senator Garland present at both meetings?—A. Yes, sir; I think he was present. He was present at those two.

Q. Do you know how the meetings came to be called there?—A. No; my son gen-

erally got a notice from General Johnston when formal notice was given to all the members, and I guess probably it was through a letter, but I don't remember.

Q. Was the meeting called there at the request of your son, so far as you know?—A. Oh, no; not at our request. I expect it was called there for the convenience of the gentlemen up there. I expect more for Garland's convenience than anybody else's.

Q. Were both of those meetings or either of those meetings prior to the commencement of the Government suit?—A. Oh, yes; long before the Government suit was thought of.

Q. Both of the meetings were held there prior to the talk?—A. Prior to the agitation of that business.

Q. You have referred to a letter that you received from Senator Garland that Colonel Looney had something to do with; what letter was that?—A. That was along some time in last summer or probably late in the spring; it must have been in the summer.

Q. Have you got that letter?—A. I think it is in the book.

Q. I would like to have it produced. What is it about?—A. Simply this: The amount of the letter is, without saying about what it is predicated upon, that Colonel Looney was not authorized to say that he did not intend to give me any appointment. That is all that was in Garland's letter. Looney had come to me and told me (and I have no doubt he told the truth, for he never did tell me a lie) that Garland had intimated to him that I was importunate, and that I couldn't get anything at his hands.

Q. Did I understand you correctly yesterday when you stated that Colonel Looney solicited of President Cleveland the appointment of Mr. Garland?—A. Yes, sir; he went on to Albany.

Mr. EDEN. If that is merely something that Colonel Looney told the witness I would suggest—

Mr. MILLARD. I want to fix the date. I am not going into that interview.

Q. I want to know whether you know of the fact of Colonel Looney's going to Albany for that purpose?—A. Well, no. Colonel Looney was going to Albany, I think, to advance the interests of Mr. Whitthorne, who was once the chairman of the Naval Committee, and I besought him to exert all the influence he could for Garland, which he promised me faithfully to do, and I have no doubt he did.

Q. Was that after Colonel Looney had become connected with this Pan-Electric Company?—A. Oh, yes; he had been connected with it a year or two.

Q. And was it after some of these subcompanies had been formed and moneys had been received?—A. Yes, sir. I interested Looney very much in him. He was a man of some influence with Mr. Cleveland. Then there were some combinations in the Senate and other places that we heard rumored, and so far as we could do so without violating privacy we kept Garland posted. Looney hired a carriage late one night and went to his office. You asked me yesterday, and it occurred to me afterwards I ought to have answered more fully. I don't want to say anything improper—

Mr. MILLARD. This is simply explanatory of the questions put by the chairman yesterday.

The WITNESS. Yes, sir; it looks almost preposterous that an insignificant person like myself should be assisting, or to have intimated that his efforts had been expended for Mr. Garland. I want to put myself right, and not appear as a vain fool who thought he could wheedle the President. But I did what little I could in that way, through Looney and through my publications, and communicating knowledge of things that came to me, when I could do so properly, of combinations against Garland, which I communicated to him and which Looney communicated to him.

Q. How long was it before Mr. Garland's appointment that this conversation took place in regard to Looney soliciting his appointment from the President?—A. Oh, I think it was only a few weeks.

Q. Now let us come down to another fact in this transaction. It seems that Senator Garland at one time wrote an opinion in regard to the Pan-Electric inventions?—A. I happen to have that in my pocket. It was asked for yesterday.

Q. Have you a copy of that opinion?—A. There is a copy of it [producing paper].

Q. I don't want to go into the merits of it yet. Give us the date of the opinion, please.—A. It is there.

Mr. OATES. It is dated January 5, 1884.

Mr. RANNEY. Is that the opinion addressed to Myers?

Mr. OATES. Yes.

By Mr. RANNEY:

Q. Who is that D. E. Myers to whom the opinion is addressed?—A. He is an Indiana man, from Indianapolis.

Q. Has he any connection with your companies?—A. He bought Indiana. He and Dr. Allen, in Indianapolis, bought the State of Indiana, but it was never—

By Mr. MILLARD:

Q. What I want to call your attention to is this: Whether the two meetings in the Judiciary Committee room were prior to or after that opinion was written?—A. I think they were prior to that.

Q. That opinion was given in response to a letter or inquiry from whom?—A. From one D. E. Myers.

Q. Now, please tell us what you know about this man Myers.—A. Colonel Looney trumped him up somewhere as an enterprising fellow who wanted to buy Indiana, and represented that General Luke Wright, of Memphis, had known Myers to be a man of great energy, and that he had good business connections; and the company agreed to sell him the State of Indiana for so much money and so much stock; I forget the particulars of it.

Q. Did he buy it?—A. He was here to buy it when he wrote this letter to Garland, I suppose. The first I ever saw of these letters they were in Colonel Looney's possession at the National Hotel. Myers seems to have written from there, or somewhere here, a letter to Garland, without my knowledge, and there was Garland's reply, which was handed to me by Colonel Looney.

Q. You have seen the original letters, have you?—A. I am rather inclined to think that Colonel Looney had published this when he showed it to me. I don't think I saw the original letter.

Q. Colonel Looney had published this?—A. I think it was print. I think he gave me a slip of print.

Q. He had the opinion published, and he had also Myers's letter with it?—A. Yes, sir; with it. I took it up and put it into this circular then, to illustrate our enterprise in Pennsylvania.

Q. Do you know whether the sale to Myers was made after this opinion was rendered?—A. I think the sale was made to Myers after the opinion; yes. I don't know, though. No; I don't know about that. It might have been before or after. I presume, of course, that Myers got his opinion before he would put in his pledge for money.

Q. Your idea is that he bought on the strength of the opinion, in part, if not in whole?—A. Well, he bought on the value of the instruments, as one thing, and this Bell question being one that was uppermost in the public mind whenever you pronounced the word telephone. As a matter of course, it must have had a great influence with him in determining it.

Q. How much did he pay?—A. I don't think he paid anything. He was to pay \$5,000 or \$10,000.

Q. How much was he to pay?—A. I will have to guess at that. The books will show, or ought to show.

Q. About how much?—A. I think about \$10,000 in money. It is in my mind some how that it was \$7,000, but I am guessing at it, and a certain amount of the stock of the company they should form in Indiana.

Q. Was Myers here when he wrote that letter, according to your understanding?—A. I think so. I think Myers was with Colonel Looney at the hotel when he wrote to Garland.

Q. This opinion is published in connection with an opinion from Senator Harris in regard to the same stock, is it not?—A. I published it. There was no connection originally between them, but subsequently I found Senator Harris's opinion in the hands of General Denver, and as I had taken this Garland opinion from Looney I got Senator Harris's opinion from General Denver, of this city.

Q. What was your object in publishing the opinion?—A. To sell my stock in the Rogers Telegraph and Telephone Company.

Q. Was the opinion used for that purpose?—A. Oh, yes; I told a great many people that the stock was worth, as I said yesterday, about $1\frac{3}{4}$ cents a pound if Garland and Harris should be wrong about it; but if they were right the stock would be very valuable; that they were only betting on the chances of beating the Bell people; that even if our instruments were very far superior, they would be of very little value without these opinions would stand. I did not put it altogether on those opinions; it was the opinion of a great many eminent lawyers; we had their opinions; I would seem to do injustice to these gentlemen to say that all rested on their opinions.

Q. You only published the opinions, as I understand, for the purpose of inducing persons to buy your stock—Senator Garland's opinion and Senator Harris's opinion?—A. That was all; the others were very voluminous, and these were very concise and to the point, and I had told people, as I said, when I sold stock, of the able opinions of Professor Norton and other scientists, and I would say: "If these gentlemen are right, your stock will be very valuable. If they should be wrong, you can get $1\frac{3}{4}$ cents a pound for it if you want it. It is for you to keep your eyes open, go and see all these gentlemen, get electricians to examine the instruments and apparatus, and judge entirely for yourselves."

Q. How extensively were these opinions published?—A. I had in this town four or

five advertisements running about a year, a column, with these opinions in it, and in all the Memphis papers, and at Newport News, down here in Virginia. I don't think they were published any length of time in any other paper, but they went in the circulars; I have had thousands of these things circulated.

Q. Were they published and circulated to a considerable extent prior to the commencement of the Government suit?—A. Oh, yes; a year before.

Q. You published them wherever you thought the company would realize any benefit?—A. Yes.

Q. You published them at whose expense?—A. My expense.

Q. Were they not published at the expense of the company here and also your company in Pennsylvania?—A. No; I don't think the company ever spent a dollar in advertising.

Q. You spent it yourself?—A. Yes, sir.

Q. Without sending in any bill?—A. Yes, sir.

Q. A single question further, and I will finish. Has Senator Garland or any of these persons paid out, to your knowledge, anything more than you have stated, in the shape of incidental expenses, for the benefits they have received?

The WITNESS. I don't remember to have stated. Did I, yesterday?

Mr. MILLARD. I think the young man, your son, said eleven hundred dollars and something.

A. Well, some \$1,100 or \$1,200. They authorized us to expend as much as \$1,500, and we paid the money out and they reimbursed us in their ratio the next fall, when they got back here to the next Congress; but subsequently to that we had some mechanical work done from time to time, and I think there was another assessment put on ourselves in addition to the original assessment, but I suppose the whole thing didn't go beyond \$1,500.

Q. And they have paid their pro rata share?—A. Oh, yes.

Q. And that is all they have paid?—A. Yes, sir.

Q. I will ask you if you know where Mr. Myers is now?—A. I do not, sir. I expect he lives in Indianapolis. Dr. Allen, who was in with him, was an old citizen, a wealthy man there.

Q. He lived where?—A. At Indianapolis.

Q. Do you know of Colonel Gantt and Colonel Looney being in this city at any one time?—A. I saw them both here from time to time. I saw Gantt during Lamar's investigation.

Q. Do you know of Gantt and Van Benthuyzen being here at one time together?—A. Nothing more than Colonel Young told me they were here. I did not see them.

Q. When was that?—A. That was some time in the summer. He came to my house at the same time of the conversation that I have been relating here about Van Benthuyzen bringing a suit, and he told my son to come up to the Ebbitt House that evening; that Gantt wanted to see him, and for some reason he couldn't go that evening and sent a letter up. Then my next son went up and saw Colonel Young the next day, and he said that Gantt had come a thousand miles to see Harry to consult him about the patents, but had now returned to Memphis, as Harry failed to come over. That was reported by my son when he came back, and he went to the clerk and found Harry's letter there, which Harry handed to Colonel Young.

Q. Was Van Benthuyzen here at that time, as you understood it?—A. If he was here then he staid over, because subsequently to that we were told that Van Benthuyzen was at the Ebbitt House, after Gantt had gone back to Memphis. He might have been here then, but he was here subsequently also.

By Mr. RANNEY:

Q. You say that Mr. Young was engaged in the sale of stock to members of Congress, and you at the same time were engaged in giving it away. Did it occur to you that your giving away stock might interfere with his selling?—A. He didn't know about my operations.

Q. Did it occur to you that if he was trying to sell stock to members of Congress and you were so profusely giving it away you might interfere with the profits of the sales?—A. I would not have entered into the market with the same stock. It was different in this: That these were new companies. The Pan-Electric was already on a good basis, and the stock had a value; but my new companies were too young to bring in any hard cash, and I was trying to get them that credit which would make the stock valuable. I wouldn't give them any Pan-Electric stock then, because I could get money for it.

By Mr. MOFFATT:

Q. Did you ever know of any talk among your associates in regard to any legislation necessary to enable the Attorney-General to bring a bill to set aside the patents?—A. Nothing but what I saw in print in the papers.

Q. You never knew anything of any bill being introduced in Congress?—A. I saw

in the newspapers that there had been such a bill, but it was lost in the Senate. In none of my talks did I ever speak of any legislation in that behalf.

Q. In whose name was that stock issued which the Pan-Electric Company received in consideration of their sales to these other companies?

The WITNESS. Do you mean the stock in those local companies?

Mr. MOFFATT. Yes; which they gave the Pan-Electric Company in part payment.

A. I never saw one of these certificates. No doubt they will be in evidence. I presume—

Q. You do not know of your own knowledge?—A. No; I do not know.

Q. Do you know of any legislation that was attempted or any bill introduced in order to obtain the patenting of any other inventions of your son's?—A. Oh, no, sir; nothing of the kind was ever done, I think.

Q. You never heard of a bill introduced by Colonel Young in the House and Senator Harris in the Senate?

The WITNESS. To promote the inventions?

Mr. MOFFATT. Yes.

A. Oh, no.

Q. Extending the law?—A. No. The only thing I ever heard of was the thing adverted to yesterday. It is in my mind that that was a bill in regard to some underground wires here; but I am satisfied no legislation was ever mentioned at any meeting of our board or mentioned to me on that subject.

Q. That was not the bill I refer to. In speaking of some conversation that was had with you in regard to the National Improved Telephone Company putting in their testimony that they obtained in the old country— —A. They had sent experts over there and spent \$75,000, so Colonel Young reported to me.

Q. (Continuing.)—you spoke of the little influence that your company would have. What influence did you refer to?—A. Nothing was said further than I have said. I suppose he meant he was a man of some influence, and Senator Harris was a man of influence, and General Johnston was a man of influence, and all put together would make some little influence.

Q. The National Company was to bring the suit?—A. Yes, sir; I think so, and they were to put their testimony in against our little influence, and we were to join our forces and fight the Bell people.

Q. I see in this little pamphlet that you laid here a moment ago that you speak of Mr. Garland saying to a reporter that he paid for his stock. Do you know of your own knowledge what reporter he told that to?—A. No; I saw it in the paper.

Q. Do you know what paper it was?—A. I think it was in the World. He [indicating Mr. Crawford, correspondent of the World] shakes his head. Is a Tribune reporter here? I saw it in some paper that Mr. Garland had been interviewed and he said he had paid for this stock. I saw an editorial about it either in the Sun or the Tribune in which it spoke of it as special pleading. I remember that. You can find it.

By Mr. HALE:

Q. At the time you authorized this publication in the World, whenever it was, had you or had you not at that time disposed of the bulk of your stock in this Pan-Electric Company?—A. I don't think there was anything published in the World in the fall.

Q. I speak of the time when these charges were first made in the World through your communications to the reporter here.—A. I think they were only made about a month ago.

Q. At that time had you not disposed of the bulk of your stock in this Pan-Electric Company in some way, either by gifts or sale, or hypothecation?—A. I disposed of the bulk of it the first day to my associates.

Q. I mean the bulk of what you retained yourself.—A. I had still about \$400,000 or \$500,000 worth, and have got that yet.

Q. Is that in bank, and are you drawing money on it?—A. Oh, no; that is at my house.

Q. You have retained, then, \$400,000 or \$500,000 worth out of how many million?—A. I think originally there were two million.

Q. And you retained four-tenths, did you not?—A. Four-tenths, yes, sir.

Q. The capital stock was five million?—A. Yes, sir.

Q. And you retained about one-quarter of your stock?—A. Yes, sir.

Q. I will ask you to state whether or not Mr. Garland ever refused to recommend you for office?—A. He said not, in a letter to me. Colonel Looney had impressed me with the idea that he had; but I don't think he ever refused me, for Colonel Looney told me subsequently—

Q. Did he ever recommend you for office?—A. I don't know that he ever did.

Q. Did you not complain that he had failed or refused to do something for you in that direction?—A. I don't remember. I would do it now.

Q. Was not that your feeling at that time; that he had failed to assist you in get-

ting a position?—A. Yes; that is the feeling of every man who can't get the thing he wants.

Q. Had you applied to him for assistance in obtaining some position here?—A. I wouldn't ask him for any assistance. I simply sent in my recommendations, as any other applicant for office would do.

Q. Did you ask him to sign a recommendation?—A. No; I never asked him to do that.

Q. Did you ask any of your associates to sign a recommendation?—A. Yes, sir; lots of them.

Q. Did you ask Senator Harris?—A. Yes.

Q. Did he sign it?—A. Yes, sir.

Q. For what position?—A. For some position in the Department of Justice. It was not very definite. The petition is there.

Q. Was the position named that you wanted?—A. I think it was some position of attorneyship in the Department of Justice. That is my remembrance.

Q. Was it a law clerkship?—A. No; I didn't want to have a law clerkship. I wanted to be some sort of assistant attorney.

Q. Does the petition name the position you wanted?—A. I don't think it does, but it will speak for itself.

Q. Then you did not designate any particular office that you wanted, but you wanted some position in the Department of Justice?—A. Yes; anything I could get that was not a clerkship. I wouldn't write with a quill for all the money there is.

Q. When you failed to get that position, whatever it was, weren't you inclined to complain?—A. I didn't complain of anybody; I felt disappointed.

Q. Did you not make any complaints against these parties, and say they had failed to do what they ought to have done for you?—A. I don't say they ought to have done it. I never said so. Garland was the best judge of that. I don't remember of making a complaint. I would naturally say that a man who had been associated with me in business, and who, in my enterprise had made money, and who had been very friendly, ought to have helped me in the matter if I was worthy of it. It occurs to me I have said that a man recommended by leading members of the bar where he had lived for ten years, by archbishops and bishops of the United States, and by many learned lawyers in Congress and in the Senate, was in such a position that Mr. Garland would be thoroughly protected, if he felt friendly to me, and should give me such a position with such recommendation.

Q. And you were inclined to charge your failure to Senator Garland; was not that true?—A. I have just said that, for he could have given it to me with the turn of his hand.

Q. Did you blame these other gentlemen for your failure—Senator Harris and others?—A. No; I never blamed them.

Q. You charged it all to Senator Garland?—A. I did not charge it to any of them. I did not charge it to him. It has never been charged.

Q. Did you not think he had failed to do his duty?—A. I knew, as a matter of fact, as the sun shines, that he did not assist me; that is all.

Q. Did you censure him or feel unkindly to him on that account?—A. I felt disappointed, just as you do when you ask for something at the White House and they don't give it to you.

Q. You expected something through Garland, and did not get it and therefore felt unkindly?—A. I felt just as you and other gentlemen feel every day when they are kind of kicked at the White House.

Q. Did that feeling have anything to do with your authorizing these publications? The WITNESS. What publications?

Mr. HALE. The publications in the World.

A. No; I would have published them if the heavens had fallen, or Garland had been dead or at Hominy Hall.

Q. That was with the view of vindication?—A. Yes, sir.

Q. For a different motive?—A. Yes, sir.

Q. To vindicate yourself?—A. To vindicate my son and myself.

Q. Was there any other purpose or object in the thing; retaliation or revenge on these gentlemen in making these publications?—A. No. Possibly, as I said just now, you cannot always exactly analyze your feelings, and I have got a considerable amount of the old Adam in me, and I think very likely I didn't feel as tender and delicate toward those gentlemen as I did three years ago.

Q. You heard your son's testimony the other day?—A. I heard part of his testimony.

Q. Did you hear him say that one object was to retaliate on these men for some supposed or fancied injury?—A. I don't know as I did. I think probably he does not know the language as well as I do or he would not say "retaliate." There is no *lex talionis* with either of us.

Mr. J. HARRIS ROGERS. I never used that word.

Q. Did you hear the word he used?—A. I don't remember; the reporter can read it.

Q. "Retaliation" or "revenge," or something of that kind?—A. I don't remember it; I remember he said in that connection he had no malice.

Q. You think you had no motive of that sort?—A. "A motive of that sort" is so general I would say yes and no.

Q. Didn't you claim that these associates of yours had failed to carry out the original plan by organizing a stock company and issuing the stock?—A. I did; yes, sir; and that was the foundation of the entire controversy.

Q. And for that reason they were no longer entitled to the stock they still held in the company?—A. That is a question of law.

Q. Did you not claim that?—A. It is in the bill.

Q. I am not talking about your bill. Did you file a bill?—A. I prepared a bill.

Q. Is it filed?—A. No.

Q. Did you not then, and do you not now, claim that they having failed, as you allege, to carry out their contract by organizing the company and issuing stock, that therefore they had no right to the stock they still held, and you were entitled to it?—A. I would not make it as broad as that. They may have some legal rights that I do not know of. I don't think they have fulfilled their contract, and therefore they are not entitled to so much as they would have been if they had fulfilled the contract.

Q. And therefore you are entitled to have this stock back. Your bill was to rescind the contract, have the thing set aside and the stock retransferred to you, was it not?—A. There are half a dozen prayers in it. I will bring it in.

Q. Is not the substance of it to get the stock back?—A. I think that is one of the prayers.

Q. When did you conceive the idea that they were not entitled to this stock?—A. I don't know when I had that conception.

Q. How long had you been thinking about it?—A. For the last three years.

Q. Have you ever told any of those gentlemen that they ought to give the stock up; that they have not complied with the contract?—A. No.

Q. And they had no right to it?—A. No; but I told Senator Harris I demanded it, when he said they would all leave me in the cold, or threatened to do it. He first asked if I insisted on the stock being issued, and I said emphatically, "As my son's attorney I demand it."

Q. Did they not say to you that rather than have a stock company of this sort organized and the stock placed on the market they would surrender all their interest in the organization?—A. I think Senator Harris said so, but he was very careful not to speak for other people. He spoke for himself, and said that his associates would do the same thing. Then they went up to the Judiciary Committee, as reported to me, and concluded they would not surrender the stock, but would just hold on, and did hold on.

Q. You had been thinking for the last two or three years that they were holding this stock wrongfully and without any fair consideration?—A. No; I still hoped they would get this charter out. I thought the delay was improper; but I am willing to give men a fair chance to explain their motives. I don't know what the motives of men may be. I didn't think there was anything morally wrong.

Q. You said a moment ago, if I remember correctly, that you had been feeling for the last two or three years that these gentlemen had not fulfilled the contract, and therefore were not entitled to the stock?—A. I don't know as I said I had been feeling it. I said I had been thinking it.

Q. Do you draw a distinction between the two?—A. Oh, yes, sir.

Mr. HALE. That is all.

Mr. RANNEY. I want to ask you some questions based on this pamphlet here which is called the poem. I see there is a prose statement in it. It was called out by some gentleman since I examined you.

Mr. MILLARD. Colonel Oates called out the poem.

Mr. OATES. No, I didn't call it out. I only asked for the date.

Mr. MILLARD. I did not know there was any such poem until you developed the fact.

Mr. OATES. I did not call it out.

Mr. RANNEY. You asked about the animus of it.

By Mr. RANNEY:

Q. Take this statement of fact on page 13. I have not read the poem. I want to know whether the facts that you have stated there are true.

Mr. EDEN. That is a very general way of examination.

A. I would not like to say that either the poem or the note on it was explicitly true without taking it apart and explaining some of it.

Mr. MILLARD. The poem is founded on fact, I suppose.

Mr. RANNEY. I have not read the poem, and I don't care to encumber the record with it.

Mr. EDEN. Is it part of the poem, or what?

The WITNESS. It is the note upon it. It is a satire, an imitation of Juvenal.

Mr. RANNEY. I will go through each fact, if you care to have me, beginning at the bottom of the page. (To witness.) Read from there on.

The WITNESS. The first thing is a statement that I could not verify, but my son will. It says: "His Department further refused my agent access to my letter of May 24, saying to him, after considerable bird-chattering among employés and running to and fro, that it could not be found."

The CHAIRMAN. Were you present?

The WITNESS. I am just reading it, and saying I couldn't swear to it.

The CHAIRMAN. It is not worth while to read it.

The WITNESS. I could not take it and say it is all true. I state it because I believed it. My son told me, and he will swear to it.

Mr. EDEN. If those things are to be brought out they ought to be brought out in such a way that the witness can be cross-examined to see whether it is truth or mere hearsay.

The WITNESS. That is hearsay. My son told me that and I put it in as truth, but I cannot swear to it.

Q. What fact does that refer to?—A. That refers to his going there to get the letter of the 24th of May, which suggests, in the plain democratic language of Mr. Cleveland's late message to the Senate—

The CHAIRMAN. Oh, no; that will not do.

Mr. RANNEY. I want to find whatever facts there are.

The WITNESS. Here is something that is not hearsay: "Hon. Casey Young"—

Mr. HALL. Wait; let us understand what the question is.

Mr. RANNEY. Take the next paragraph.

Mr. HALL. I object to that; I propose to know what the paragraph is.

Q. You say here:

"His Department further refused my agent access to my letter of May 24, saying to him, after considerable bird-chattering among the employés and running to and fro, that it could not be found, and was probably among Mr. Garland's private papers."

I want to know if that was a fact which was within your own knowledge?—A. It was related to me by my son, J. Harris Rogers, and is not within my knowledge. I sent him for the letter.

Q. I omit the paragraph with comments. Take this:

"Hon. Casey Young brought my plan of attacking the Bell Company by the Government to the attention of one Benthuyesen, of Pittsburgh, about July 1. The next thing we knew this adventurer had appropriated my thunder to give prestige to the National Improved Telephone Company, a small corporation founded on some of the earlier patents of my son. He slipped off from Pittsburgh to New York, and wrote to Mr. Garland, July 12, pretending he had originated this plan of procedure."

Were those facts within your knowledge? State what you know about it.—A. The first one, as to Colonel Young's suspecting Van Benthuyesen, is a matter of Colonel Young's knowledge. It is my knowledge that he stated that to us at a meeting; that is the first part of the paragraph; that he brought it to Van Benthuyesen's attention at Pittsburgh. As to Van Benthuyesen slipping off to New York, I got it from the public press that on the 12th of July he sent this letter to Garland; that is not my knowledge; I only read it in the papers.

Q. That shows how much you know of that. You say then:

"Mr. Garland's next blunder was in referring this Van Benthuyesen letter to the Interior Department without any reference to my letter of May 24 preceding. He should have referred mine in like manner two months before. At least it would have been decent to have sent it with this one, its shadow, from New York."

What do you say as to that?—A. That is in the documentary evidence of Lamar's investigation.

Q. That is where you got that?—A. Yes, sir.

Q. Then you say next—

"The Attorney-General's next blunder was in permitting this (Benthuyesen's) letter to be withdrawn from the Interior Department July 1, the very next day after the conference at the Ebbitt House, when Wilbur made his celebrated affidavit July 30."

How do you know about that?—A. From the briefs. Those dates and the general circumstances I got from the briefs published in the Interior Department investigation.

Mr. EDEN. The briefs of the lawyers?

The WITNESS. Yes; the briefs and the testimony.

Mr. MILLARD. Have you got one of those briefs?

The WITNESS. I have one at home, I think.

Mr. RANNEY. I only want to see where you get the information, so that we can have access to it.

Mr. J. HARRIS ROGERS. I will state that there is a misprint in that copy. It should have been July 31. I think that was the intention.

Q. You say :

"Neither I nor my son was admitted to this conference. In point of fact we were excluded, on the pretext that Van Benthuyzen disliked me, although Senator Harris was admitted, who had denounced him, at a business meeting of many citizens of New Orleans, for publishing that the Pan-Electric Company had infringed his patents, (*horresco referens*) as a God damn scoundrel and liar, and adding that he, Harris, could be found at his hotel, and was responsible for what he had said."

Take the first part of that paragraph. Were you and your son admitted to that conference at the Ebbitt House?—A. No. My son told me—

Mr. EDEN. That will not do—

A. (Continuing.) I went to Colonel Young's room at the time, and was going over and Harry said to me—I can only tell you what Harry said to me—"Colonel Young says they dislike you and you must not go over there;" that they were going to have a conference about a combination of the Van Benthuyzen Company and the Pan-Electric Company; and Harry told me they said you must keep the old man away." Of course I didn't go; and I being his attorney—

Q. What knowledge had you that Senator Harris was there?—A. I think I got that through my son. He saw Senator Harris subsequently at his room, and Senator Harris, so it was reported to me—

Q. I only want to know the sources of your information.—A. My son Harry told me.

Mr. EDEN. I shall object to this hearsay evidence going into the record. You would not try a case for \$5 in a court in that way.

The CHAIRMAN. It is going into the record, it seems.

Mr. EDEN. It makes a false impression on the country. It goes in the newspapers as being testimony.

Q. How do you know that Senator Harris had denounced Van Benthuyzen?—A. Colonel Looney told me so, and Senator Harris told my son so, and my son reported it to me.

Mr. HALL. That assumes certain facts to exist which are in controversy.

Mr. RANNEY. It don't assume anything. I want to know his sources of information.

Q. You say :

"It is probable that Van Benthuyzen became convinced at the Ebbitt House conference, to which I have referred, that the Interior Department might report adversely, and if he would withdraw his application and sign a certain agreement a direct order from the Department of Justice would be issued to bring the suit, and thus forestall an adverse decision in the Interior Department."

By the CHAIRMAN :

Q. Is that a statement of fact?—A. It is stated as a probability.

Q. It is only a probability?—A. Yes.

The CHAIRMAN. It is not said to be a fact.

By Mr. RANNEY :

Q. You have been asked about your motives. What reason had you to publish that statement?

The WITNESS. That probability?

Mr. RANNEY. Yes.

A. Because I am a logician.

Q. What facts had you to base it on?—A. My major was—

The CHAIRMAN. Those questions indicate a want of personal knowledge, and ought not to go into the record.

Q. You have been asked about your motives?—A. Yes, sir.

Q. Why were you making these statements if you did not have any facts to base them on?—A. I did not say I didn't have any facts.

Q. What facts did you have?—A. I was proceeding to state them.

Q. State them.

Mr. HALL. Facts within your own knowledge?

Mr. RANNEY. No; I am now on the question of motive, which Colonel Oates has talked about.

A. I will begin with motive. To make money is a motive with most men. The Van Benthuyzen people probably wanted to realize money as rapidly as possible, and in order to do that they wanted to bring this suit to a consummation as soon as possible. It was already before the Interior Department, and I concluded they would prefer for it to stay there, as the grist was already in the mill, if it was going on in regular sequence and they had no promise of a more direct method if they should withdraw it; and I wanted that to substantiate my statement and my son's statement of what Colonel Young had told us, that Garland had promised to bring the suit. I believe that Van Benthuyzen and Young and Garland all understood perfectly that the suit was to be brought in a short time.

The CHAIRMAN. That is improper

The WITNESS. I gave my reasons.

Mr. RANNEY. I am after your motives.

The CHAIRMAN. The latter portion of the answer giving his suppositions as to the Attorney-General and others is clearly improper, and I suggest that it be stricken from the notes of the hearing. Is it the sense of the committee that it should go into the notes of the stenographer?

Mr. OATES. Oh, no.

Mr. RANNEY. Not as a fact, but whether the witness had reason to believe it as affecting his motives.

The CHAIRMAN. Gentlemen, let us settle this question.

Mr. EDEN. It is my judgment that it should be stricken out.

Mr. RANNEY. But you are accusing this man of having malicious motives.

The CHAIRMAN. I understand it to be the sense of the committee that it be stricken out?

Mr. RANNEY. I don't understand it so.

Mr. MOFFATT. I think we had better have a vote.

The CHAIRMAN. There is no motion, but simply a suggestion on my part.

Mr. RANNEY. If I was asking him to have it go in as a statement of fact, I should agree with the gentleman; but you must remember you have impeached this man's motives, or inquired into them, and I am following in the same line. If this man has made a false statement about this thing, and that was his motive, I want to know it.

Mr. EDEN. How can it relieve the witness to have a statement go into the record reflecting upon the character of other men?

Mr. RANNEY. If a man makes a false statement with a good reason for making it that would explain his motive.

Mr. MOFFATT. That pamphlet has been drawn out, and I think it is very proper he should be cross-examined in regard to it.

The CHAIRMAN. We should not go into the suppositions of the witness that certain events occurred of which there is no evidence whatever.

Mr. OATES. Let us have the reporter read what the witness said.

The reporter read as follows:

"I believe that Van Benthuyzen and Young and Garland all understood perfectly that the suit was to be brought in a short time."

Mr. RANNEY (to the witness). On what ground have you reason to believe that?

Mr. EDEN. Nobody has put that statement in evidence yet.

Mr. OATES. Without having it taken down, let us see if he can furnish any evidence of that kind.

The CHAIRMAN. Wait, Mr. Reporter, until we see what it is.

Mr. RANNEY. I propose to put a question. You may take a yea and nay vote and see whether or not it will be allowed.

Mr. OATES. I suggest that the question can be asked without its being noted, so that the committee can understand what it is.

Mr. MOFFATT. He has a right to ask the question and have it taken down anyhow.

Mr. RANNEY. My question is this: You say here—

"If this be the true inwardness, and if this was the real and not the alleged reason for withdrawing the petition, they skillfully recaptured my stolen thunder from Van Benthuyzen and turned it to the advantage of the Pan-Electric Company. This plan for striking the Bell Company being mine and mine only, I took a deep interest in it, and feeling as an attorney a just pride in the prestige it gave me, I wrote to the New York Tribune, September 29, in order to claim whatever credit might be due me for originating, suggesting, and urging this suit by letters and documents and arguments to Garland, Johnston, Harris, Young, and Looney, May 24, 1885. I aimed, further, to strip Van Benthuyzen of his lion's skin by showing that he and his little company had been made a cat's-paw or a stool-pigeon by my agents; and, at the same time, my letter defended the Attorney-General, while I yet supposed that in a manly way he had referred the matter to Mr. Goode, and would face the music."

Mr. HALE. Is that all put down as part of the question?

The CHAIRMAN. It is all down. You have passed over the allegation as to Mr. Garland and these other people, or the conjecture. It is all a part of this record.

Q. What reason had you for writing that; what motive had you for writing it?

The WITNESS. Shall I give my reason for it?

The CHAIRMAN. One moment. Mr. Reporter, go back to the answer I called attention to, and read the question to which that answer is given.

The reporter read as requested.

Mr. OATES. I don't think we ought to take his opinion.

Mr. MILLARD. Is not this the point: Mr. Oates called out his reasons for giving the letters to the World, and he was further examined by Mr. Hale to show that he had some feeling. Now can he not state the motives which he had, as justification to any member of the committee, without giving the facts?

The CHAIRMAN. I am quite clear that he cannot state anything affecting his motives in the way of conjectures as to what may have occurred between these parties. I have no doubt about that.

Mr. MILLARD. Then he should not have been examined upon it.

Mr. HALL. Has he been examined with reference to the contents of that pamphlet and why he published it?

Mr. RANNEY. Yes.

Mr. HALL. I understood the examination was with regard to the publication of certain matters in the World.

Mr. RANNEY. I insist that we shall have the pamphlet put in. Mr. Oates asked him as to the animus he had.

The WITNESS. He did.

Mr. OATES. I asked him if he did not, after Garland had declined to give him an appointment or he failed to get any, write a poetical satire upon the Administration, and Garland especially, and thereupon the doctor pulled that pamphlet out and said, "Yes; and here it is." Then I asked him what was the state of his feelings towards Garland.

Mr. HALL. And now it is proposed by cross-examination to get at the poetic inspiration?

Mr. OATES. I did not offer the poetry. Mr. Millard, when he cross-examined, said he would offer it.

Mr. MILLARD. You made it a subject-matter of cross-examination.

Mr. OATES. I asked him if he did not write something of the sort.

Mr. MILLARD. It is a good deal like opening the door and then trying to close it again.

Mr. RANNEY. Gentlemen forget all the time in putting questions on one side and on the other that they are not prosecuting and defending a suit. We are all on the same side. I am on the same side with you, and I want his motives.

Mr. EDEN. My objection is for a witness to give merely his opinion and have it go out to the world as evidence. What we receive here goes out to the world as evidence.

Mr. RANNEY. He has done it all the way through his direct examination. I am just as anxious to get at his motives as you are, and I have just as good a right.

Mr. EDEN. You do not regard what he says there as being responsive to any question, or competent evidence for any purpose, do you?

Mr. RANNEY. It is just what it appears to be on its face. There is no evidence about anything. We are not proving or disproving anything, but simply getting at the facts.

Mr. OATES. If he can state any facts tending to show that state of affairs, I have no objection.

Mr. RANNEY. Why not let it go on? It is of no consequence.

The CHAIRMAN. It does not make an opinion competent. You would not be allowed to prove an opinion although it might be very clear it was an opinion. Facts constitute evidence, nothing else.

Mr. RANNEY. I want to know the man's animus.

Mr. HALL. The chairman suggests the proper course.

Mr. RANNEY (to the witness). I want to know your animus about that, and I want to know any facts upon which it is based; that is all. In the first place, take the paragraph which I have read. What fact do you know on which it is based?

Mr. HALL. What is the ruling in regard to the question already entered on the record?

The CHAIRMAN. It is my view it should be stricken out, but there is no motion to that effect and I can't correct it.

Mr. HALL. There was an answer to question before that.

Mr. RANNEY. He stated an opinion on cross-examination.

The CHAIRMAN. I think not. I have examined him on nothing but facts. There is no motion to strike out, and so we will proceed.

Mr. RANNEY. State on what facts within your own knowledge you based that statement.

Mr. HALE. I object. The answer will necessarily require him to go over the whole case and give his reasons. The question should be directed to some particular point.

The CHAIRMAN. I understand the gentleman from Massachusetts (Mr. Ranney) to have read a portion of this article.

Mr. HALE. And he wants to know his reasons and motives for writing the article, which involves the entire history of this transaction.

The CHAIRMAN. The article is not in evidence and is not offered. I have not seen it. There is nothing before the committee in my mind that makes the examination proper.

Q. Will you state what facts you base that paragraph upon—what facts within your own knowledge.

Mr. HALL. I understand that is objected to, and I suppose the objection must be sustained, either by the chairman or by the committee, or else the question will be allowed.

The CHAIRMAN. If it is competent for the chair to do so, I would sustain the objection.

Mr. HALL. I think that would be the proper course, and if any gentleman desires to appeal to the committee he can do so and take the sense of the committee.

Mr. RANNEY. I read that paragraph, and now my question is, what facts are within his own knowledge on which he wrote that?

The CHAIRMAN. On the point made I hold the question to be incompetent.

Mr. RANNEY. I call for a yea and nay vote on that.

Mr. HALL. I want to make a suggestion as to my views about this matter, if I am in order. I understand that this witness has been asked whether he wrote satirical productions for the purpose of illustrating his motives. In the further examination I suppose it is proper to ask as to whether he wrote them and for what purpose he wrote them; whether he wrote them for the purpose of influencing action or preventing action; whether he wrote them because he was actuated by a spiteful or revengeful spirit. All that would be proper to rebut the idea that might arise from the writing satirical works. But it would be a very strange procedure, it seems to me, to undertake to investigate the truth or falsity of statements that have been made in these satirical works. A court or committee that does that will never get through.

Mr. RANNEY. This is not satirical, as I understand it. I have not read the poem. The poem is satirical. This purports to be a statement of facts.

Mr. OATES. I understand the gentleman from Massachusetts (Mr. Ranney) to have changed his question. The last time, I think, it is competent. He asks, "What, in this statement of alleged facts, do you know to be true?" That is competent.

Mr. RANNEY. I will read the paragraph and ask if the facts on which he bases that statement are within his own knowledge.

Mr. HALE. If he asks him about the facts to which he refers that would involve a history of his reasons for making the allegations.

The CHAIRMAN. In the view of the chair there is no fact stated in the question.

Mr. MOFFATT. As a matter of practice I would like to raise the question as to what is the course when an objection is made?

Mr. RANNEY. My question is, on what facts, in his own mind, does he base that statement? It bears on his motives as well as animus.

Mr. HALL. How can that be material unless the pamphlet itself is offered for the purpose of proving something material?

Mr. RANNEY. If a man who is a witness writes such a paragraph as that based on no facts within his knowledge, but manufactured out of whole cloth, such a fact would affect the witness.

Mr. EDEN. The article itself should be in evidence.

Mr. RANNEY. It bears on the conduct of the witness. That is all. I suppose I shall be permitted to inquire into a man's animus and motives as well as you gentlemen. We are both on the same side. If this witness will make a statement like that based on no fact, but manufactured out of whole cloth, I think we ought to know it and the House ought to know it.

Mr. OATES. I have no objection to the question in the last form.

Mr. HALL. The way to prove it is to prove it by persons who know what the facts are.

The CHAIRMAN. There seems to be no objection, and the witness can proceed.

By Mr. RANNEY:

Q. On what facts within your personal knowledge did you base that statement when you penned that paragraph?—A. It was within my own knowledge that one Hon. Casey Young stated to me and to my son that a suit would be brought by the Government in a short time; that he had promises to that effect; a promise from the Attorney-General, who had said he would turn it over to Mr. Goode. The first fact within my knowledge was that Colonel Young said that. The next fact within my knowledge was that mankind, so far as I have known them, are generally actuated by interested motives in their pecuniary affairs, and if there was a suit pending—

Mr. EDEN. That is a speech.

The CHAIRMAN. It is not fact at all.

Mr. HALL. It is not a fact within your personal knowledge. Everybody knows it.

The WITNESS. It is a fact in my knowledge; I know that; I am only answering the question.

Q. This is a matter that bears on your own reasons for conduct and the propriety of your conduct.—A. It is a fact that mankind, having a suit, would wish to bring it to as rapid a conclusion as possible, as a rule, when they are interested in bringing it to a conclusion.

Q. Is it a fact that you wrote to the Tribune on September 29?—A. I did.

Q. Where is that letter?—A. It is in evidence.

Q. In that letter you state that the facts are true?—A. I state the facts are true. There might be something to be explained or dilated on in a concise letter.

Q. You speak of stripping Van Benthuyssen of his lion's skin by showing that he and his little company had been made a cat's-paw or stool-pigeon. What reason had you to believe they had been made a cat's-paw or stool-pigeon?

Mr. OATES. What facts?

Mr. RANNEY. I want to know if he had any good reason or facts, or if he made the thing up out of whole cloth.

A. I will tell you about the stool-pigeon, if I may give my reasons for it.

Q. In the first place give us the facts. I want to see if you have been making a malicious charge here.—A. Colonel Young told us that he had brought this plan before Van Benthuyssen. Colonel Young had been through this whole business from the beginning to the end, as one of my agents in promoting the interests of this company, and he had been sent out there by Senator Harris, so my son informs me, and this is my knowledge from my son. He said Senator Harris had told him he had sent Young out there. The next fact in my knowledge is that I had made application to Mr. Garland to bring suit for the Pan-Electric Company. Another fact is that Mr. Garland never acted upon my petition.

Mr. HALE. I renew my objection, as it is very clear this is simply a repetition of what he has stated heretofore.

Q. Did you make that sentence up out of whole cloth?—A. I made it all up out of the spangling truth.

Q. You had in your own mind reason to believe it true?—A. I had.

Q. And so it was not malicious?—A. No, sir; I do not swear to the thing. I think as a logician it is highly probable the things suggested there are true.

Q. I only want to know what facts are within your own knowledge and then whether they are true or not true, and whether you made up the statement for a bad purpose?—A. Oh, no; I don't manufacture anything but poetry, and I don't put that in evidence.

Mr. HALE. It is in evidence in this case.

The WITNESS. Is the poetry in evidence?

Mr. RANNEY. No.

Q. This is a very material matter, and I am anxious to get at the truth of it. I understand you to say you were not present at the Ebbitt House when Van Benthuyssen and Harris and others were there?—A. No.

Q. What knowledge had you that there was an interview?—A. I heard it in all directions. I suppose there was one. I believe it just as I believe anything I don't see.

Q. Did you have anything to do with, or had you any knowledge of, the withdrawal of Van Benthuyssen's letter after that interview?—A. No; but it is in the evidence in Lamar's court, and the fact that it was withdrawn—

Mr. OATES. We will get that in time.

Q. I am trying to discover facts, if there are any. You do not know, then, what the transaction was in regard to the referring of Van Benthuyssen's letter or the withdrawing of it, when it was withdrawn or why it was withdrawn?—A. All I know is what is expressed there—the probability.

Mr. RANNEY. If you do not know I will not ask you.

The WITNESS. I do not know; somebody will know.

Mr. RANNEY. If there is anything in that answer that is not responsive to my question and does not appear to be a statement of fact within the knowledge of the witness, I think it is proper it should be stricken out. I don't want anything stated as a fact that is not a fact.

Mr. EDEN. You asked him for facts, and he stated his opinion that these men understood it was going to be done.

Mr. RANNEY. I don't want it to be left so that it will carry a wrong impression.

Mr. MILLARD. You have referred to a certain brief; I wish you would bring it in.

The WITNESS. If I have it.

Mr. MILLARD. As to what was done in the Interior Department.

Mr. J. HARRIS ROGERS. It is already in. It will be found in one of the books I brought and submitted to Mr. Oates.

The WITNESS. We brought it in with our letters yesterday.

The CHAIRMAN. If that is all, we will relieve the witness.

The WITNESS. Will I be required to-morrow?

Mr. RANNEY. We cannot finish your examination until these letters are put in. We will have to have the correspondence and examine you in connection with that correspondence, possibly.

The CHAIRMAN. We will give you notice.

Mr. RANNEY. I think we ought to have had the correspondence and examined it before examining you, but it was not convenient.

At this point the committee adjourned until to-morrow, March 18, 1886, at 12 m.

WASHINGTON, D. C., *Friday March 19, 1886.*

The committee met at 12.50 p. m. All the members present excepting the chairman, Mr. Hale, and Mr. Hanback.

Mr. RANNEY. Mr. Chairman, it seems to me that before we proceed any further we ought to have here in evidence the correspondence which has been alluded to by Mr. Rogers. It was impossible to examine the Messrs. Rogers intelligently without those letters, and it will necessitate as the result a quite prolonged examination of the general question. It was said last night that you proposed to call Mr. Young to-day. That correspondence, as I have read it, refers largely to him. It would be impossible to examine him properly without having those letters in hand in the possession of different members of the committee. There is only one copy of them, and all cannot use that, while all have a right to examine the witness, and they ought to be put in and ought to be printed so that each member can have copies for the purpose of the examination of this witness.

Mr. OATES. I will state, in reply to that remark, that the subcommittee having charge of the matter has been at work very diligently upon it. I have been in the committee room with Mr. Hanback at work all the morning until I came down here and left Mr. Hanback and the clerk there still busily engaged. We have adopted our report in part, and hope to be able to report in full in the course of an hour about the matter. Mr. Hanback and the clerk are now going on with the work. The clerk has classified the letters, but Mr. Hanback is reviewing the classification with him and correcting it wherever he sees proper. We have examined the deeds and papers that were handed in yesterday, and are ready to report on them and on a part of the correspondence, and in the course of an hour or such a matter will have the entire report ready for the committee.

Mr. EDEN. The examination of Mr. Young, I suppose, can be deferred until after your report?

Mr. OATES. We want to complete the examination of Mr. Rogers, so that we may not scatter this evidence piece-meal, but have it all put in together.

Mr. RANNEY. I did not understand that the subcommittee appointed had anything more to do than collect the letters and arrange them, and then bring them before the committee, so that we could intelligently put them in evidence in a collated form. I did not suppose they were to pass judgment upon what should be received in evidence.

Mr. OATES. We will report everything back to the committee for their action.

Mr. RANNEY. I took that for granted.

Mr. EDEN. I suppose that is usual.

Mr. RANNEY. It was simply necessary in order to facilitate the examination.

Mr. OATES. I think the committee will be satisfied with the work when it comes in.

Mr. RANNEY. I don't question that, but I don't think we can go on with the examination of witnesses until we get them.

Mr. EDEN. Would you be in favor of deferring any other evidence until they are brought in?

Mr. RANNEY. That would be my idea; still I do not want to delay the examination if there is anything we can properly put in. I should dislike to go on with the examination of Mr. Young in any matter relating to that correspondence.

Mr. MILLARD. Can we not call Mr. Young for the purpose of showing the organization, &c.?

Mr. RANNEY. Yes; we might go as far as that.

Mr. HALE. Mr. Young may want to finish up his testimony when he goes on the stand.

Mr. MOFFATT. We had better do it all at once.

Mr. HALE. I want to say to the committee that I will be compelled to leave this morning to go home to be gone a few days. I will not be here again until the last of next week.

Mr. OATES. That is with you. I suppose you can pair with one of the gentlemen if you desire to do so.

Mr. HALE. It has been suggested it is not proper to pair in a case of this kind. Of course the report will not be ready for some weeks yet.

Mr. MILLARD. I move that Mr. Hale be excused for a week.

Mr. RANNEY. In regard to the matter of pairing, it seems to me that while in the House, politically, men are often paired, yet in our committee, sitting judicially, presumably, and not as members of any political party, for the purpose of investigating a matter committed to it, apart from party, we can hardly talk about pairing. It would be like two judges on a bench pairing. The presumption would be they were opposed to each other.

Mr. OATES. In every committee I have served on members have paired whenever they wanted to, but that is a personal matter between the members.

Mr. MILLARD. That is on the theory that we are occupying hostile positions here.

Mr. OATES. If two members see proper to pair with each other that is nobody's business, I take it, as long as pairs are permitted. If the gentlemen does not want to

pair with anybody, that is all right. It is a personal privilege. I don't think the committee has anything to do with it.

Mr. RANNEY. We are in a minority politically—I speak of political minorities. There is a great deal of labor in this matter, and I should not want to consent to throw the labor on to my associates, nor do I want them to throw it on to me. So far as the matter of voting is concerned I think the pairing would be of no consequence. If a man by pairing is to preclude himself from putting questions, I don't think that is right.

Mr. EDEN. I suppose it is a question of voting. That would be the only occasion for a pair.

Mr. OATES. That is all any pair relates to. As to giving Mr. Hale leave of absence he would have to get that from the House. This committee could not control that.

Mr. EDEN. If the committee was composed of an even number, without any reference to political matters, we might fail to get along, because we might happen to be equally divided.

Mr. RANNEY. If we are equally divided it ought to be on judgment independent of political relations. We cannot give Mr. Hale leave of absence. He can get it from the House.

Mr. HALE. I have obtained that.

Mr. MILLARD. We can count Mr. Hale as voting on his side of the question.

Mr. RANNEY. If he will leave that matter with any other member I will not object.

Mr. HALE. I will leave it with Mr. Eden.

Mr. RANNEY. If there is any gentleman on your side of the committee you are willing to entrust your vote with we will consent to the trust.

Mr. HALE. I will leave it with Mr. Eden.

Dr. JAMES W. ROGERS, who had been previously examined, appeared before the committee at his own instance.

The WITNESS. In my testimony yesterday there is a matter as to which I wish to make a small correction, if it would be proper.

Mr. OATES. You have a right to do that.

The WITNESS. To the question "Did Colonel Looney pay anything for his sixth?" I think I said in a drawling way, "Well, no," having in my mind that I would say before we passed to another subject that he only paid me some stock that proved to be worthless, and which at the time he didn't think worth much. I do not want it to appear that I concealed anything. He gave me \$100,000 of the Florida Ship-Canal stock and \$50,000 in what was called the Indus Mine, a gold mine in New Mexico somewhere.

Mr. OATES. Not in the Indies?

The WITNESS. No. You requested me to bring any other papers I might have. I found a note-book which contains a great many of the names of those who had stock. It had been lying about. I had a search made and some of the children found it. It has a good many pencil-marks; no book-keeping, but it gives a great many names I didn't give.

By Mr. RANNEY:

Q. If you have any memoranda that enable you to give any additional names on the subject of our inquiry, I wish you would do so.—A. There are a great many names in the book. I will hand it in as one of the papers for the committee.

Mr. RANNEY. Your memoranda may not be evidence, but you can use the book to refresh your recollection.

The WITNESS. I will say that all that is in that book is true to the best of my knowledge and belief.

By Mr. OATES:

Q. That only refers to parties to whom you gave stock?—A. Or sold it.

Q. In addition to any of those you have named, were any of them officers of the Government or connected with the Government in any way?—A. I am not sure; I think there are some.

Mr. RANNEY. If they are not officers, I would like to have you name them, for we may trace the stock. Those to whom you gave it may possibly have given it to officers of the Government.

The WITNESS. It was only to avoid any appearance of concealment that I brought this. I have not looked over it myself. I will read the names as I go along, and you will know better than I whether they belong to the Government. (Referring to book:) William W. Briggs, J. M. Keating of Memphis, Robert Klotz, Edward Klotz, Hon. Van Manning of Mississippi, General Frank Armstrong of Texas. I have it Texas here, but I understand this is his domicile.

By Mr. RANNEY:

Q. Is he connected with the Government in any way?—A. He is in some employment as an Indian agent.

Q. In the Indian Office here?—A. Under the Government. I don't know what his office is. General Denver, Hernando D. Money.

By Mr. EDEN:

Q. Is that stock you disposed of yourself, or that was disposed of by the company?—A. That I disposed of. General Thomas Crittenden, General A. R. Upshur.

By Mr. RANNEY:

Q. Is Upshur connected with the Government in any way?—A. I think he has some minor office.

Q. Here in Washington?—A. Here in Washington.

Q. Do you remember what office he holds?—A. He is a clerk in some Department; I don't know what it is.

Mr. RANNEY. He is chief clerk of the Indian Bureau, I believe.

The WITNESS. It might be.

By Mr. EDEN:

Q. Was he in office at the time he got the stock?—A. No; and I see there is a memorandum there that he got a great deal more than he did get. It occurs to me he took that stock to try and make sales of it. I don't know that he owned any in his own right. I don't remember exactly. My remembrance is that he returned the most of it, possibly all of it, to me. I see a list of the numbers that were given to him. That was for him to make sales, I remember.

By Mr. RANNEY:

Q. Was Crittenden connected with the Government?—A. No; I think not. He was just a lawyer at the bar. Samuel T. Finley, of Gainesville, Fla.; Margaret Rogers; Martha S. Ashe; Duncan McRea; Col. R. F. Looney; Colonel Boudinot; Mrs. Fuller, Hume's clerk—just a memorandum; I don't know his name—Frank Royster; Col. R. C. Wintersmith.

Q. Was that the Wintersmith connected with the House of Representatives?—A. No, sir; not that one; it was his father.

Q. This was a son of his?—A. Yes, sir. J. D. Cook & Co.; A. J. Works; J. C. Vetrees; Col. J. B. Price, of Jefferson City. That was the gentleman I spoke of who sent to Eppa Hunton and Jeff. Chandler his claim for stock. Mr. Daniel.

Q. What Daniel?—A. He is a consul, I think, somewhere. He was here at the time, but he has since got some office abroad. I don't know what it is.

By Mr. EDEN:

Q. Was he in office at the time you sold him the stock?—A. No, sir; he was not.

By Mr. RANNEY:

Q. It was not Mr. Daniel, the member of the present House?—A. Oh, no; it is just "Mr. Daniel." His family lived here, but I understood that he went abroad and had some mission; I don't even know what it is. Mr. Kirk, of this city, an old citizen, told me one day he had gone abroad in some Government employment, but he had no employment in the Government at the time he got the stock. The Republic, the Chronicle.

Q. Newspapers here in Washington?—A. Yes, sir.

By Mr. MILLARD:

Q. What is the Republic?—A. A weekly or monthly paper.

Q. Not the Republican?—A. The name of it is the Republic; it is a very admirable journal; I read it a good deal.

By Mr. RANNEY:

Q. Is it a political paper?—A. Well, there is a good deal of politics sprinkled about it, but it is more of a literary journal, and a very excellent one.

By Mr. EDEN:

Q. Did you sell the stock to those papers or give it to them?—A. I sold it to them. I paid it as money for advertising.

Mr. RANNEY. I wish as you go along you would state what was gift and what was sale.

The WITNESS. Nearly all this was sold; that is, all that was not returned. Thomas Kendig; that was returned. Col. R. F. Brodt; he gave me lots in New Orleans for that stock. Joaquin Miller; that was presented to him. He is a literary genius. William Webster; Doctor Roberts; Dr. Jarnigan, Senator Jarnigan's son, of Atlanta, Ga. That was sent to him by a friend here, to dispose of some of the stock. I think he returned it.

By Mr. RANNEY :

Q. Was that sold to the senator from Georgia?—A. Oh, no ; his son simply took it on a commission to make some sales and returned it. I am confident that was returned. Colonel Klotz, treasurer of the company.

Q. What stock is that?—A. Most of it is Rogers Telegraph and Telephone stock. I haven't seen this thing recently, so I don't know what else may be in it. Major Conti. Colonel Klotz, for company, five thousand shares.

Q. That was the Pennsylvania Company?—A. Yes, sir. Mr. Briggs. Walker & Wilson ; they were brokers, merely agents, and I think they returned it. I don't know whether they did or not. It occurred to me in connection with Mr. Money's and Mr. Manning's names that I might possibly have confused the giving of this stock with the American Postal. I said yesterday that I thought I had given them some of the American Postal, but I am not confident of it. If it is material at all, they can answer. They are gentlemen who would tell the truth, of course. I found a pamphlet in connection with that subject, which I will leave with the committee. The pamphlet has this bearing : I have been frequently asked here whether my associates contemplated legislation, and have always said no, not to my knowledge ; and I have generally said that in connection with those various companies ; but the American Postal, as this pamphlet shows, expressly states that it contemplated legislation. It went broadcast. I do not want to be put in the position of seeming to say I never wanted any legislation.

By Mr. OATES :

Q. Who published that?—A. I did.

Q. Legislation by Congress?—A. Yes, sir.

Q. That was you?—A. Me.

Q. Not the company?—A. Not the company. I published this. There is nothing wrong about it, I think, when you read it. It contemplated a bill to be put before Congress. It states that a bill would be put before Congress. It never was put before it.

By Mr. EDEN :

Q. What did the Pan-Electric Company have to do with that?—A. Nothing in the world. I was only afraid this thing might be confused with the other companies, and there would seem to be a contradiction, and I have stated that they never, to my knowledge, contemplated any legislation.

By Mr. OATES :

Q. Was that legislation relating to some of these derivative companies?—A. No, sir ; just the American Postal.

By Mr. EDEN :

Q. Your associates in the Pan-Electric Company had nothing to do with the publication of that pamphlet?—A. Nothing in the world, but some of them had some of the stock, at least I said I thought Mr. Money and Mr. Manning had some of it, but I am not sure of it. It would be as well to try and turn the sun from its path in the heavens as either of those gentlemen from truth and honor. They will tell you about it.

Mr. MILLARD. Suppose you leave those papers with the committee.

The WITNESS. I mean to leave them. Here is another I picked up in regard to the Washington Telephone Company. I don't know whether you have that among the papers. You requested me to bring some papers connected with the Cummings question and the \$500 business. I did not find the contract, but I found a long letter upon the subject, which explains it nearly as well as the contract would. My son went to see Mr. Mitchell this morning, with whom I made the contract, and he said he was not acting for anybody connected with the Bell Company, and there was no man named Cummings connected with the transaction in any shape or form ; but \$500 being the amount specified as something connected with a man named Cummings, and being the identical sum I had lately received from Mr. Mitchell, I was anxious to know whether there was a man named Cummings in the transaction. It was forfeited. I would be very glad if it was the Bell Company, for it is about the only thing that probably will ever be made out of them. I made the \$500 clear. They forfeited the contract, and I still have the stock at my house.

By Mr. MILLARD :

Q. I want to call your attention to the stock that you have referred to as having been received from Mr. Looney, the mining stock and the other stock.—A. Oh, yes, sir ; I have that.

Q. Have you realized any value from it?—A. No, sir.

Q. Has it any marketable value?—A. Well, it is not listed, like all this stuff. It may have value. I expect the Indus Mine stock would be worth something some

day, but I don't think the other is worth anything—that canal business. It is a project that might—well, I don't know anything about it.

Q. As yet you have realized nothing from it?—A. Oh, no.

By Mr. OATES:

Q. Did any member of the Pan-Electric Company ever buy or hold any stock in the American Postal?—A. I don't think any of them ever did. I don't remember it if they did. I don't see one of their names there. Most of the names are there of the persons who had it. No, I am confusing it again with the Rogers Telegraph and Telephone. I don't think they ever had stock in either of those. I don't know of a single instance.

By Mr. RANNEY:

Q. This pamphlet which I have relates to the American Postal Telegraph Company.—A. Yes, sir.

Q. Capital stock five millions.—A. Yes, sir.

Q. You say in it a bill will be presented to Congress asking appropriation of \$10,000,000.—A. Yes, sir; that is the paragraph I refer to.

Q. To construct those lines as more economical than the purchase of the Western Union and Mackey's Telegraph, as now proposed, for \$100,000,000. Did this postal telegraph company ever have for its basis any of these patent rights of your son?—A. No, sir. The chief thing in the patents was that of a New Yorker, Mr. Lyons, a system for sending messages, by a piano keyboard, very rapidly.

Q. Was it not the automatic system?—A. It was automatic, but it was a considerable improvement.

Q. I understood your son to say his patent rights involved an automatic system of telegraphy?—A. You spoke of the Pan-Electric Telegraph. This does, too. The pamphlet shows that; but it is a different kind of automatic arrangement.

Q. Still they were both automatic?—A. Oh, yes. That is the company that wanted to make an alliance with the Pan-Electric. I said in my testimony—either I did or my son—that they met at the Metropolitan Hotel to make an alliance, and made a proposition to the Pan-Electric Company. I think the proposition is among the papers. The Pan-Electric, after considering it, declined to make the alliance. The man Lyons, who had the chief patent, wanted \$2,000 in money as one of the conditions of the alliance, but the proposition was in general terms that they take this institution in with the Pan-Electric, and let their officers retire, if they desired it, to give them absolute control, but they declined it.

Q. I see you were vice-president of this company.—A. Yes, sir.

Q. And likewise one of the directors.—A. Yes, sir.

Q. You circulated these pamphlets, did you not?—A. Oh, yes, sir; I circulated thousands of them.

Q. Did you not give them to the members of Congress or officers of the Government to whom you presented the stock?—A. I think so. I think I sent them to almost everybody. I sent them to a great many people. I think that is the pamphlet that I thought I sent to Cox, and he sent me word in his letter that I had neglected to inclose the pamphlet with the poem that I referred to in my letter to him, saying I therewith inclosed a pamphlet and a poem for him.

Q. This was the pamphlet?—A. This was the pamphlet which should have gone to him.

Q. Then, when you were presenting stock as a gift to Mr. Cox, you inclosed this to him?—A. Yes, sir; to explain about the enterprise.

Q. Why did you couple the two?—A. Because I wanted Mr. Cox to become a director in that. Those gentlemen wanted to retire.

Q. And you brought to his mind at the very same time as a part of the transaction the fact that you were asking Congress for legislation?—A. Yes, as he could see. It struck me then, probably, as it would now, that he could say, as any honorable man would, and as Senator Harris did, "If this thing comes up, I will announce that I am interested in it." It was a question whether I would take that risk or not.

Q. Did you send the same pamphlet to Mr. Beach?—A. I think I sent it to Beach; I don't remember certainly.

Q. Did you send the same when you wrote to Mr. Randall?—A. No; that was the Rogers Telegraph and Telephone.

Q. Did you couple this pamphlet with it?—A. No; it had nothing to do with it.

Q. Did you send this with the letter and stock which you sent to Speaker Carlisle?—A. No; that was the Rogers telegraph.

Q. To which one of these members of Congress to whom you sent so much stock did you send this pamphlet?—A. I think I only sent that to Beach and to Cox. I wasn't trying to buy votes. I would have had to bid higher and to have bought more men. Two votes wouldn't have done me any good.

Mr. RANNEY. I never said anything about buying votes.

The WITNESS. It has been said frequently.

Q. You were presenting the stock to those members of Congress accompanied by a pamphlet whereby you were going to ask Congress for an important piece of legislation?—A. Yes, sir; and I didn't want to lead to anything in the dark, but let them see precisely what I was doing, and let the whole world see it.

Q. You wanted legislation, and you were very generous in delivering the stock?—A. I was not generous. I gave them a very small amount. I would have given any of them a good deal more if they had persisted and gone in as directors. I wouldn't have given it to Beach, now I know him as I do; but I would have given Cox a million dollars.

Q. Why?—A. Because he was so illustrious a man, and his name stands like the sun in the heavens for integrity, and he would have helped me to sell this stock.

Q. Did it occur to you that he might possibly, if he had received such a large gift, be disposed to assist this project in Congress?—A. I don't think a million dollars of stock would seduce Cox.

Mr. RANNEY. It does not seem so, and I don't think it would either.

Q. Did it not occur to you that there was some impropriety in your making such large and munificent gifts to members of Congress, accompanied with a pamphlet saying that you were engaged in an enterprise that required action by Congress?—

A. Yes; I see from the newspapers that I am very obtuse in having done it, but I don't go to them for—

Q. I want to know your own idea.—A. My own action is my answer, that it was perfectly proper when I did it openly and avowedly, telling these gentlemen I wanted to explain the enterprise to them, and intended for them to move with me in an honorable sphere, concealing nothing, but presenting the bill boldly to Congress. A Congressman does not take the vow of chastity, poverty, and obedience. [Laughter.]

By Mr. MILLARD:

Q. You went upon that principle?—A. Yes, sir.

By Mr. RANNEY:

Q. Did you send this pamphlet to every member of Congress?—A. No, sir; I didn't send it to all. I sent it to a good many of them.

A. Did you confine it to those to whom you made the presents of the stock?—A. No; just as you send circulars out. I don't think I sent it to but a few, however. I might have sent it to a great many; I don't know. It has been a long time.

Q. You did not seem to have a very high or exalted idea of a member of Congress, did you?—A. I did, sir. I know there were as true men in the Congress of the United States as live on the face of the globe, and many of them; and I believed at the time I sent them that the men to whom I sent them were such men, or I would have had nothing to do with them.

Q. It did not occur to you that there might be insensible influences?—A. I know all men might steal, but I didn't believe those men would.

Mr. RANNEY. I have not gone into your examination any further, but have only questioned you in reference to matters brought out this morning. I will reserve further examination.

By Mr. MILLARD:

Q. You made a remark that suggests another question. You said there was a conference looking towards a consolidation of the Pan-Electric and this postal company that you have referred to?—A. Yes, sir; at the Metropolitan Hotel.

Q. Do you remember who were present at that conference?—A. Senator Harris, for he was ill. It was at his room, and I went up to get Mr. Garland, and I remember he must have been there, for I went for him to the Senate committee room and he either went down with me, or pursuant to the appointment did go. I met him there.

Q. Met who there?—A. Mr. Garland. I think Colonel Young was there, but it was during the vacation, and I couldn't say certainly. My son was there, and I think Colonel Looney, but I am not sure of that. I only know certainly Senator Harris and Garland were there.

Q. Are you able to fix the date of the conference?—A. I can by some papers in the book. The proposition is there dated.

Q. If you had the papers you could fix it precisely?—A. Yes.

Q. Can you fix it without reference to your papers, approximately?—A. I think it was some time in 1884; it must have been. This company was organized along in the summer, I think, of 1883, and I suppose it was probably the following year. That is as near as I can give you.

Q. Do you know of your own knowledge whether there were any bills introduced in Congress in pursuance of this request?—A. Nothing.

Q. Bills substantially as described in your pamphlet?—A. No; that was just a project which was published.

Q. Don't you know there were such bills introduced?—A. Nothing like that. There

were bills for a postal telegraph introduced, and I was waiting to see the result of them, and intended for this bill to come in subsidiary, if they should pass; and this bill was never presented, as they did not pass.

Q. Were they not introduced in both branches of Congress?—A. I so saw in the papers. I don't know it.

Q. Subsequent to the conference you refer to?—A. I think about that time; and afterwards there was one in the Senate, Mr. Edmunds's bill, and I think there were two introduced in the House.

Q. I am not referring to that legislation to which you call my attention now. I am referring to a bill introduced in the House by Mr. Vance.—A. I don't know anything about that.

Q. And in the Senate by Senator Harris.—A. I didn't know Senator Harris ever introduced such a bill. I never heard of it before.

Q. Can you turn to your papers and ascertain just what was done in the matter?—A. No; I don't keep the files of the papers. I saw it in the newspapers, and it must be of record here. I have some personal engagements. Would it be necessary for me to remain here?

Mr. OATES. Not at present. How long do you want to be away?

The WITNESS. I want to go to New York to-morrow.

Mr. OATES. We may want to examine you on these letters.

The WITNESS. Well, sir, this is the first business with me now.

J. HARRIS ROGERS recalled and further examined.

By Mr. OATES :

Question. Have you seen the New York Daily Tribune of March 16?—Answer. I read the Tribune and the World every day, very nearly. I do not recall that number. I suppose I read it.

Q. Look at this article there relating to a supposed interview between you and the correspondent of the Tribune [handing a newspaper article to the witness].—A. Yes, sir; I have seen that.

Q. Are you correctly reported there?—A. Yes, sir; it is substantially correct. It is not a full report of it; it could have been made much fuller.

Q. It states as follows: "To a Tribune correspondent, after the meeting, Mr. Rogers said: 'As I was going to the subcommittee room I was told by a friend that Colonel Oates was the attorney for Senator Harris and Col. Casey Young.'" Did you say that?—A. I did.

Q. Who was that friend?—A. Mr. Hine. I saw him here this morning. I do not see him now; he has been here all the morning.

Q. What is his name?—A. I do not know his initials. I have known him by sight to talk to him for many years. He is originally from North Carolina, I believe. He is a newspaper man. He told me that you, Mr. Oates, and Mr. Hanback were attorneys for Casey Young and Senator Harris; that you were nothing more or less than attorneys, and that he had reported it in the press.

Q. Didn't you know that it was not so when he told you that?—A. No, sir.

Q. You believed that, did you?—A. I thought it was highly probable.

Q. You say you don't know the initials of his name. How does he spell his name—H-i-n-e?—A. I do not know; I suppose so.

Q. Do you know what paper he is correspondent of?—A. I do not. I have heard before this, though, at Bladensburg, indirectly, that you were backing Col. Casey Young in everything. I paid but little attention to it then, but when Mr. Hine told me that, and you came out so austere and went down without speaking a word, and from your subsequent actions, it led me firmly to believe that there was great reason to think there was truth in what he had said, and sufficient reasons for making that statement substantially.

Q. You gave your reasons here to this correspondent, did you?—A. I did, but not fully. I can go over the whole thing, if you want to hear it. I can enlighten the committee on it.

Q. What other reasons did you have?—A. The transactions that occurred in the committee room.

Q. What were they?—A. After reading some twenty letters, you turned to a letter on which you saw a number, and said "Look here, Hanback, here is a letter, No. 215, that is running way up beyond; do you feel like reading that trash over, or that stuff?" Mr. Hanback said, "No; I do not feel like it," and expressed his sympathy with you, and you said, "I don't. Now, I have got a suggestion to make. Suppose Mr. Rogers here (referring to me), who looks like an intelligent man (I thank you for your politeness), and my clerk here go over this thing. They can look over it and sift out the relevant from the irrelevant matters, and then we can look over the relevant letters afterwards."

Q. Will you swear that that is what I said?—A. I do most positively, substantially.

Q. Don't you know that I said that you could stay there with the clerk, Mr. Martin, and go over those letters in the way we had been doing, and make two lists of them?—A. Precisely.

Q. Naming only such as you thought were relevant, as we had been doing, and make your list, and we would go over them ourselves, Mr. Hanback and myself?—A. Yes, sir; such as we two considered relevant or irrelevant. But I said, "Mr. Chairman, I cannot think of taking that responsibility. It is a delicate position to ask me to pass judgment upon letters which I am interested in," and I declined doing it, and you said, "Oh, well, now, it is just here between ourselves." I said, "Suppose it should come up before the committee hereafter that I had discarded some letter that bore on the subject," and you said, "It is all private between ourselves here, and it never will be known out of this committee room."

Q. Did I not tell you at the time that what you were expected to do was not to decide the question, but to aid Mr. Martin in getting the letters in order?—A. You told me that you wanted me to assist him in that; you began in that way.

Q. Did you not state to that correspondent also that it was then agreed between me and Mr. Hanback to leave the classification to the clerk and that the sub-committee would return the next day and look over the letters?—A. I will answer that with an explanation. After you had urged me, you and your associate, three times, to go over these with a view of passing judgment upon that which was relevant and that which was not, I told you positively that I would not do it unless I was ordered to by proper authority—no, I did not use the words "proper authority;" but I said "I will not do it unless you order me."

Q. Don't you know that I told you that you were not required to pass judgment on them, but to aid the clerk in classifying them?—A. You stated three times to me that it would not be known out of the committee room, and I told you, "Mr. Oates, what I do is above board, and in sight; I do not do anything *sub rosa*. What I do is open to everybody in the world." And then you began to say, "You show my clerk here the order in which they come." I told you I had done that, and would do it with pleasure, but would not do any more. Then you went over them very carefully, and I referred you to a letter—I will tell the whole thing to the committee—when you insisted on that, I said, "To show you how delicate a position I am in."

Q. You say in this interview that I said, "Never mind; this is all private between ourselves, and nobody will know anything about it."—A. Yes, sir; substantially.

Q. Was not that in response when you said you did not like to remain there and have anything to do with it, because some one might call your motives or actions into account thereafter? Was it not in response to that that I said, "Well, this is private here in this room, and I want you to continue here to assist in the arrangement of these letters?"—A. I made that answer under the impression and firm belief, as stated by you, that I was to pass judgment upon the relevant and the irrelevant; that you gentlemen only wanted to look over those that were classified among the relevant.

Q. And you swear that I asked you to pass judgment upon them as to which were relevant or not?—A. I swear that I did have that conversation with you from beginning to end, as I have stated, substantially, and that was my belief at the time and subsequently.

Q. You state, in this interview, "I objected because I am specially interested and cannot take such a responsibility." Did I not tell you then and there, Mr. Rogers, that the committee were not investigating you at all, but were investigating officers connected with the Government?—A. I think you said that; yes, sir. Yes, you stated it, but I knew that beforehand.

Q. You also say, "When it had been argued for some time I took up one of the letters recently published in the Tribune, and which had been passed by as 'irrelevant,' and said: 'Now, gentlemen, this letter says that in the event of a postal bill coming before Congress, and the question of adopting a telegraphic system, no company but the Pan-Electric would stand a ghost of a chance. Suppose it should come out in the testimony hereafter that I and my associates had tried to influence legislation, would I not be under the additional imputation of suppressing a letter bearing upon the subject?' Mr. Hanback at once saw that the point was well taken and was for excusing me, when Mr. Oates said, coaxingly, 'Never mind; this is all private between ourselves, and nobody will know anything about it?'"—A. You did.

Q. Did I not say to you that we had read that letter; hadn't we read it and passed upon it ourselves?—A. Yes, sir; as irrelevant, and it is right there now. I said, "Gentlemen, here is a letter you have passed upon. Suppose I passed upon that letter?" and Mr. Hanback says, "Well, now, look here; since my attention was called to that letter, I want to see about it; I want it marked among the relevant letters." Now, I says, "There, gentlemen, you two are disputing among yourselves about these letters, and how can we two men go through them and divide these?" And you said, "Oh, well, I will convince Mr. Hanback that he is wrong."

Q. Can you show how or wherein the quotation from that letter made there is rele-

want to any issue about which we are inquiring; and if so, what part of it?—A. I went out and said to my father, "This is a very singular procedure"—

Q. I am not asking you about that. Will you state wherein the quotation that you make from that letter is any proof of or in any wise relevant to any question?—A. I did not say it was relevant or irrelevant. Here is what I stated to you in substance. I said: "Here is a letter. I do not know that there is anything relevant in it at all, but suppose a witness was put on the stand, and he should testify that I and my associates were interested in putting our instruments into this or some other company, I aid would I not be placed under a doubtful imputation?" They were not my words, "that I would be placed in an embarrassing situation." I did not say that it had any bearing on the subject; I said that it might have in the future, and I say so now.

Q. It was a possibility, then?—A. Yes, sir; a possibility. Not that there would be any truth in my ever having anything to do with it, but the witness might testify to that effect.

Q. The point of your objection to the course we were pursuing was, was it not, that you wanted to be investigated and vindicated yourself, and for that purpose wanted these letters to go in?—A. No, sir; I thought it was a very improper procedure for a subcommittee to make, and it struck me as a very indelicate thing to ask the inventor and projector of these enterprises to pass upon those letters. That was my conviction; I may be wrong.

Q. Do you swear that anybody asked you to pass upon the question of the relevancy of those papers in the committee-room?—A. I swear most positively that you and Mr. Hanback asked me to go over and assort the relevant from the irrelevant ones. They were already arranged.

Q. Well, I ask you for myself: Did I ask you to do anything of that sort, to make any separation of the relevant from the irrelevant? Mr. Hanback can speak for himself.—A. Yes, sir; to assist that gentleman.

Q. You swear that that is what I asked you to do?—A. Yes, sir.

Q. Didn't I ask you to merely arrange the letters in the order in which they came to me?—A. I told you they were already arranged, and they are arranged there now, if you have not disturbed them. I told you there was no use of my going over them, that they were already arranged. We had been a week or three or four days fixing them.

Q. I will ask you to state whether that is the letter of which you speak [handing a letter to the witness]?—A. I judge so from the bulk of it. I do not know whether it is all here or not.

Mr. OATES. I wish you would read it.

The WITNESS. I would like the clerk to read this.

Mr. OATES. I will ask you if that is the same letter?

Mr. RANNEY. Is it one of the printed letters?

Mr. OATES. It is.

The WITNESS. Yes; this is it (reading): "And the company we will be associated with will be the only one that will have the ghost of a chance to compete with him." That is the letter.

Q. Whose letter is it?—A. It is a letter from Mr. Casey Young. It is one that you passed upon as irrelevant. I told you a dozen times I was ready to show the gentleman anything about the order, but this whole controversy was as to whether I should go over them as a judge of the thing, so that you gentlemen would not have to do the work.

Mr. OATES. You may stand aside.

Mr. RANNEY. We will go on with Mr. Young's examination, so far as it relates to these books.

Mr. J. HARRIS ROGERS. In the package of letters that my father handed you this morning are some additional letters that he found. There are barrels of them, I suppose, and as fast as they come up I will present them to the committee. They are in an old closet in boxes and barrels. I never kept any letters in order excepting General Johnston's, and those on account of his name.

Mr. RANNEY. I want to examine any letters that you may have bearing on the subjects of this investigation.

Hon. CASEY YOUNG then came before the committee, and was sworn.

By Mr. OATES:

Question. What is your profession, and where do you reside?—Answer. I am a lawyer by profession, and my home is Memphis, Tenn.

Q. Have you any connection at this time, or at any former time did you have any connection, with what is known as the Pan-Electric Company or the Pan-Electric Telephone Company?—A. Yes, sir.

Q. You can now proceed in your own way to state your connection with it, and in-

form the committee of the organization or organizations and issuance of stock, &c., connected with it. Being a lawyer, you know how to make your statement concisely.—A. I will try and make it as concise as possible. You have heard already from Dr. Rogers and his son about all I can tell you in regard to the organization of this company. Their statement is in the main correct. There are some inaccuracies, attributable, no doubt, to a want of memory, but their statement, as I remember it, about the organization of the company, is substantially correct.

Mr. RANNEY. If there are any important discrepancies you had better state those.

The WITNESS. I will state them as I go along.

Mr. RANNEY. Perhaps you might state them without rehearsing the whole story again.

The WITNESS. No; I prefer to testify about as I have had it arranged in my mind. I will come to it step by step and give you every fact about it, and they will agree with me about these inaccuracies and so will the committee; I have no fear about that.

In the winter of 1883, in February, I think—perhaps I had better go a little farther back to account for the connection that sprang up subsequently, and all the facts connected with this thing, for I take it that is what you gentlemen want, and there seems to be a good deal of public anxiety on the subject. I have known Dr. Rogers and his family connections from boyhood. For thirty years the most intimate relations existed between himself and me and all his relatives that I know anything about, the family on both sides, Mrs. Rogers' family and his family. His brother, who recently died, one of the most eminent surgeons of the South, was my closest friend. That embraces all his family connections, and himself, also, until a very recent period. I came to Congress in 1874. I found Dr. Rogers residing either here or in New York, I do not remember which. He had been away from Memphis several years, but I had heard from him frequently. I do not know whether he lived here or in New York. I met him here and possibly he lived here. I took a great interest in his inventions and in his son, whom I regarded as a rare genius, and I think so yet. I think he is an electrician of much more than ordinary merit. I took much interest in having him appointed the electrician of the House, although the doctor said I did not do it. At all events I did what I could in that way, and he was appointed, and remained in that position until I went out of Congress.

Q. What Congress was that?—A. It was the Forty-fourth Congress. Well, he was in the House as electrician, and I noticed, and he called my attention to a great many improvements that he had made that I thought were improvements, some very ingenious electrical inventions, one for counting the vote of the House. It displayed a high order of genius. I do not know that it was of any practical value, for they don't want the vote counted fast; but at any rate it displayed a good deal of inventive ingenuity. I was told by the architect, Mr. Clark, and others, that he had made improvements in lighting up the House, and discovered that some had been made. Mr. Clark talked with me frequently, and I heard it from other sources. I had something to do with putting in new machinery that he wanted, a dynamo or something of that sort, to make still further improvements, which I believe he was doing, and believe yet that he did do, as I have no reason to think to the contrary.

I went out of Congress in 1880. I was defeated. I remained at home practicing my profession. I heard during that time from the newspapers, or perhaps from Dr. Rogers' relatives in Memphis, that Harry Rogers had made some valuable inventions in telegraphy or telephony, perhaps it was telephony; it was more through the newspapers than in any other way, or perhaps it was from the doctor's cousin, with whom I was intimate. I was re-elected to Congress in 1882. I am not sure whether I heard anything of this telephone we got hold of subsequently, before or afterwards. I do not know whether the doctor wrote me about it or not, but I am inclined to think he did. I came here some time in February, and I saw Dr. Rogers very soon after I got here, and he told me something about this telephone and the inventions that Harry had been making, and he was very enthusiastic over it, and I suppose it was well warranted. I do not know whether at the first conversation he said anything to me about joining him in a company to develop these things; perhaps he did. But at some subsequent conversation he did, and it occurred about as he stated.

I do not remember seeing Senator Garland at his house. Perhaps I did; I cannot say. I did see General Johnston there, and Senator Harris took a number of his friends up to the laboratory and experimented with this telephone, talked through it. They had one end of it down somewhere about Sixth street, I believe, and the other up-stairs. I thought it was a very superior instrument, that it talked louder and more distinctly than any I ever conversed by, and that was the judgment of all the gentlemen there. But at some time during these different conversations (I was in the habit of going to his house very often) it commenced to take the form of a proposition for a number of his friends to join in developing these inventions, and he gave as a reason (which he would have given himself if he had thought of it) that he had been unfortunate in a

previous organization of that sort, and he preferred to be associated with men on whose honor and integrity he could rely.

Mr. RANNEY. I think you had better confine yourself to testimony and not make an argument.

The WITNESS. I will tell it in my own way, and if the committee think it is wrong, they will correct me.

Mr. RANNEY. I think you had better state the facts.

The WITNESS. I am going to give you the truth before I get through, one way or the other, as near as I can understand it. Now it is said here in this contract that this is to constitute the Pan-Electric Association. That is my own nomenclature. I see it appears in these articles of the association that this association was to be known as the Pan-Electric Association. I believe that was my own idea. I claim priority of invention on that. I put that in; it seemed to me to represent better the idea I had gathered from all the parties than any other term I could conceive of, and therefore I put it in.

As Dr. Rogers stated, at that time it was intended to get an incorporation that would embrace all these things as near as possible; it was not in my mind to get two incorporations—one for a telephone and one for a telegraph company. I thought one charter or one incorporation would cover all these things. I had made no examination of any of them, and was not competent to form an opinion about it if I had, except in regard to the telephone and the telegraphic instruments and the electric light. I had examined all of them somewhat, and I thought at that time that the telegraphic instrument was a far more valuable one than the telephone. I changed my opinion afterwards because I was not then so well informed as subsequently. I thought the electric light that he showed me at his laboratory was a very ingenious thing. It seemed to be superior to anything I had seen, and from the explanation and description he gave of it to me I thought he had overcome to a great extent what had been considered to be the difficulties heretofore in electric lights previously invented. I had some comprehension of the value of those two things and of their practical utility. In regard to the other things enumerated here I did not have; I do not remember all of them. I remember there was another arrangement to talk through gas-pipes. I thought that was a very convenient thing in a large household, but I did not attach much value to it nevertheless.

By Mr. RANNEY:

Q. An invention to talk through a gas-pipe?—A. Yes, sir; to use it as a conductor for telephonic communication. I thought it was a very ingenious thing, and probably useful for a large household, but I did not consider it very valuable. I do not remember that I examined the other things enumerated here; I do not think I did, at any rate I did not understand them; but I did examine the telephone as far as I could by seeing it and talking through it, and I thought it a very superior one. I think to-day it is the most valuable telephone in existence, and far superior to any other that I know of in volume of sound, in distinctness, and in simplicity of adjustment, and all those things; I think that yet. At that time that was the general knowledge I had of these various inventions. I talked a good deal to Dr. Rogers and also, to his son, Harry, but I did not have any definite ideas, did not understand these things very well, and did not pay much attention to them. I drew up that contract, and its date shows it was on the 13th of March; it is set out here in the contract that the executive committee provided for were to assess themselves for \$150 each to carry out the testing of these instruments and these other things; I suggested that sum myself, being one of the executive committee, or knowing I was to be one, as I supposed gentlemen would not like to place the power in our hands to assess them *ad libitum*; so, without any suggestions from any one, as nobody objected to it, I put it in that form. I went home, and I believe I came back to Washington and stayed here a day or two, and then returned to Memphis, and became very busy in my profession as soon as I got there.

I do not remember all that was said up there. What he states occurred, I suppose, and perhaps a great deal more. But some time in March, after the adjournment of Congress, it was agreed between us to meet in New York at a certain time. I had some other business there, and I do not know but that Senator Harris had also. At any rate we went over to New York and we talked over the matter still further, and it resulted finally in the drawing up of this agreement, which, I think, I have here with the papers. (After a search.) No, I do not find it, but I understand it was published the other day.

Senator HARRIS. I have a copy here which you can have the use of.

The WITNESS. Dr. Rogers says there was something said about terms. Perhaps there was; I do not recollect it. I do not recollect that any definite terms were agreed upon as to how much these gentlemen and myself should have, for I did not really give much attention to it. But this I do know, that there never was one word said at that time, or any other time until long afterwards, about this stock being a

gift or donation to anybody, though I expect Dr. Rogers would have given it to us if he had had the stock issued and any of us wanted it, without any consideration, as that is about his way of doing things with his friends. But there was never a word said at that time that I ever heard about there being any gift or donation. It was understood that we were to form an association or joint stock company for the purpose of utilizing these inventions, just as all other patents had been utilized that have been granted from the Patent Office. When we went to New York it assumed something more of a definite shape and form. I talked with Dr. Rogers and talked with the balance of them, and there was a good deal of talk about it. The doctor had pretty enlarged ideas about what the enterprise was, and was more sanguine than I was about it; he gave it a more roseate tint than I would have given it. But finally it came down to this point, which I embodied in this contract, and which I understood to be about the meaning of the parties. That contract has been published, and I take it that the copy published is an accurate one, though I have not compared it.

Q. All the negotiations and propositions culminated in that agreement?—A. Yes, sir; and Dr. Rogers stated it as it was, and a good deal more occurred than he has stated or I could remember. We met a dozen times, I suppose. I do not know how often. When we came to write this I made some mistakes about these things, and Harry Rogers corrected it afterwards in our contracts. I confess I never did understand until I heard Dr. Rogers's testimony, which was given here so clearly, what his ideas were. He talked a good deal about it, but he stated in the outline about what I thought he understood and what I understood, only it was a good deal larger in its scope than I understood him to contemplate. I wrote this contract at the request of the gentlemen. When I came to draw it up I was trying as near as I could to guard against any future misapprehension or trouble. I knew there were a good many wild-cat concerns which had been organized all over the country, a good many companies of various sorts that had no real value, and I did not intend to participate in any such enterprise, and I know that that was Dr. Rogers's intention; but his ideas and mine differed, although it was an honest difference of opinion. It was never my idea that this stock should be issued and scattered broadcast upon the market. I believe it would destroy any business enterprise in the world, and I think any business man will agree with me in that view.

It did not occur to me, or any of us then, that charters of incorporation were to be had. After coming to Washington, and staying a day or two, as I say I went home, and after I got home was very busy at my office, and did not have time to give much attention to this thing. But in the mean time I received letters from Dr. Rogers occasionally in reference to it, and probably one or two from Harry Rogers, telling me how they were getting on with their experiments.

Mr. RANNEY. I prefer to have those letters, and let them speak for themselves.

The WITNESS. I will say now that I do not wish to go into the business of publishing personal and private correspondence, and I have not a letter in my possession that reflects in any way upon Dr. Rogers' integrity. I have not got them all, but possibly I have got some of them.

Mr. RANNEY. I simply object, Mr. Chairman, to the witness stating the contents of letters.

The CHAIRMAN. Yes, if the letter itself can be had.

The WITNESS. If I have not got it I cannot produce it. If I can find them I will bring them up, and produce them afterwards. There is nothing I am going to say that will affect him in any way whatever.

Mr. RANNEY. We can judge about that.

Mr. CHAIRMAN. If you speak of a particular letter we can inquire whether it is in existence or not.

The WITNESS. It was a letter written to me; I heard frequently about these things; a letter in the fall of 1883; the first time I ever heard of any complaint about the charter, Dr. Rogers urged that it was time we were organizing, and I wrote back some of these letters and those you have.

Mr. RANNEY. We have your letters, but not his.

The WITNESS. Well, I would read them if I had them; they do not reflect upon his integrity.

By Mr. MILLARD:

Q. I understand you to say that you have some of those letters?—A. I think it possible I have some; when I discovered that the public were anxious to know about our matters, I wrote to my law partner at home to send me all my letter-books and all the letters he could find; he sent me a package of letters that came out of my room that he supposed related to telephone matters, and in that package are letters from Dr. Rogers, though I have not examined them since they came.

Mr. RANNEY. We would like all his letters.

The WITNESS. Very well, I will surrender them all with his consent; I will not do it without.

The CHAIRMAN. Do not refer to the contents of any letter which you cannot produce.

Mr. RANNEY. It was understood that you would go on and make a statement that would not involve the correspondence. We consented that you should go on with that view, and I should prefer, Mr. Chairman, that that is adhered to. The matter cannot be understood intelligently without the letters.

The WITNESS. I cannot do justice to myself, or Dr. Rogers either, without telling this story in my own way.

The CHAIRMAN. The witness understands the rule of evidence in that respect?

The WITNESS. I do perfectly, and I have a perfect right to testify in my own way, and if I cannot find a letter, if it is not in my possession, I have a right to give the contents.

The CHAIRMAN. That fact must judicially appear, of its loss or your inability to produce it, as well as its existence.

The WITNESS. I could testify to the existence of the letter at one time, but I could not say whether it is lost or not. If you think it important, you can adjourn the examination, and I will go right home for it.

Mr. RANNEY. We have already produced one side of the correspondence, and that is never fair unless you have the other side.

The WITNESS. You have not produced any correspondence in reference to these letters. It does no injustice to Dr. Rogers or anybody else. I just want to give you the facts in this letter.

Mr. RANNEY. It is not a question of what Dr. Rogers might prefer, but what the committee may decide it their duty to do.

The WITNESS. If the committee is going to decide in advance what I am going to say, and do not wish me to state it, I will not say it.

Mr. RANNEY. All we want is that you should not give one side of the correspondence while the other side is here, without first producing the letters of that correspondence.

The WITNESS. Well, I will have to stop, then, if I cannot tell it. I am going to have this whole story out, and have it out in my own way. If I can get it out, the whole truth shall be known.

Mr. EDEN. I presume it will be necessary for Mr. Young to make an examination and see what letters he has, and then those that he has that it is necessary for him to refer to, and introduce them, if they are relevant, and those that he does not find and cannot be introduced he can give us the contents of the letters.

Mr. RANNEY. Let him produce such letters as he has, and let them be arranged with this other side of the correspondence, such as we already have.

The WITNESS. I will surrender no private letter in my possession without the consent of the writer. If Dr. Rogers consents to it, I will surrender them; otherwise, not.

The CHAIRMAN. It would not be the surrender of private correspondence; it would be the production of papers under a subpoena.

The WITNESS. I have all the papers here, except the correspondence.

The CHAIRMAN. The subpoena prepared required you to produce all correspondence relating to this matter, so that you need have no scruples about the production of private letters.

The WITNESS. I say it will not do Dr. Rogers or anybody else any harm.

Mr. RANNEY. I do not think Dr. Rogers would produce your letters without consenting that you should produce his; but whether he would or not, for myself I should insist upon it.

The WITNESS. That is a matter of taste.

The CHAIRMAN. You will produce what letters you have.

The WITNESS. Yes, all I have that have any reference to this thing. I have five hundred letters from him, perhaps. I have corresponded with him twenty years.

The CHAIRMAN. You need only produce those that relate to the matter of this investigation.

The WITNESS. There are only two or three that I desire to bring before the committee to explain about this matter of incorporation. It seems that we have offended somebody because we did not go on and patent electricity and every other element in nature. If that is wrong I want to explain it.

Mr. HALL. Have you reason to believe you have those letters and can produce them?

The WITNESS. I think it is likely I have them.

The CHAIRMAN. Then, as objection is made, you will have to exclude from your statement anything in connection with the contents of the letters.

The WITNESS. Then perhaps, as I am interrupted in the thread of my narrative, I will wait until I get the letters.

Mr. RANNEY. The correspondence had better be dropped. It was understood that we should go on, and those matters should be waived.

The WITNESS. Perhaps I had better go over that now and begin a little further on. I am trying to meet what I understand to be the points in the case. I have been

charged with a great many bad things, and I want to show how all those things happened to be done. That was the first one, the organization of the company. I might explain here, without reference to Dr. Rogers, by referring to a letter of mine already in evidence.

Mr. RANNEY. No, we have not any of the letters in evidence. We want both sides in evidence when we get the letters.

The WITNESS. I do not see how I can tell the story honestly if that is the decision of the committee, unless I do my associates great injustice. I want the story fairly before the public so that we may be fairly judged, and I cannot do it unless I am permitted to do it in my own way.

Mr. RANNEY. It is a mere matter of propriety in regard to putting in the correspondence.

The WITNESS. I will produce all the letters I have and put them in.

Mr. RANNEY. And then when we have got all the letters from Dr. Rogers before us, the correspondence had better speak for itself, and then you can make any explanations you desire.

The WITNESS. I am going to make the explanations as I go along, unless the committee stops me.

Mr. HALL. I do not know what the rule is in regard to testimony before a committee of this kind. The witness has no process of authority by which he can get possession of papers, and it seems to me that the rule observed in courts of justice, in cases between contestants, to call on the courts to produce papers that are wanted, does not apply in a case of this kind. I understand that this committee has some two or three hundred papers relating to this correspondence. This witness has no control over or access to them, and it seems to me a very peculiar proceeding to say that he shall not refer to letters, in giving his account or history of the affair, unless he produces them.

Mr. MILLARD. He is now speaking of letters in his immediate control, in his possession.

Mr. HALL. No; he has left that point.

The WITNESS. If you will pardon me, I will make one suggestion.

Mr. HALL. They are so far before us that a witness has brought them, and the witness was about referring to some letters supposed to be before the committee.

The CHAIRMAN. There could be no objection to his referring to the letters, but there is a strong reason for maintaining the rule here, as elsewhere, that the contents of those letters shall not be proved orally if the papers themselves can be produced.

Mr. HALL. The point I make is, that when the witness comes to points of that kind it is the duty of the committee to produce the papers, and not the duty of the witness. If the papers are possessed by him they ought to be produced.

The CHAIRMAN. It is only a matter of order or convenience.

Mr. RANNEY. We shall not deny any right that the witness has.

The WITNESS. I was going to suggest that it might, in such a matter as this, facilitate the work of the committee if you would allow me to take my own course in giving testimony, for this reason: I expect I have two hundred letters from Dr. Rogers; I have corresponded with him twenty years. Many of those letters have no reference to this thing, and it would do no good to publish them. The one I alluded to was to explain my action in reference to this incorporation; that is all. Only two or three of them have reference to that. The balance of his letters have no reference to these matters particularly, and will do no good to the committee or anybody else. I can bring all those letters up.

Mr. EDEN. I do not think it will be necessary for us to go through any part of the correspondence excepting that relating to this transaction.

The WITNESS. There may be fifty letters referring to the matter, but I was only going to call attention to two or three.

The CHAIRMAN. It would not be fair to require the witness to produce all the correspondence with Dr. Rogers. We will take his statement under oath as to his having papers relating to this matter.

The WITNESS. I have no letter from Dr. Rogers that reflects in any way on his integrity as a man, or on anybody else.

Mr. EDEN. If the witness says those are all the letters relating to this transaction from Dr. Rogers, that will be sufficient.

Mr. RANNEY. Yes, because if there shall be any controversy on that subject, I have no objection that they shall be shown to the chairman, and he can determine it. I do not want to pry into anything relating to this matter. The chairman could decide, and that would preclude the disclosure of private matters.

The WITNESS. We shall not disagree about that at all.

Dr. J. W. ROGERS. You may publish all my letters if there is no poetry in them. [Laughter.]

Mr. RANNEY. We want facts, not poetry.

Mr. OATES. As some members of the committee object to going on until Colonel

Young examines and brings up the letters he received from Dr. Rogers, which he thinks have reference to this Telephone or Pan-Electric Company, I move that the committee adjourn until 10 o'clock tomorrow.

Mr. MOFFATT. Do you mean all the letters that he received from all the parties relating to this?

Mr. RANNEY. I desire any letters from any of his associates. I suggest, Mr. Chairman, that he put in his corporate books. We want to go into the matter of the corporations and the stock they issued.

The WITNESS. Here are the books [pointing to a box full of books.]

Mr. RANNEY. Why can't you pass to them?

The WITNESS. Because I want to go out to the public fairly represented, which I cannot do unless I do it in my own way.

Mr. RANNEY. As Mr. Young prefers the other course of proceeding, I have no objection.

Mr. HALL. I may not have understood the witness, but I move that he be permitted to have access to the letters in possession of other parties that are supposed to be introduced, with a view of enabling him to give his testimony.

Mr. OATES. The subcommittee will make their report of them to-morrow.

The CHAIRMAN. You will have the letters here by that time, Mr. Young?

The WITNESS (pointing to the box full of books.) Here are all the letters and papers relating to the concern. I put them in evidence now to let the committee be responsible for them. I will turn them over to you all the books—[producing them].

The CHAIRMAN. The question is on the motion to adjourn until to-morrow morning at 10 o'clock.

The motion was agreed to, and the committee then adjourned.

WASHINGTON, D. C., *Saturday, March 20, 1886.*

The committee was called to order at 10.45 a. m.

Mr. J. HARRIS ROGERS. Mr. Chairman, I would like to make a correction in the testimony of yesterday. I am reported as having said that Mr. Hanback had been reported to me as being the attorney for Senator Harris and Colonel Young—

Mr. EDEN (interposing). I would suggest, inasmuch as Mr. Oates is not present, that the correction should not be made until he comes in.

The CHAIRMAN. It had better be deferred until that time. Shall we now proceed with the examination of Colonel Young?

Hon. CASEY YOUNG then came before the committee and his examination was resumed.

Mr. YOUNG. Perhaps, Mr. Chairman, this would be a proper time to call attention to a statement in the testimony of Mr. Harry Rogers, which I have no doubt he will correct. It is printed on page 51, and is in the chairman's question, to which he assented. This is the question:

"Q. Would these companies have been entitled to any interest in the Pan-Electric Company or the Pan-Electric Postal Company had they been organized by virtue of their purchase of the interest in the Pan-Electric Telephone Company? They seem to have bought territorial rights of the Pan-Electric Telephone Company.—A. Yes, sir."

I do not think he meant to say any such thing. If there was any Pan-Electric Postal Company, I never heard of it.

Mr. J. H. ROGERS. If I said that, I was mistaken; I never heard of such a company.

The WITNESS. That is what I supposed.

Mr. J. H. ROGERS. I would never intentionally use the title Pan-Electric Postal Company.

The WITNESS. Now, Mr. Chairman, I was instructed by the committee to produce this morning the letters of Dr. Rogers. I have looked over what letters I find; I expect I have a hundred more somewhere at my room; I have five or six large volumes of other letters put away in letter files; I have not had time to go through them all; I expect there may also be some scattered about. Here are a number of his letters that I happened to find, and these I will hand to Dr. Rogers, and if there is anything in them that he wants left out he can so signify to the committee.

Mr. J. W. ROGERS. I do not want them; I do not want anything left out that I have ever written.

The WITNESS. There is nothing in any of these letters that would reflect any discredit upon Dr. Rogers or anybody else. I do not think they have anything to do with this inquiry, but the committee can examine them. The letter I was about to refer to when I was stopped yesterday I have in my hand, and I will call attention

to it directly. All of them have just as little reference to this investigation as those that have been already published, perhaps less.

Looking over the testimony this morning certain things occur to me that I overlooked yesterday. In my haste in making my statement, with the constant interruptions to which I was subjected, they escaped my memory. I will now go briefly over them again, in order that I may call attention to these things that I omitted yesterday.

The first knowledge, as I stated yesterday, that I had of this matter I probably derived through a letter from Dr. Rogers before I came on here, but I do not recollect about that. When I came here, in February, 1883, and had the first interview that I had with Dr. Rogers, the conversation occurred about as he stated it, and about as I stated it yesterday. I did not see him in company with these other gentlemen for some two weeks, perhaps, though I learned from him that he had conversed with them generally, about as he had with myself, in reference to the formation of a company or association to develop these inventions of his son.

By the CHAIRMAN:

Q. What other gentlemen do you refer to?—A. I refer to Senator Harris, General Atkins, General Johnston, and Senator Garland. I do not know that he mentioned the name of Garland or of General Johnston; perhaps he did. But the conversation he had with me with reference to the gentlemen he proposed to interest with him was more in regard to Senator Harris and General Atkins than any of the balance of them. And I might say here that Senator Harris resides in Memphis, where I do, and his intimacy with Dr. Rogers was about the same as mine. General Atkins lives in a county west of us, and I do not know the extent of their acquaintance, but I presume they have been quite intimate for many years. So I spoke more particularly with reference to these gentlemen than I did the other two.

The impression I got—and the impression was authorized from the conversation we had—was that he desired our assistance to develop these instruments; and I think I suggested it to him that perhaps he could get better men than we were, men of higher business standing and more business capacity; that politicians were not the best business men in the world. In reply to that he said, as I remember, that he wanted us on account of our position and standing, great names and integrity; that he had formed a company recently before that with business men, and that he had been treated badly and had had trouble with them, and that he wanted to cut loose from them and associate himself with his old friends, in whom, as he stated yesterday, he could have implicit confidence.

In all these conversations if there was ever anything said about donations or gifts I never heard it; I do not think anybody ever conceived such an idea; it never entered my mind. But we have been educated a good deal since that time by gentlemen who seem to have a higher idea of official etiquette and ethics than we had. I do not think it would have been a great crime if we had done it, but at that time we had not been educated up to our present standard. I do not know but if Dr. Rogers had offered it to me, considering our relations at that time, I would have accepted it. I did not know at that time that it was so great a crime to do anything of that sort; that had not occurred to me. However, in all our transactions and in all our conversations there never was a word said by Dr. Rogers or anybody else about our using any official influence, about our taking advantage of our official positions to accomplish anything in connection with these matters.

There never was a word said that might not with perfect propriety have been published to the world without bringing reproach or discredit upon any man connected with it on either side. I do not think Dr. Rogers ever had it in his mind that there was anything corrupt or improper in the transactions which he contemplated, and I am quite sure that if he had wanted to corrupt any gentleman he would not have gone to any one of these gentlemen to do it. So I want to dissipate that idea that we gentlemen were the recipients of Dr. Rogers's bounty, or that his purpose in getting us was that our official influence might be prostituted to the furtherance of the interests of this association. It never entered his mind, and it never entered the mind of anybody else. It was never suggested—

Mr. RANNEY. I think you may state what entered into your mind, but I do not think you should state speculatively what other people thought or did not think.

The WITNESS. I am going to state it in my own way. I am going to meet these charges.

Mr. RANNEY. I am willing that you should speak of your own intentions, but I am not willing you should argue the case.

The WITNESS. I do not want to argue it. I am making a statement here in defense of myself, and I have a perfect right to meet in my statement every charge that has been made, and I am going to do that if I can. So much for that.

There never was a word said, there never was an act done that would authorize any such inference upon the part of anybody; and every intimation and every pub-

lication that suggests directly or indirectly that any of the men in this association were actuated by any corrupt or improper motive is an unfounded calumny, without any sort of truth to support it—everything, all and similar, each and every one of them. No man in the concern ever said one word that could be distorted or construed into an intention to do anything improper or corrupt.

Q. Allow me one question. I infer from what you say now, without repeating it, that you did not regard this allotment of interest in the Pan-Electric enterprise as a gift?—A. No; nor did anybody else.

Q. But as a joint undertaking upon the part of all the parties?—A. Exactly. A donation was never heard of or suggested by any one, until a long time afterwards, with reference to which I will direct your attention hereafter, and show all about it. If it had been, I should have thought it entirely proper to accept, but as a matter of fact it was not. Considering the relations between us, if he had offered it, no doubt I would have taken it. I do not know.

After these various conversations the first thing that occurred to me about the matter was that perhaps we were infringing the Bell patent. I had given some little attention to that, and I came very near being one of the original organizers of the Bell company; I was here at the time; it was a very unfortunate thing for me financially that I missed it. But, as I say, one of the first considerations that occurred to me was whether or not these inventions infringed those of anybody else. Harry Rogers explained to me the difference between his invention and the invention of others. I speak of the telephone now, because I did not suppose these other inventions infringed anybody. He explained to me the mechanical construction of his instrument and the points of difference that existed, as he thought, between that and the Bell telephone apparatus. Of course I had to risk his judgment about that; I did not know anything about mechanical apparatuses as affecting telephones; I had never looked into such matters. But he told me that in his judgment there was no infringement, and I think he said he had consulted probably some legal gentlemen on that subject. He was firm, however, in the belief that his mechanical apparatus was so widely different from that of Bell that there was no infringement between the two instruments. He suggested to me, I believe, that we would be free from trouble on that ground, unless it should be held that Bell's broad generic claim, which covered or undertook to cover every method of transmitting articulate speech by electricity was valid.

I thereupon undertook to examine for myself the law upon that subject, taking his judgment as to the mechanical construction of the instrument itself. I examined with some care the leading case of *O'Reilly vs. Morse*, where that question is discussed by the Supreme Court, as well as the four or five succeeding cases that follow and adopt that decision. I examined this broad claim of Bell's and his application, and I became satisfied in my own mind that that claim was too broad; that it came under the very same principle of law decided in the case of *O'Reilly vs. Morse*, in which the court laid down the doctrine that a claim as broad as that could not be maintained under a proper construction of our patent laws. I became satisfied that that was good law. Whether it was good law or not, the Supreme Court said it was, and so decided in four or five subsequent cases, in which they laid down the same doctrine that they had in the case of *O'Reilly vs. Morse*. The eighth claim of Morse, I believe that was the one, and the fifth claim of Bell were so nearly alike that I was not able to see wherein it differed from the decision in the case of *O'Reilly vs. Morse*. So I became satisfied, from Harry Rogers's judgment as to the mechanical construction of the instrument and from my own judgment as to the principles of law, that the Bell claim was too broad, and that our patent was good. So we went forward with the matter. Then we went to New York where this contract was drawn up. I want to call attention to its terms a little, so that some of you learned lawyers, who have been considering it, can see whether it is a donation or a contract; I thought it was a contract; perhaps my legal judgment was at fault.

Mr. RANNEY. Has that contract been printed?

The CHAIRMAN. Yes; it is in the report.

The WITNESS. Oh, yes, it has been printed a dozen times; I have seen it in all the papers of the country. Dr. Rogers, Harry Rogers, Senator Harris, General Atkins, and myself were at New York for two or three days; none of the other parties were there. We discussed the whole matter for probably a day and a half, and it took form something like that set out in this contract. During all this time there was never an intimation from anybody that this was a donation or gift, or that we were the recipients of any munificence from Dr. Rogers or anybody else. And I say further, that at about that time, when I saw the form that it was going to take, I took the trouble to make a little examination to inform myself about how these companies were formed, and I ascertained, notwithstanding the fact that it is alleged that such great wrongs have been committed, that nearly every company that was ever organized in this country to utilize patents for inventions, was organized precisely as this

company was organized; and this, notwithstanding the fact that we have been charged with such very great crimes. The Bell company was so organized.

Mr. MILLARD. I submit, Mr. Chairman, that a witness should be confined to the facts in the case.

The WITNESS. That is a fact that I am stating, an important fact; I know it to be a fact.

The CHAIRMAN. I can only say that I was not present when the examination of Mr. Young began, and that when I came in he was making his own statement, and so I thought the committee had concluded, in view of the fact that he had been a member of Congress, and is one of the parties affected by this investigation, and is a lawyer, that they would allow him to make his own statement and take the responsibility for it.

Mr. RANNEY. Great liberality has been shown Mr. Young in allowing him to make his own statement. Very early yesterday I cautioned him that he should separate his position as counsel from that of witness, and that while on the stand he should refrain from making arguments. So far as he wants to say anything about his own conduct I do not object to it, but it seems to me that he has thus far this morning gone into simply a statement as to other people, and has made an argument rather than a statement of facts.

Mr. MILLARD. If I understand it, what he is saying is very much in the nature of an argument in justification of the course that he pursued. A distinction should be made, according to the legal rules of evidence, between argument and statements of fact, when a legal gentleman is on the stand.

The WITNESS. I understand what the legal rule is. I have a right to explain my testimony and so has any witness. Any fact affecting a witness he has a right to explain. That is the right I insist upon, and that is all. I haven't got anything into my testimony yet but facts, and I am going to have facts in.

Mr. RANNEY. It seems to me that, although the witness may be stating facts as he says, yet he is rather expansive.

The WITNESS. I may be very expansive, but I cannot state these facts all in one breath.

The CHAIRMAN. You may proceed, but avoid argument.

The WITNESS. I am not going to make an argument; the gentlemen know that. I am simply explaining my testimony, and stating these facts and the influences that operated on my mind.

Mr. RANNEY. Give your testimony first and explanation afterwards.

The WITNESS. I will explain as I go along. I am going to state facts and explain them as I go along, so that there will not be any trouble hereafter. I am through with that part of it.

Q. Let me make one inquiry. You were speaking of making this written contract in New York. I have read that contract, and I call your attention to one feature of it. It seems that, as between the parties to the agreement, the valuation put upon this property was \$1,000,000, and there was allotted to each one of the five parties one-tenth, to the inventor four-tenths, and one-tenth was retained, as we understand, for Mr. Hewitt or some other person, but was the property of the company. You then proceed to provide for the incorporation of the company with a capital of \$5,000,000. I fail, however, to find, if I have rightly read the agreement, that there was any allotment of that stock or those interests to the several parties, but, on the contrary, if I am not mistaken, it was stated that that stock was all to belong to the company.—A. Yes.

Q. Why was that difference made?—A. That was a merely arbitrary value fixed. My recollection is that, for the purpose of fixing the interest each one of the parties should have—and I have no doubt Dr. Rogers will sustain my recollection, if he has not done so in his testimony—when we went to draw up these articles of agreement it was necessary to fix upon some sum in order that the respective interests might be allotted, and these interests were fixed by Dr. Rogers himself; I never had anything to do with it; I did not make any terms; there was no dickering between him and me; it was his own proposition, but I thought it necessary to fix some valuation; that was merely arbitrary; I do not think any one suggested anything about it. It was in contemplation afterwards to organize a joint stock company and capitalize at \$5,000,000; but that was in no way obligatory upon us; we might just as well have capitalized at \$10,000,000 or \$2,000,000 if we had wanted to. It was fixed as a mere arbitrary amount by which we would be enabled to allot to each one his interest. General Johnston, Senator Harris, General Atkins, Mr. Garland, and I were to have one-fifth of it; Mr. Rogers was to retain four-fifths, and the remaining one-fifth was to be the common property of the company making up the \$5,000,000 or the \$1,000,000, as the case might be.

By Mr. RANNEY:

Q. Was it not this way: In the formation of the joint stock company with a capi-

tal of \$5,000,000 the allotments were to be made in these proportions?—A. I do not understand your question clearly.

Q. Was not the amount of it that a joint stock company was to be formed with a capital of \$5,000,000, and that each one of you was to have his respective share designated?—A. Oh, yes; just as it is set out in this contract.

Q. Whether you called the capital \$1,000,000 or \$5,000,000, each had the same share?—A. Exactly; therefore I put it at \$1,000,000, though we might as well have put it at \$50,000,000 if we had wanted to.

By the CHAIRMAN:

Q. I think you did not catch the drift of my inquiry, and although it may not be very material, yet I would like to call your attention to it again.—A. Certainly; I would be very glad to have my attention called to it again.

Q. In this agreement it is provided, first—

The WITNESS. What article is that?

The CHAIRMAN. That is the first article.

Mr. RANNEY. It is on page 8 of the printed report.

The WITNESS. Is it under the head of the second or the first clause?

The CHAIRMAN. The first clause, where you provide for the valuation as between yourselves. I will just read it:

"It is mutually agreed and understood by all the parties hereto, that, as among themselves, the value of said improvements, discoveries, and inventions shall be estimated at \$1,000,000; that this amount shall be divided into ten equal parts or shares, four of which are to be held and owned by the said James Harris Rogers and one each by the said Joseph E. Johnston, Augustus H. Garland, John D. C. Atkins, Isham G. Harris, and Casey Young; and the remaining part or share shall be jointly held by the company, to be disposed of in such manner as the members thereof may see fit."

Then it provides for the incorporation.

"Third. It is also agreed that when the aforesaid persons are incorporated as a corporate body, as hereinbefore provided, the capital stock of said corporation shall be the joint property of this company."

Q. Why was that difference made as between the interest on the \$1,000,000 valuation and the ownership of stock under the corporation?—A. The association was to transfer the stock to the corporation when incorporated.

Q. By virtue of what did you ever own any separate interest in the stock of the corporation?—A. We owned it jointly under this contract, but we intended, when the company was incorporated, to make a transfer, which we did, of all of this property to the corporation.

Q. To have the stock of the company transferred to the individuals?—A. Oh, no; to have this association transfer it to the company.

Q. But still you fail to comprehend my point.—A. I do not understand exactly.

Q. Under the first arrangement as to the ownership of the inventions you were to own one-tenth?—A. Yes, sir.

Q. After the company should be incorporated I fail to find any provision here that you were to own anything separately, but the company was to own the entire stock?—A. Oh, no; there was no provision to own anything, except by the corporation.

By Mr. RANNEY:

Q. If your associates owned the company, what belonged to the company belonged to you?—A. I take it that would follow as a logical sequence.

By the CHAIRMAN:

Q. But why put in a provision that the company should own the capital stock?—A. The law requires that, and we could not get along without it; individuals could not do it; you must transfer all the franchises to the company; that is what the statute requires.

Q. You obtained the franchise by the incorporation of the company?—A. Exactly; and they would not have anything to incorporate on unless it was by this transfer by this association, which was done afterwards. That was required by law.

Q. I do not see why you should provide that the company should own its capital stock. It may not be material, but it struck me as singular.—A. Under our decisions that I have examined on that subject it is necessary that they shall have the franchise before they can transact business. An association could not do it. We could not have gone on and transacted business as an association, under the authorities I have examined.

Q. You started out with a company owning its capital stock, as every company would at the outset, and that is the property of the company?—A. Yes.

Q. But you have made no provision for the transfer of that capital stock to individuals. By virtue of what authority did you become the owner of one-tenth of the capi-

tal stock of the company?—A. The only ownership we acquired was under those articles of agreement.

Q. There is no provision there that the capital stock was to be transferred to individuals in payment for these inventions?—A. No, sir; there is not.

By Mr. RANNEY:

Q. Was not this it: That the "ground floor," as between your associates—A. I don't know anything about a "ground floor." You know more about that than I do.

Q. — was \$1,000,000 as the estimated value, but that you put it into a corporation for \$5,000,000, and the corporation was to be organized on the basis of a capital stock of \$5,000,000, and the property was to be put in on that basis?

The WITNESS. Is that a question?

Q. Was it not a fact that the "ground floor," as between your associates, the syndicate, as we may call it, was \$1,000,000, and the company was to have a capital stock of \$5,000,000, and the patents were to be put in at that rate?—A. Oh, yes; we were to have it as it is set out in this article here.

Q. Was not that it, that while between your associates the price was reckoned at \$1,000,000, yet the patents were to be put in the corporation at \$5,000,000?—A. It is set out here in this undertaking; if it was not so it would not have been here.

The CHAIRMAN. My question is would your company have had any basis, any capital, except the inventions?

The WITNESS. That is a legal question whether they would or not.

By the CHAIRMAN:

Q. You were incorporated under the law of New York, were you?—A. No, sir; under the law of Tennessee.

Q. Does that law require the payment of any cash on subscriptions at the time of the incorporation?—A. No, sir; none whatever.

By Mr. RANNEY:

Q. You can put the patents in for the whole of the capital stock?—A. We can if we see proper to do so.

By the CHAIRMAN:

Q. Then when the money came into the company it was divided; so that your company never had any working capital?—A. Yes; we did have some capital.

Q. What was it?—A. When I come to that, if it is proper subject of investigation, I have the books here, which will show.

Mr. RANNEY. He says the patents were to be put in on the basis of \$5,000,000, but as between themselves originally it was reckoned at \$1,000,000.

The WITNESS. The valuation fixed upon it on the paper was merely arbitrary.

Q. But if the capital was to be divided among those who were the owners of the inventions, and the inventions were the entire basis of the incorporation, there was never any provision by which the company could have any money; that is to say, there was no provision for selling any of its capital stock for money?—A. Oh, no; no provision for selling its capital stock.

Mr. RANNEY. The fact was that each man of the original number for \$1,000,000 would get \$5,000,000.

The CHAIRMAN. But there was never any money in the corporation.

Mr. RANNEY. They expected to get money by sale of rights.

The WITNESS. If you gentlemen will let me tell my story you will understand it much more clearly.

The CHAIRMAN. You must permit us to inquire as to your meaning.

The WITNESS. To be sure.

Mr. MILLARD. Let the witness state the particular statute of Tennessee under which the organization was made, so that we may refer to it.

Mr. OATES. If the committee will suspend the examination at this point I would like to make a report from the subcommittee appointed to arrange the papers.

Mr. MILLARD (to the witness). Can you refer us to the statute of Tennessee under which you organized?

The WITNESS. I cannot by page, title, and section, but it is in the general corporation laws of Tennessee; I guess it is in the statutes somewhere from 1872 to 1878. You will find it under the head of "corporations" in the session laws. This contract was drawn up without any reference to the laws of Tennessee; it was drawn up hurriedly, and it was not expected to ever undergo the test of judicial examination or judicial decision. It embraces just what at the time occurred to me as representing the purposes and intentions of the parties. Now, I will read the second section: "it is further mutually agreed by the parties to this agreement that they will, as soon as the same can be done, procure a charter of incorporation, constituting themselves a corporate body under the name and style of the Pan-Electric Company."

I think that name was suggested by myself.

"Embracing in such charter of incorporation such objects and powers as they may deem proper"—

We had not decided then what those objects and powers would be—

"and as are allowed to incorporated bodies under the laws of the State of New York, or of any other State in which said charter of incorporation can be obtained."

I had not at that time examined the incorporation laws of any State, and I was not sure about it; I had not given the matter any thought and examination as to the extent of corporate powers we would endeavor to secure in the State where we would obtain the incorporation.

The third section provides this:

"It is also agreed that when the aforesaid persons are incorporated as a corporate body"—

We contemplated incorporating ourselves—

"as hereinbefore provided, the capital stock of said corporation shall be the joint property of this company, and it may issue, sell, or otherwise dispose of so much thereof as they may see fit, provided that no individual member shall dispose of any interest acquired under these articles of agreement at less than the face value thereof without the assent of the executive committee hereinafter provided for."

I thought that would meet every emergency that might arise in the future, that it would keep it completely under our control, so that nobody could be imposed upon by it, and that every man who became interested in this joint stock company afterwards would know exactly what he was purchasing and exactly what its value was.

"And all interests jointly held by the company which may be sold as aforesaid, and disposed of by direction of the aforesaid executive committee, shall be sold for the joint benefit of the company."

In framing that article I had it in my mind that this company should be incorporated with a capital stock to such an amount as we deemed proper, and I do not think that was an extravagant one, notwithstanding a great many of my friends who have written me on the subject have found out that it was. I provided in this article that we might incorporate with a capital stock of \$5,000,000, thinking we had a right to do that, though I have found out since that we had not. I did not know at that time whether anybody would become interested with us or not, and I provided that if they did we might dispose of stock either to them or for the purposes of carrying on the business of this organization in any way we might see proper. I was very careful to provide that no individual member of this organization—and there is the root of all our trouble—should have the right to dispose of his stock without the consent of the board of directors or of the executive committee created by the board of directors. We had a right to restrain the disposition of the stock in that way. I did not believe that any organization could be conducted upon any correct principles if every member of it was allowed to go around and sell his stock to anybody and everybody and at any price.

Q. Your view of it, then, was that when the company should become incorporated with a capital of \$5,000,000 the stock would become the property of the association in the same proportion?—A. Exactly, and to dispose of as they saw proper.

Q. Do you think that is good law?—A. No, I think there would have been some legal difficulty about it when the stock came to be issued.

The CHAIRMAN. My view is that the corporators are not the stockholders.

The WITNESS. That has been held lately. I believe the leading decision on that point was rendered since that paper was drawn up.

Q. Your inventions could not be made the basis of the company's capital without a sale or transfer of the inventions to the company by an agreement with it that the capital stock was to be paid for by the inventions, and that you could not do in many States, for many or most of them require a cash payment.—A. This association made an assignment, which I believe to have been in accordance with the law, to this company. I have not examined very carefully the questions of law suggested in your interrogatory.

Mr. OATES. As I shall not be able to be present at the entire session of the committee, I want to make this report from the subcommittee now.

The CHAIRMAN. Is it the pleasure of the committee to suspend the examination of the witness and receive the report now? The chair hears no objection.

Mr. OATES. I will read the report of the subcommittee:

To the committee specially appointed under a resolution of the House of Representatives of February 26, 1886:

Your subcommittee appointed to examine certain correspondence among the corporators and associates in the Pan-Electric, and companies issuing therefrom, together with certain other papers, beg leave to state that they have performed that duty, and herein report--

(1) That the bundle or package of papers herewith returned, and marked A, contain

nothing which on the face of it appears even remotely to relate to any of the inquiries which the committee is directed to make. They appear to be titles to lands, &c., to one or other of the Messrs. Rogers, and do not refer to Pan-Electric matters. Many of them appear to have been made many years prior to the organization of the Pan-Electric Company.

(2) We submit herewith that which purports to be copies of two letters, No. 76 and 155, from J. W. Rogers to A. H. Garland, but the latter has no name to it, and is nearly a copy of No. 76; No. 98, Bates's letter, is already in evidence. All the letters from Attorney-General Garland found among those delivered to us are referred to on Exhibit B, and are five in number, and none of them are worth anything or throw any light on the questions before the committee, but we report them for examination if the committee desire.

(3) Your committee have examined two hundred and twelve other letters. Of these they report thirty-seven, which they think may have some relevancy, and one hundred and seventy-five letters and papers found in the letter-album of Mr. Rogers which they do not believe have any relevancy to any of the questions into which the committee is instructed to inquire. A complete list of each class and the letters are herewith submitted. The letter from Casey Young to Dr. J. W. Rogers, dated August 21, 1883, is reported as relevant, although we do not think it is. It does not throw any light upon any question into which the committee is directed by the resolution of the House to inquire, but we submit the question of relevancy to the full committee.

(4) We also report herewith a package containing some papers, propositions, &c., for a combination between the American Postal Telegraph Company and the Pan-Electric Company, and an application for a charter for the Pan-Electric Telephone Company in the State of New Jersey, which does not seem to have been acted on. We do not deem them important, since none of them seem ever to have been acted on or consummated.

WM. C. OATES.
LEWIS HANBACK.

EXHIBIT B.—*Letters to and from Hon. A. H. Garland.*

- No. 76. J. W. Rogers to Garland, May 24, 1885.
- No. 98. D. H. Bates to Garland, July 1, 1884.
- No. 155. J. W. Rogers to Garland.
- No. 105. Garland to ———. No date.
- No. 152. Garland to S. S. Cox and A. S. Hewitt.
- No. 153. Garland to "Dear D.," February 8, 1884.
- No. 174. Garland to Rogers & Son, March 25, 1884.
- No. 194. Garland to J. W. Rogers, October 4, 1883.

Mr. HANBACK. I want to state, Mr. Chairman, that I have given about thirty hours of hard work to this report. I have gone through all this correspondence, and it has been a very serious undertaking; and I desire to say that if there are any more letters to be examined, I hope some other brother will be selected to do the work.

Mr. OATES. Mr. Hanback has given more attention to this matter than I could myself personally.

Mr. HANBACK. I began yesterday at 10 o'clock and worked until half past 4 without stopping a minute. There is a great mass of correspondence on various subjects, poetry, &c. There are some letters missing, but so far as I can see, the memoranda accords wholly with the missing numbers.

Mr. RANNEY. You both agree about this report?

Mr. OATES. Yes; we agree in every respect.

Mr. MILLARD. And you report back all the letters?

Mr. HANBACK. Yes, every letter has been examined and every one has been numbered.

Mr. RANNEY. I move that the report be put into the record, and that the papers reported be put in custody of the chairman, subject to examination, and that those which they report as material be printed for the information of the committee.

Mr. OATES. Perhaps those we report as relevant the committee had better examine in executive session.

Mr. RANNEY. Whatever you report as relevant I should like to have go into the record and be printed, and the others we can examine if any gentleman cares to do so.

Mr. OATES. The committee can take such course as they think proper, but I think it would reduce the body of the testimony if they were to be examined beforehand. There are thirty-seven of them.

Mr. HANBACK. We found it very difficult to decide what should go in and what should not.

Mr. RANNEY. My motion was that the report itself go into the record, and then

that the letters which the committee agree are relevant may go into the record and be printed. Those that you say are not relevant I do not want to have printed.

Mr. OATES. I understood the matter. I only wanted to suggest that perhaps if the committee in executive session would examine those reported as relevant, they would find they did not require more than half of them to be printed, and it would save printing to do so.

Mr. RANNEY. The object of my motion is so that the members of the committee may have a chance to read them in print.

Mr. OATES. Those that we thought even might be relevant we reported. There are thirty seven of them.

Mr. RANNEY. Each member of the committee to examine them must take the files and go over them for himself, whereas if they are put in print each member will have them before him. They have a mode of photographing such letters if it is necessary.

Mr. EDEN. If they are not relevant we can strike them out.

The CHAIRMAN. If they are to be printed in the record, I would suggest whether any letter should be printed without its being authenticated in some way, unless its genuineness is admitted.

Mr. MILLARD. Why not have them printed for the use of the committee outside of the record, and use such as may be necessary?

Mr. RANNEY. I say have them printed for the use of the committee.

Mr. HANBACK. I think Mr. Millard's suggestion is a good one, and I think we should instruct the stenographer to have them printed as he suggests.

The CHAIRMAN. It is moved by the gentleman from Massachusetts that the report of the committee, together with the letters reported as relevant by the subcommittee, be printed, not in the record as I understand it, but as a separate paper for the use of the committee.

Mr. EDEN. Before the question is put, I would like to suggest that as there are no parties to agree or consent that the letters are genuine, before they are put into the record their authenticity should be shown.

Mr. RANNEY. I think that is true, but the printing of them for the use of the committee would be very convenient. I think the report itself should be printed in the record, but not the exhibits.

Mr. OATES. Before the motion is put, suppose that these letters reported as relevant are printed for the use of the committee, then the originals have to be verified; we have to go over the originals any way; would it not be better, and probably it would be just about as convenient, to examine them before they are printed, because you have to prove the genuineness of them, and we could appoint some one to read the letters, and if they prove to be genuine, the committee can say whether they will print that one or not, and settle the question at once.

Mr. RANNEY. How many in number are there of those?

Mr. OATES. There are thirty-seven.

Mr. RANNEY. Are they long or short?

Mr. OATES. Some are long and some short; very short.

Mr. EDEN. At some period we have to hear the evidence as to the genuineness of the letters.

Mr. RANNEY. I do not imagine, as they are original letters, that there will be any controversy on that point.

Mr. OATES. I make the suggestion (merely because it would not help us along) not to print them for the use of the committee. You can decide first whether you want them to go into the record and print them right along.

Mr. RANNEY. If it was merely a matter of genuineness I should grant it; but as it is a matter of competency or relevancy, nobody can judge of that without reading them.

The CHAIRMAN. The motion now, as modified, is that the report of the committee, without the exhibits, be put in the record.

Mr. RANNEY. I will change that by suggesting that they be appended to the record. I do not know that we need put them in the body of it.

The CHAIRMAN. And not insert them in the record at this place. The motion now is that the letters reported as relevant to this inquiry be printed for the use of the committee and appended to the record instead of being included in the record at this time.

The motion was agreed to.

Mr. OATES. I desire to ask the committee what shall be done with this pile of papers here?

The CHAIRMAN. They may be returned to Dr. Rogers, if there is no objection.

There being no objection, the papers referred to were returned to Dr. Rogers.

The CHAIRMAN. The witness may proceed.

Mr. CASEY YOUNG. The chairman submitted to me a legal question that I had not in contemplation before, the very difficulty that you suggest, as to whether or not it was within the power of incorporators to divide the stock out among themselves. I

am aware that there is a good deal of conflict of authority on that subject. The latest decision that I have examined, and one rendered since the preparation of this article, would seem to decide it as against that proposition—the right of the incorporators to divide up that stock. That fact I have frequently called to the attention of my associates, and given it as my opinion that the way we were proceeding at that time was not exactly in conformity with the law. I will come to that hereafter. But at the time that this article was prepared (this contract) I had not made a careful examination of the authorities upon that subject, by no means so careful a one as I am in the habit of doing when I prepare legal documents, and if I had been preparing it for anybody else except myself I should have examined all there was in the law upon that subject; but I had not examined it up to that time as I have since, or so carefully as I would have done if I had not been treating it in great measure for myself. I had no authorities at hand; I wrote it at my room at the hotel with just a general knowledge of the laws that covered it, and that was my purpose.

Mr. RANNEY. It is immaterial whether it is the law or not, but, as a matter of fact, what you intended at that time was, that the patents should be put into the company as representing the five millions of capital stock.

The WITNESS. Our intention was that this association should constitute themselves an incorporated body, or a joint-stock company, with a capital stock of \$5,000,000.

Mr. RANNEY. And that capital stock was to be represented by these patents.

The WITNESS. Yes, sir; to be sure. There was nothing else in it except what money they might put in afterwards.

By the CHAIRMAN:

Q. Let me ask you right there; you did have the Pan-Electric Telephone Company incorporated?—A. Yes, sir.

Q. And the Pan-Electric Telegraph Company?—A. Yes, sir.

Q. What disposition was made of the capital stock of those two companies?—A. I will come to that in a moment; it is the very thing I am coming to now. I may answer now, briefly, that nothing has been done with the Pan-Electric Telegraph Company. The Pan-Electric Telephone Company has its capital stock all in the hands of the company, except that part of it that went into the hands of Dr. Rogers, and has been disposed of as he has stated here.

Q. That suggests another matter. These moneys that you received for the sale of State rights seem to have been divided among the members. Was that divided in that proportion, as if you were the owners of that stock in tenths?—A. Yes, sir. Now passing from this contract, and the time it was prepared and signed by the parties. Immediately after that time I went home to Memphis with the purpose, I think, of looking into the law of the matter a little and ascertaining exactly what it was proper and competent for us to do legally under these articles of agreement. I intended to examine the law more thoroughly and ascertain exactly what character of incorporation it would be proper to obtain to carry out the purposes of this association as I understood it. I was not the counsel of the company, however, and I did not charge myself so particularly with the performance of that duty as I would have done if I had felt that the responsibility rested upon me as a lawyer to have advised these gentlemen as to the law of the case. Senator Garland had been selected as the legal adviser of the company, and I supposed as a matter of course that whatever legal advice would be necessary to be had would be obtained from Senator Garland. Therefore I did not examine it as closely as I otherwise would and perhaps should have done. After I got home I received a letter from Dr. Rogers, which I think was about the first one I had—

Mr. RANNEY. Have you that letter?

The WITNESS. Yes, I have.

Mr. RANNEY. You had better read it right in that connection.

The WITNESS. I will do it if I do not have to get the doctor to read it on account of the writing. I will see directly. I gave very little attention to it after I got home. I understood that General Johnston and Harry Rogers were to continue experimenting with these inventions, these instruments here, and these various things, and report to us from time to time, which they occasionally did, and I heard from them that they were prosecuting their investigations, making tests, &c.

Here is about the first letter I got from Dr. Rogers. I may have gotten others, but perhaps have mislaid or left them at home. This is dated February 3. There is nothing in it, and I only mention it to show that it is the first time I had heard of this matter, and what directed my attention to looking after the charter at home. The doctor called my attention to the fact that it was time we were organizing; that the experiments had been made by Harry and General Johnston, and were satisfactory; that the instruments were working well, and it was time we were getting out our charter, as he called it, meaning the articles of incorporation. I wrote back to him that I had made an examination of the laws of several States and was unable to

find any of them that were broad enough to cover all the objects that he seemed to have in contemplation, and that seemed to have been the purposes of the company originally.

Then I got several letters of about the same purport from him, insisting that it was time to organize and go ahead. The idea was to issue the stock and sell it and go to making money. I was busy at home, and I replied occasionally to them substantially to the same effect, and finally I wrote to him (I think it is published there) that we could not do much at that dull season of the year; that it was the season for the cessation of active business operations; that I would be on here at the assembling of Congress, and then we could decide about what character of incorporation we could have. But he continued to insist upon it, and the articles of incorporation, which I have here, were sent to me either by him or by Senator Garland, I do not know which, in conformity with our statutes. It is a mere formal instrument. As the doctor said, he could have gotten a patent lawyer for \$10 to draw it up, or I suppose he could have gotten a clerk for \$1 to do it, for the statute lays down the form. This paper was sent down to me, having been prepared here in Washington City.

By Mr. RANNEY:

Q. What paper is it; you say "this paper"?—A. I mean the paper I have in my hand. I do not know whether it was sent to me by Dr. Rogers or some other of our associates. But these are the articles of incorporation prepared in accordance with the formula laid down by our statutes, and in conformity with the law of our State.

By Mr. MILLARD:

Q. How is it executed?—A. The law requires that it shall first be recorded in the register's office of the county where the incorporators, or a majority of them, live, and that then it shall be put on record in the office of the secretary of state, and the great seal of the State attached to it.

By Mr. EDEN:

Q. That paper you have, then, is the original articles of incorporation?—A. Yes, sir.

By Mr. RANNEY:

Q. Is that signed by the parties?—A. No, sir; it is under the general incorporation laws passed by the legislature.

Q. Is it the articles of association, as they are generally termed, under the general laws?—A. Yes, sir.

Q. Then it is signed by somebody?—A. Yes, sir. It is signed by Dr. Rogers, General Johnston, Senator Harris, Mr. Garland, and Colonel Looney. Our law requires five or more persons to constitute a company that can be incorporated. I was not here at the time, and did not sign it.

Q. Under your general law you sign articles of association, and those are recorded in a designated place, and that constitutes you an organization?—A. Yes, sir; first in the county register's office in the county where the majority of the incorporators live, and second, in the office of the secretary of state.

By Mr. MILLARD:

Q. That is the identical "articles of incorporation"?—A. Yes, sir.

By Mr. RANNEY:

Q. What is the capital stock named in that?—A. Five million dollars.

Mr. MILLARD. I suggest that the paper be read and put in evidence right here.

The WITNESS. This is exactly in conformity to our law.

Mr. RANNEY. I think it had better be put in evidence and go into the record.

By Mr. HANBACK:

Q. Do you know who it was prepared by?—A. I think it was prepared by Senator Garland.

The CHAIRMAN. Shall this go in evidence now?

Mr. RANNEY. This is the original paper, I understand?

The WITNESS. Yes, sir.

Mr. RANNEY. Then I would like to have it go into the record.

The CHAIRMAN. I will read it to the committee.

STATE OF TENNESSEE,

Shelby County, City of Memphis, ss:

Be it known we, whose names are hereunto annexed, do hereby certify, that we have associated together for the purpose of establishing a company to carry on the business of telephony in the State of Tennessee, by constructing a line of telephonic wires from the city of Memphis to Collierville and other such wires in the various

cities and counties of said State, to be used with suitable instruments and appliances for carrying on the business aforesaid; that the name assumed to distinguish such company or association and to be used in its dealings is "Pan-Electric Telephone;" that the operations of telephoning as aforesaid, of such association, are to be carried on in the town or city of Memphis, in the State of Tennessee, and in any and all towns and cities of such State; that the amount of the capital stock of the same is five million dollars, and is divided into fifty thousand shares, and the par value of each share is one hundred dollars; and the following are the names and places of residence of the share-holders and the number of shares held by each of them respectively: James Harris Rogers, of the city of New York, ten thousand shares; Joseph E. Johnston, of Washington City, D. C., ten thousand shares; Isham G. Harris, of the city of Memphis, ten thousand shares; Augustus H. Garland, of Little Rock, Ark., ten thousand shares, and Robert F. Looney, of Tennessee, ten thousand shares. And we do certify that such association will commence its operations on the fifteenth day of November next, and that it will terminate on the first day of November, in the year nineteen hundred and thirty-three.

Witness our hands and seals this the 27th day of October, 1883.

J. HARRIS ROGERS.
J. E. JOHNSTON.
ISHAM G. HARRIS.
A. H. GARLAND.
R. F. LOONEY.

CITY OF WASHINGTON,
District of Columbia, ss:

On this 27th day of October, 1883, personally appeared before me James Harris Rogers, Joseph E. Johnston, Isham G. Harris, Augustus H. Garland, and Robert F. Looney, to me known, and acknowledged that they had signed, sealed, and executed the foregoing instrument for the uses, purposes, and considerations therein named, and desired me to so certify.

In testimony whereof I have hereunto attached my hand and notarial seal.

[SEAL.]

R. B. NIXON,
Notary Public.

I, David A. Nunn, secretary of State of the State of Tennessee, do certify that the foregoing instrument, with certificate of acknowledgment of probate and registration, was filed in my office for registration on the 31st day of October, 1883, and recorded on the 31st day of October, 1883, in Corporation Record book G in said office, page 594.

In testimony whereof, I have hereunto subscribed my official signature; and, by order of the governor, affixed the great seal of the State of Tennessee at the Department in the city of Nashville this 31st day of October, A. D., 1883.

[SEAL.]

D. A. NUNN,
Secretary of State.

The WITNESS (continuing). Previous to the time these articles of incorporation were obtained—I do not remember the exact date, but I think it was an extra session of our legislature which was called some time during the summer of 1883—we endeavored to get an amendment to our general law of incorporation so as to make it broad enough to embrace all these things contained in our contract drawn up in New York, but we failed to get it, and we came to the conclusion that that was about all that could be gotten under our laws and covered—about everything that a single incorporation could be made to cover.

Now, about that time I got frequent letters from Dr. Rogers, insisting upon the incorporation of the company being had, the leading idea of which seemed to be a wish to sell stock, and that idea did not strike me very favorably.

Mr. RANNEY. You ought to put those letters in.

The WITNESS. Well, I have them here; do you want me to read them? Here is one dated April 11, 1883, which is of no sort of use to anybody.

Mr. RANNEY. If the fact is material you had better read it. You have stated the fact, and here is the letter, you say.

The WITNESS. Yes, I have the letter; what shall I do with it?

Mr. RANNEY. Give it to the chairman.

The CHAIRMAN. The letter can go into the record without being read.

The letter referred to is as follows:

(Show this to Senator H.)

GRAND CENTRAL HOTEL, *New York, April 11, 1883.*

MY DEAR COLONEL; I have just received a telegram from Harry, who had visited General Johnston (just returned from Danville, Va.), and found him "very gracious," "in high spirits about the inventions," "and confident of success in many of them."

Now, shall we have a charter? When? Several parties were anxious to buy stock, but until we get a charter such sales would have to be made prospectively, and it would be better, of course, to proceed regularly. We must, in some way, raise a large amount of money to utilize what is now perfect, but lacking machinery.

What do you say to my pet idea of building a telegraphic line to San Francisco? A short line would be crushed by the Western Union, and to utilize our cylinder, duplex, and quadruplex, and make the necessary machinery, would cost a vast sum of money. This would necessarily come from sales of stock. Then let us get to work, secure the charter, and put the stock on the New York Stock Exchange. Either this or sell the inventions, one after another, as they seem to strike the public mind.

I wrote you about the parties interested with me who would buy several if they could see them all tested on long lines, but even this will take a great deal of money, for, in order to test them properly, the finest machinery should be made, and I don't see how we are to get along without heavy sales of stock, even at a sacrifice of the first million dollars. How else can we realize the following?

Your friend,

J. W. ROGERS.

[Inclosure.]

We therefore propose to public consideration a powerful corporation to possess, a little in the future, vast laboratories, learned electricians, and skilled mechanics, standing ready to seize upon and develop whatever may be presented in the light of its influence, capital, and genius; nor would it seem extravagant to say that such a corporation, with its new methods, might convert great coal fields into torrents of electricity—that it might in time harness the very waves, clouds, water-falls, and winds to generate this mysterious agent of nature—and that busy marts and thoroughfares, with their bankers, tradesmen, and pompous fashions, may soon be seen thousands of miles distant, through the *telemorphe*, riding in carriages without horses, cars without steam, all lighted up by electric suns, in a new and enchanting civilization.

The WITNESS (continuing). Looking at that it, reminds me of a thing I intended to mention at an early period. There is a good deal said here about a pamphlet setting forth our organization, and that it was the basis of this contract. I observe here an extract, I suppose from the pamphlet alluded to. I have seen a good deal about pamphlets lying on the table before us all when we were discussing this thing, writing up the stock. I did see a pamphlet written by Dr. Rogers that I think this is an extract from. I do not know when it was written, but I saw it when I first came on to Washington. I think, perhaps, he sent it to me or handed it to me when I first came on to Washington in February, 1883. It was a rather poetical and high-drawn description of these various inventions in the doctor's usual florid style of writing.

By Mr. RANNEY:

Q. Have you got that pamphlet?—A. No, sir; I haven't got it. It has been brought out in testimony here several times.

Mr. RANNEY. I object to the witness's characterization of it.

The CHAIRMAN. State if that is the pamphlet you have referred to as having seen on the table (handing a pamphlet to the witness to examine).

Mr. RANNEY. I have no objection to the pamphlet being put into the record.

The WITNESS (after an examination of the pamphlet). I do not really know whether this is the pamphlet or not. It was something similar to this, and I take it it was the same one, but I really could not say that; it was something like it.

Mr. RANNEY. If it is the same one, I think it should go in if you are to testify about it.

The WITNESS. I have no objection in the world. I will give you the point that I wish to make about it.

Mr. HANBACK. Is this the one? (showing the witness a pamphlet.)

The WITNESS. No, sir; not that one.

Mr. RANNEY. If that is the one, let it be identified and put in.

The WITNESS. I do not know, but I think it is the one.

Mr. RANNEY. Then let it be printed in the record.

The pamphlet is as follows:

PAN-ELECTRIC COMPANY.

[Capital stock, \$5,000,000. Planted upon great electrical patents, and on the future possibilities of electricity.]

This company has been temporarily organized with the view of introducing into general use the several inventions described—belonging exclusively to the Pan-Electric Company, but more especially to develop others, as yet but partially advanced, as set forth herein, and to control by capital and foresight “the future possibilities of electricity.”

The patents and applications are as follows:

1. A new method of generating electricity by converting coal directly into electrical currents, and thus avoiding the cost (hitherto necessary) of acids or steam engines and dynamo-electric machines.

When electricity is generated by acids, only one-sixteenth of the force produced from one pound of coal can be gotten from one pound of zinc; but, *per contra*, the efficiency of the electric engine is four times as great as that of the steam engine, resulting in the ratio of one to one-fourth in favor of coal.*

It is well known that nearly 90 per cent. of coal is lost in propelling a steam-engine to generate electricity in a dynamo-electric machine, and hence the great value of a direct generation from coal only. To this end the Pan-Electric Company is working, and though not claiming ultimate success, can now show in its laboratory, No. 315 Four-and-a-half street, Washington, D. C., enough to promise great results in the near future.

2d. The company owns a new telephone system.

- (a) Telephone exchange.
- (b) Telephone transmitter.
- (c) Telephone receiver.
- (d) Telephone repeater.

Forming altogether a complete system for an opposition company; and when we consider that the stock in the Bell Telephone Company is \$10,000,000 and sells at \$192, it is evident that the Bell Company is worth about \$20,000,000; hence, if the Pan-Electric Company had only its telephone system (without anything else), the capital stock would not seem extravagant at \$10,000,000. But it has infinitely more, and is stocked at only \$5,000,000.

ELECTRIC-LIGHT SYSTEM.

3d. This system is covered by two patents granted and one applied for; and if the Brush Company, the Edison Company, and the United States Company, &c., all sell their stock above *par* and some as high as 400, the Pan-Electric stock, embracing a field so much wider than *mere electric lights*, should command more than *par* value.

A TELEGRAPHIC SYSTEM.

4th. The Pan-Electric Company owns a system of rapid telegraphy, which saves the work of half the experts and more than half the wires of the old systems.

- (a) Transmitter.
- (b) Receiver.
- (c) Printer.
- (d) Duplex.
- (e) Quadruplex.

This system is astonishingly simple, and yet can send several thousand words per minute for mere delivery, and about three hundred a minute which *repeat themselves*—from any receiving station—even hours or days after being received. Commerce requires that very long lines shall be broken into sections. For example: Messages sent by the Western Union from Boston to New Orleans are repeated by experts at New York, Pittsburgh, Cincinnati, and Memphis; for relays are useless, except when all the sections are worked simultaneously; and hence an enormous expense is incurred by repeating them; but by the new system, the words stop when required at any station, and as soon as the line can be obtained, spring forward without an expert. The well-known Rapid Telegraph saves *line wire*, but this advantage is, in a great measure, counterbalanced by the necessity of an expensive piano to set the messages up primarily, and then at each successive station the same expensive operation is required. The new system, however, while it saves thousands of miles of *line construction* by rapid transmission, also dispenses with *costly experts* at every repeating station. Hence this system alone will probably be worth more than the \$5,000,000 at which the whole company is now estimated.

The company takes pleasure in appending, from a letter of the inventor, the following extract:

"Notwithstanding the many years and great outlay which I have given to perfect a *cheap system of telegraphy*, it is not presented as a *new revelation*. I have only improved what existed before. Each individual electrician realizes that, like the coral insect, he can only build on the edifice in which millions of his kind are entombed; charlatans may have perfectly original systems in science with which to revolutionize the world. I pretend to be only a very small *factor*; in an infinite series of much greater ones, reaching back through our own Henry's and Franklin's to Greek and Egyptian

* Rankine's Steam Engine and other Powers, p. 541.

philosophers, who experimented with electron or amber; and my system only formulates, by combining their grand achievements with some trifling discoveries and devices, of my own; devices, however, based, as the Morse system was, on Prof. Henry's discoveries; and grateful for a noble friendship with which he honored me—as well as for his many kindnesses bestowed upon my father, when his pupil at Princeton. I lay this humble wreath upon his tomb."

Respectfully,

J. HARRIS ROGERS.

5. A new system of submarine and subterranean electric wires without insulation. This, since the patent was applied for, we have been advised by the Patent Office, has been partially anticipated in England; but still, circuits of great value, to work it—without which, it is impracticable, belong to the *Pan-Electric Company*, and, considering the present movement in every part of the country, to take all land wires from the poles in cities, it is evident that nothing could be of greater importance to telegraphy and telephony than such a system as the one indicated.

6. This company also owns a singularly cheap and effective gas-lighting electric apparatus.

7. Also, a burglar's-alarm, so simple that a child can put it in a house to indicate egress through any door or window, and announce it to every room instantly.

8. Telemorphe—so named, by the inventor, from the Greek words *tele* and *morphe*—from at a distance. By which persons many miles away can be brought in effigy into any social or business circle instantly.

This novelty of science, though as yet imperfectly developed, promises much—both to commerce and the social world.

9. The company also owns an electrical invention, by which fires, before they attain dangerous proportions, ring bells in every apartment of boats, ships, houses, and even the alarms of a city.

10. The company also own a singularly ingenious device by which servants and engineers, heating houses, hotels, &c., may see in the basement the exact temperature of every room in the building. This is of peculiar advantage to Government buildings, great hotels, colleges, &c.

11. A hotel annunciator.

12. An invention by which the vote of legislative assemblies may be taken by electricity, and every name recorded—electricity performing automatically the necessary addition and subtraction to ascertain the number voting; the majority and minority—all in one second, as against one hour consumed in "roll-call" or "tellers," saving to a country millions of dollars in the valuable time of great men!

Last, but not least—in fact above all—the company, without being visionary, is based upon a reasonable faith in "the future possibilities of electricity," and in the genius and capacity of a great and wise corporation to seize upon every new principle to be discovered hereafter. For each new principle, like the germ in the first acorn cup, is capable of infinite development.

For example—Rhumkoff's and Professor Henry's coils were each worth more than a \$1,000,000 when invented, and yet were comparatively worthless until Morse and Berleiner applied them to telegraphy and telephony. Other examples might be given.

We therefore propose to public consideration a powerful corporation to possess, a little in the future, vast laboratories, learned electricians, and skilled mechanics, standing ready to seize upon and develop whatever may be presented in the light of its influence, capital, and genius; nor would it seem extravagant to say that such a corporation, with its new methods, might convert great coal fields into torrents of electricity; that it might in time harness the very waves, clouds, water-falls, and winds to generate this mysterious agent of nature; and that busy marts and thoroughfares, with their bankers, tradesmen, and pompous fashions, may soon be seen thousands of miles distant through the *telemorphe*, riding in carriages without horses, cars without steam—all lighted up by electric suns, in a new and enchanting civilization.

In one word—that the Pan-Electric Company will soon take a high place in the markets of the world, and enrich all who are wise enough to measure its grand conceptions.

J. Harris Rogers, late electrician United States Capitol, will be chief electrician of the "Pan-Electric Company." His "Secret Telephone," stocked in New York at \$5,000,000, and his "Electro-Gas Telephone," stocked at \$1,000,000, have already enriched himself and others; which past successes promise more to the "Pan-Electric Company," embracing so vast a field of invention and discovery. Several other prominent electricians, distinguished Senators, Congressmen, capitalists, and far-seeing, solid business men, have already acquired various interests in the enterprise, and there being, as the company believes, fortunes for hundreds of men. The object of this circular is to invite others to examine in practical operation several of the above-described inventions at No. 315 Four-and-a-half street northwest, Washington, D. C.,

that the strongest organization possible, and one commensurate with the vast project, may be formed. Some one of the electricians will always be at leisure to operate several of the various inventions described.

One-tenth interest will be sold, only to moneyed men applying for it, at a merely nominal price to construct machinery, and other interests will be sold at auction on the New York Stock Exchange for what it may bring; but it is confidently predicted that the stock will ultimately go greatly above par. It may require years to effect this result, for we depend in no way upon stock-jobbing operations, but upon a manly and scientific development of real values which stand on their intrinsic merits.

Parties investing must examine through their own electricians, experts, and lawyers, who will judge whether the inventions are valuable or not, so that if they should, by unseen possibilities, be less valuable than we suppose, or if thieves should creep in and get control, and cheat us all, no stockholder can plead the baby act. It is a venture for enormous profits or a trifle. The company has so ventured, and would rather keep its stock and take its own chances of profit and loss than to let babies in.

The WITNESS (resuming). All I want to say about that is that I have seen that pamphlet and I presume I read it; I do not remember. I know I did not see it on the table when I was writing the articles of agreement. I think I saw it at the house, and I think the doctor handed it to me probably before I came on. But what I want to say is, that this constituted no part of that contract, and was not referred to, that I know of, by anybody. When I prepared this contract this was not the basis of it, and was never thought of by me or anybody else that I know of.

By the CHAIRMAN:

Q. I understand it had been prepared before your action?—A. Yes, sir; if this is the pamphlet, I saw it weeks before we went to New York, and that pamphlet there was prepared without any authority from us, and I never saw it for weeks afterwards. We never published any pamphlet, prospectus, or advertisement.

By Mr. EDEN:

Q. The company did not?—A. Never.

By Mr. RANNEY:

Q. That was furnished before you went in?—A. Yes, sir; the one I saw. I could not say that it is the exact one; but I think it is. I have one here.

Mr. RANNEY. Don't let there be any mistake about the identity of it.

By Mr. HANBACK:

Q. I understand you say you have an extract there from it?—A. Yes; that was in the letter from Dr. Rogers, which I submitted.

Q. If the extract was compared with the pamphlet it would be easy to determine?—A. I think it is the same.

By Mr. EDEN:

Q. I will ask you if that paper, or any one like it, was ever before the association and discussed by them?—A. Never that I heard of. It may have been present at some time during the talking at Dr. Rogers' house. I did not see it on the table, but I saw it, and I presume I read it. But at no board meeting was it ever discussed. Dr. Rogers wrote me some letters afterwards—months afterwards—having reference to this, in which he seemed to think that this was part of the contract, and perhaps he was authorized to think so. But this was not the principle embraced in it, and I did not have it in my mind at all when I was writing it. I do not see any clause in this pamphlet that corresponds with this extract from the letter, and it may have been a different pamphlet. Let me look at one I have here that somebody sent me. [Examining a pamphlet.] I do not see anything in that letter there that seems to correspond with the extract.

By Mr. RANNEY:

Q. The enumeration of the patents seem to be substantially the same in the contract and in the pamphlet?—A. That may be; I did not examine it with that view. But I do not find anything in it similar to that extract there from the letter, and it may have been altogether a different pamphlet. If the committee will bear with me a moment I think I can find one here. [After an examination.] No, I do not see anything in either one of these pamphlets that corresponds.

Q. Is the one you find the same?—A. No, sir; that is the one that Mr. Hanback handed me with our names on the back of it. The one I saw was before these articles were drawn up in New York, and I take it our names could not have been on that. Here is the extract from the letter: "We therefore propose to public consideration a powerful corporation to possess, a little in the future, vast laboratories, learned electricians and skilled mechanics," &c.

Mr. HANBACK. Here it is at the top of page 7 of the pamphlet.

The WITNESS. I see on this pamphlet the names of General Johnston, Senator Harris, Senator Garland, and myself. So far as I am concerned that is wholly unauthorized by me.

Mr. HANBACK. Does that extract speak of the telemorphe or riding in carriages without horses?

The WITNESS. Yes, sir; the pamphlet given me by the chairman may be the one Dr. Rogers handed me first. That is the one, I reckon.

By Mr. RANNEY:

Q. Do I understand you to say that your association never published any pamphlet?

—A. Never, and never authorized any.

Q. I see in the letter of General Johnston, dated April 7, 1883, to Dr. Rogers, he says: "I have received your letter, via Danville, and engraved certificates of stock, also the printed pamphlet, intended as you say as a substitute for that printed by our association itself."—A. I will explain that. This is what General Johnston meant; I understand the whole business. Just wait a moment and I will show you what this is; what was the contract. Dr. Rogers insisted that that was to be substituted for that. [Exhibiting.] General Johnston was insisting that this was a contract and that nobody could change it except those who made it. His letter is calculated to mislead. I read it in the papers at the time, and to make one believe that General Johnston was saying that that pamphlet there was the contract. But *this* is the one he was talking about.

A. He is speaking of the printed pamphlet.—A. He is speaking of the pamphlet here in my hand [exhibiting]. That is the contract that General Johnston was talking of. That is the contract, and General Johnston called it a pamphlet, and said Dr. Rogers could not substitute another one for that without the assent of those who made it.

Q. That is not a pamphlet. It is a mere copy of the contract itself.—A. Yes; but it is just what he meant when he speaks of it. I know what he meant. I saw him.

The CHAIRMAN. That letter with the extract attached is in evidence, and also the pamphlet.

Mr. MOFFATT. Had not both pamphlets better be printed?

The WITNESS. I am not making any mistake. There was no pamphlet printed by our company; no prospectus or advertisement ever authorized by it.

The CHAIRMAN. As the witness has spoken of this pamphlet and said that his name was unauthorized, it had better go in too. The pamphlet which is now handed to the stenographer to be marked you say was not authorized by the company?

The WITNESS. Never authorized by the company, never by me; though of course I could not say whether General Johnston or Senator Garland authorized it, but I never authorized it, and there was no action of the company authorizing it.

The following is the pamphlet referred to:

PAN-ELECTRIC COMPANY.

To be incorporated under a charter; and now primarily organized by General Joseph E. Johnston, Senator Isham G. Harris, Senator Garland, Rev. John Rochford, O. S. D., Hon. J. D. C. Atkins, Hon. Casey Young, J. Harris Rogers.

Executive committee.—General Joseph E. Johnston, Hon. Casey Young, J. Harris Rogers.

Offices, 315 4½ street, N. W., Washington City, and 39 Broadway, New York.

This company has been temporarily organized with the view of introducing into general use the several inventions described—belonging exclusively to the Pan-Electric Company; but more especially to develop others, as yet but partially advanced, as set forth herein, and to control by capital and foresight "the future possibilities of electricity."

The patents, inventions, and applications are as follows:

A TELEGRAPHIC SYSTEM.

1st. The Pan-Electric Company owns a system of rapid telegraphy which saves the work of half the experts and more than half the wires of the old systems. It now operates between Washington and New York, an accomplished fact, from 39 Broadway, New York, to Four-and-a-half street, Washington City.

This automatic telegraph is astonishingly simple, and yet can send more than a thousand words per minute for mere delivery, by the Bayne system, and about three hundred a minute, which *repeat themselves*, from any receiving station—even hours or days after being received.

Commerce requires that very long lines be broken into sections. For example, messages sent by the Western Union from Boston to New Orleans are repeated by experts at New York, Pittsburgh, Cincinnati, and Memphis, for relays are useless, except when all the sections are worked simultaneously, and hence an enormous expense is incurred by repeating them; but by the new system, the words stop, when required, at any station, and as soon as the line can be obtained spring forward without an expert. The well-known rapid telegraph saves line wire, but this advantage is, in a great measure counterbalanced by the necessity of an expensive piano to set the messages up primarily, and then, at each successive station, the same expensive operation is required. The new system, however, while it save thousands of miles of line construction by rapid transmission, also dispenses with costly experts at every repeating station. Hence this system alone will probably be worth more than the \$5,000,000 at which the whole company is now estimated.

The company takes pleasure in appending, from a letter of the inventor, the following extract:

"Notwithstanding the many years and great outlay which I have given to perfect a *cheap system of telegraphy*, it is not presented as a *new revelation*. I have only improved what existed before. Each individual electrician realizes that, like the coral insect, he can only build on the edifice, in which millions of his kind are entombed; charlatans may have perfectly original systems in science with which to revolutionize the world. I pretend to be only a very small *factor*, in an infinite series of much greater ones, reaching back through our own Henrys and Franklins, to Greek and Egyptian philosophers, who experimented with electron or amber; and my system only formulates, by combining their grand achievements with some trifling discoveries and devices of my own; devices, however, based, as the Morse system was, on Professor Henry's discoveries; and grateful for a noble friendship with which he honored me—as well as for his many kindnesses bestowed upon my father when his pupil at Princeton, I lay this humble wreath upon his tomb.

"Respectfully,

"J. HARRIS ROGERS."

2d. A half interest in a new system of submarine and subterranean electric wires without insulation. This, since the patent was applied for, we have been advised by the Patent Office, has been partially anticipated in England; but still circuits of great value, to work it, without which it is impracticable, belong to the Pan-Electric Company, and considering the present movement in every part of the country, to take all land wires from the poles in the cities, it is evident that nothing could be of greater importance to telegraphy and telephony than such a system as the one indicated.

3d. This company also owns a singularly cheap and effective gas-lighting electric apparatus.

4th. Also a burglar's alarm, so simple that a child can put it in a house to indicate egress through any door or window, and announce it to every room instantly.

5th. Telemorphe—so named, by the inventor, from the Greek words *tele* and *morphe*—*form at a distance*, by which persons many miles away can be brought in effigy into any social or business circle instantly.

This novelty of science, though as yet imperfectly developed, promises much; but time and experiments are required to render it practicable.

6th. The company also owns an electrical invention by which fires before they attain dangerous proportions ring bells in every apartment of boats, ships, houses, and even the alarms of a city.

7th. The company also owns a singularly ingenious device by which servants and engineers heating houses, hotels, &c., may see *in the basement* the exact temperature of every room in the building. This is of peculiar advantage to government buildings, great hotels, colleges, &c.

8th. A hotel annunciator.

9th. An invention by which the vote of legislative assemblies may be taken by electricity, and every name recorded—electricity performing automatically the necessary *addition* and *subtraction* to ascertain the *number voting*, the *majority* and *minority*—all in *one second*, as against one hour consumed in "*roll-call*" or "*tellers*," saving to a country *millions of dollars in the valuable time of great men*!

10th. A new method of generating electricity by converting coal directly into electrical currents, and thus avoiding the cost (hitherto necessary) of acids or steam-engines and dynamo electric machines.

When electricity is generated by acids, only one-sixteenth of the force produced from one pound of coal can be gotten from one pound of zinc; but, *per contra*, the efficiency of the electric engine is four times as great as that of the steam-engine, resulting in the ratio of one to one-fourth in favor of *coal*. (Rankine's Steam Engine, p. 541.)

It is well known that nearly 90 per cent. of coal is lost in propelling a steam-engine to generate electricity in a dynamo-electric machine, and hence the great value of a direct generation from coal only. To this end the Pan-Electric Company is working, and, though not claiming ultimate success, can now show in its laboratory, No. 315 Four-and-a-half street, Washington, D. C., enough to promise favorable results.

11th. The company owns a new telephone system.

(a)—Telephone exchange.

(b)—Telephone transmitter.

(c)—Telephone receiver.

(d)—Telephone repeater.

It has long been known that a copper wire with steel core would, with the Bell telephone, convey articulate speech to a great distance, and Prof. Elisha Grey's *first and most imperfect* telephone was lately worked over it, from New York to Chicago; also the Bell; and Baxter's modification of the Pan-Electric telephone; but this wire costs \$500 per mile, and the problem is to speak at great distances over *common wires*. This has been effected by the Pan-Electric Company, from New York to Washington City.

Their devices form altogether a complete system for an opposition company; and when we consider that the stock in the Bell Telephone Company is \$10,000,000 and sells at \$192, it is evident that the Bell Company is worth about \$20,000,000; hence if the Pan-Electric Company had only its telephone system (without anything else), the capital stock would not seem extravagant at \$10,000,000; but it has infinitely more, and is stocked at only \$5,000,000.

ELECTRIC LIGHT SYSTEM.

12th. This system is covered by two patents granted and one applied for; and if the Brush Company, the Edison Company, and the United States Company, &c., all sell their stock above *par*, and some as high as 400, the Pan-Electric stock, embracing a field so much wider than *mere electric lights*, should command more than *par* value.

Last, but not least—in fact above all—the company, without being visionary, is based upon a reasonable faith in “the future possibilities of electricity,” and in the genius and capacity of a great and wise corporation to seize upon every new principle to be discovered hereafter; for each new principle, like the germ in the first acorn cup, is capable of infinite development.

For example, Rhumkoff's and Professor Henry's coils were each worth more than a million dollars when invented, and yet were comparatively worthless until Morse and Berleiner applied them to telegraphy and telephony. Other examples might be given.

We therefore propose to public consideration a powerful corporation to possess, a little in the future, vast laboratories, learned electricians, and skilled mechanics, standing ready to seize upon and develop whatever may be presented in the light of its influence, capital, and genius—nor would it seem extravagant to say that such a corporation, with its new methods, might convert great coal fields into torrents of electricity—that it might, in time, harness the very waves, clouds, water-falls, and winds to generate this mysterious agent of nature—and that busy marts and thoroughfares, with their bankers, tradesmen, and pompous fashions, may soon be seen thousands of miles distant through the *telemorphe*, riding in carriages without horses, cars, without steam—all lighted up by electric suns, in a new and enchanting civilization.

In one word, that the Pan-Electric Company will soon take a high place in the markets of the world, and enrich all who are wise enough to measure its grand conceptions.

J. Harris Rogers, late electrician United States Capitol, will be chief electrician of the Pan-Electric Company. His “secret telephone,” stocked in New York at \$5,000,000, and his “electro-gas telephone,” stocked at \$1,000,000, have already enriched himself and others; which past successes promise more to the Pan-Electric Company, embracing so vast a field of invention and discovery. Several other prominent electricians, distinguished capitalists, and far-seeing, solid business men have already acquired various interests in the enterprise, and there being, as the company believes, fortunes for hundreds of men, the object of this circular is to invite others to examine in *practical operation* several of the above-described inventions at No. 315 Four-and-a-half street, northwest, Washington, D. C., and No. 39 Broadway, New York, that the strongest organization possible, and one commensurate with the vast project, may be formed. Some one of the electricians will always be at leisure to exhibit some of the various inventions described.

One-tenth interest will be sold, only to moneyed men applying for it, at a merely nominal price to construct machinery, and other interests will be sold at auction on the New York Stock Exchange for what it may bring; but it is confidently predicted that the stock will ultimately go greatly above *par*. It may require years to effect this result, for we depend in no way upon stock-jobbing operations, but upon a manly and scientific development of real values which stand on their intrinsic merits.

Parties investing must examine through their own electricians, experts, and lawyers, who will judge whether the inventions are valuable or not; so that if they should, by unseen possibilities, be less valuable than we suppose, no stockholder can plead ignorance. It is a venture for enormous profits or a trifle—the company has so ventured, and would rather keep its stock and take its own chance of profit and loss than to be responsible for the many defects which exist in every new invention.

By Mr. RANNEY:

Q. I understand you to say that that was a thing printed before you went to New York?—A. No, sir; that was another one.

By Mr. MILLARD:

Q. Did not the association pay for the printing of it?—A. No, sir; except for the ones that Dr. Rogers and I burned up—the ones that were burned.

Q. There were certain pamphlets printed by the association?—A. Yes, sir, and burned up the next day.

Q. Why?—A. Because Dr. Rogers and I, neither of us, thought they ought to go out. I thought they should never be published at all, and they were never sent out.

Q. What was substituted in their place?—A. Nothing. We paid \$25 for them, and Dr. Rogers and I talked the matter over, and we both concluded we had better not send those things out, and we put them in the fire.

Q. When were they printed?—A. It must have been in January or February, 1884.

By the CHAIRMAN:

Q. I understand you to say that neither of the pamphlets in evidence is of that lot?—A. Oh, no. That was prepared by a friend of his, and we paid him \$25 for it; and I thought it was not what it ought to be, and we put them in the fire.

Q. You may proceed with your statement.—A. These articles of incorporation bear date, I think, the 30th of October, 1883. About that time I came on to Washington, perhaps a little earlier, and soon after I got here, in the fall of 1883, I saw Doctor Rogers, perhaps the next day, and he urged that we should organize; and so on. In the mean time he had reported to me, and I also learned, what had been the result of these experiments and tests, more especially with the telephone, and I had recommended, perhaps, in letters I had written before, that inasmuch as the law of no State that I had examined was broad enough in its scope to cover all these inventions, we had better divide it and get articles of incorporation for a telephone company and one for a telegraph company. That was perfectly understood and assented to by everybody and no objection raised by Dr. Rogers or anybody else that I heard of; and the actual act of incorporation for the telegraphic company in New York I had nothing to do with, and never saw it. All I know about it is that I find the certificate showing that such articles of incorporation were obtained in New York, and his asserting that he obtained it in letters from Dr. Rogers. I thought that was perfectly agreed upon that we should get articles of incorporation for those two companies, and if in the future it was found necessary or practicable we might get further corporate powers to embrace anything else that might be covered in this original agreement; and I thought they were carrying out what was the understanding and intention in conformity to the wishes of everybody connected with it. That was the view I had. Well, we met here, and had the first meeting of the board. I will verify my statements by the documents as I go along. I find I will have to dissipate a great many of these stories that the newspaper folks have been getting up. I am sorry, but I will have to do it. I want to say to the committee that there has not been an *i* dotted nor a *t* crossed in these books since this investigation was agitated.

Mr. MILLARD. Have you the certificate of the organization of the Pan-Electric Telegraph Company?

The WITNESS. Yes, sir; I have it among my papers.

Mr. MILLARD. You need not stop now to search for it.

The WITNESS. It is a mere certificate. I do not know whether it is the law in New York that the actual articles shall be transcribed and delivered to the parties as it is in Tennessee.

Mr. MILLARD. The point I want to inquire about is whether the certificate complied with the law.

The WITNESS. I do not know. I never saw it until I looked over the papers in reference to this investigation.

By the CHAIRMAN:

Q. Where is your charter for the Pan-Electric Telegraph Company?—A. I say I never saw anything but the certificate from one of the officers in the State of New York showing that such a charter had been obtained.

Q. Giving a copy of the articles?—A. No, sir; nothing but the certificate that I have ever seen.

Q. You have that among the papers?—A. Yes, sir.

Q. Were there articles of association signed for the New York incorporation?—A. I never saw them.

Q. You never signed any?—A. Possibly I might; I do not remember.

Q. Do you know whether a patent or charter issued from New York?—A. All I know of is the certificate I speak of, and I talked with Dr. Rogers and the balance of them about it; but I presume there was.

Q. Where is that certificate?—A. It is among my papers. It will take some time to look it up.

Q. Is it in the form of a charter or patent?—A. No, sir; it is just in the form of a certificate that a patent has been granted. I am satisfied that there was such a one issued.

Q. Who would be the custodian of it?—A. I assume it is still in the office in New York.

Q. As I understand, you know nothing whatever of the terms of this charter obtained in New York?—A. No, sir; I do not.

Mr. MILLARD. The certificate properly recorded and filed would be the organization of the company in New York, and that is why I asked you if you had it here.

The WITNESS. The certificate does not set out anything except that the patent has been obtained. It does not give the names of anybody. (The witness then produced the "record" book of the Pan-Electric Telephone Company.) I find from this record that I have brought here, that on the 23d of November, 1883, we had a meeting, and that this company was organized—that is, the Pan-Electric Telephone Company. The record reads as follows:

ORGANIZATION OF THE PAN-ELECTRIC TELEPHONE COMPANY.

WASHINGTON, D. C., *November 23, 1883.*

At a meeting of the corporators and stockholders of and in the Pan-Electric Telephone Company held in the rooms at 419 Sixth street northwest, in the city of Washington, D. C., on the 23d day of November, A. D. 1883, there being present Joseph E. Johnston, Isham G. Harris, Augustus H. Garland, John D. C. Atkins, J. Harris Rogers, Robert F. Looney, and Casey Young, representing in the aggregate more than four-fifths of the capital stock of said company, when the following proceedings were had:

On motion of Mr. Robert F. Looney, Mr. Joseph E. Johnston was called to the chair to preside over the meeting, and Mr. Casey Young appointed as secretary.

The charter procured for the company from the State of Tennessee was read and approved and accepted. It was to organize the company under and in pursuance of its provisions, and to establish an office in the city of Memphis, Tenn., and one in the city of Washington, D. C.; therefore Mr. Isham G. Harris offered the following resolution:

Resolved, That the Pan-Electric Telephone Company organize by the election of a board of seven directors, who shall hold their office for a term of twelve months and until their successors are elected and qualified, and that the said board shall elect a president and such other officers as may be deemed necessary for the transaction of its business.

On motion of Mr. J. D. C. Atkins, the meeting proceeded to elect a board of seven directors, whereupon the following-named gentlemen were chosen to constitute said board to serve for a period of twelve months, viz: Joseph E. Johnston, Isham G. Harris, Augustus H. Garland, Robert F. Looney, John C. Brown, J. Harris Rogers, and Casey Young.

On motion of Mr. Robert F. Looney, the above-named board of directors proceeded to elect officers of the company for the ensuing year, whereupon the following-named gentlemen were chosen as said officers:

For president, Mr. Joseph E. Johnston.

For vice-president, Isham G. Harris.

For secretary and treasurer, Casey Young.

Attorney, Augustus H. Garland.

Electrician, J. Harris Rogers.

Mr. Casey Young offered the following resolution:

Resolved, That a committee of three be appointed by the president of the board to prepare by-laws and regulations for the Government of the company and by which the business shall be conducted, and report the same at the next meeting; which being unanimously adopted, the following gentlemen were appointed as said committee: Mr. A. H. Garland, Mr. R. F. Looney, and Mr. Casey Young.

Mr. Isham G. Harris offered the following resolution:

Resolved, That a committee of three be appointed to confer with officers and representatives of the Bell Telephone Company in respect to the making of some arrangements with said company by which the receiver and transmitter of the Pan-Electric Telephone Company may be used in connection with the Bell telephone, and to make

such other arrangements with said company as they may be able to effect for mutual co-operation in the telephone business.

The resolution was unanimously adopted, and the following-named gentlemen were appointed members of said committee: Mr. Joseph E. Johnston, Mr. Augustus H. Garland, and Mr. J. Harris Rogers.

On motion of Mr. Robert F. Looney the electrician was directed to place a telephone in the Congressional Hotel, Washington, D. C., for the purpose of exhibiting the workings of the same.

Mr. J. Harris Rogers presented a bill for the sum of \$413.81 expended by him on behalf of the company, which was approved and ordered to be paid by the treasurer.

On motion the meeting adjourned, subject to the call of the president.

Read and approved.

J. E. JOHNSTON,
President.

CASEY YOUNG,
Secretary.

The WITNESS. In regard to that portion which records the appointment of a committee of three to make arrangements with the Bell Telephone Company to use the receiver and transmitter of the Pan-Electric Company, perhaps I had better explain what it means. At that time we had no idea of any conflict with the Bell Telephone Company. We knew that they had exchanges in the various cities and towns of the country, and thought we might connect our exchanges with their exchanges. That is what that had reference to. We were not so well educated in telephonic literature at that time as we have become since.

Mr. RANNEY. You mean since then you have come in serious conflict with the Bell Telephone Company?

The WITNESS. Oh, yes; very serious. There is where the Pan-Electric Company was born.

By Mr. MILLARD:

Q. When was that?—A. The 23d of November, 1883. That was the first meeting; that was the organization of it.

By Mr. RANNEY:

Q. You had become satisfied then that the Bell Telephone had an odious monopoly?—A. I had not become satisfied that it had become such a monopoly that it controlled the newspapers of the country and the courts.

Q. You wanted to join with them?—A. Yes, sir; if I had known it was such a big company I would have been more anxious to join them. Another thing, about the expenses in this matter: While I was at Memphis, before I came on here, preceding this meeting, I got a letter from Mr. J. Harris Rogers, or General Johnston, giving me an account—

By Mr. MILLARD:

Q. Have you the letters?—A. No, sir; and it is not necessary to have them, that is all there is about it. They drew on me, Harris Rogers or General Johnston, I do not know which, for, I think, \$105, perhaps it was more or less. I know Harry Rogers wrote me a note that he had given me credit for \$5 which I had paid out in New York for printing that contract. But they drew on me for that amount, which I understood to be the pro rata for each one of the parties for moneys expended in making these investigations. I sent that money on—I forget the exact amount, but I put it down on the books for \$105—it was something in that neighborhood; Harry Rogers will know the exact amount. Now, after this organization, after the birth of this baby on the 23rd of February—

Mr. HANBACK. You refer now to the Pan-Electric Telephone Company?

The WITNESS. Yes; to the Pan-Electric Telephone Company. I believe at the same meeting, or at the next succeeding meeting, we organized the Pan-Electric Telegraph Company with the same officers and the same board of directors, and nothing else has been done in connection with that since, and I have that recorded in a book which I have not got here this morning; but that is the only entry in it—the organization of the company with the same officers. Now there may have been a paper issued to Dr. Rogers, some such paper as I will call attention to directly, embracing some of that stock. I do not know how that is, but I will find out as I go along.

Previous to coming on here it had been an idea in my mind in the beginning as I talked to a number of my associates; my idea was that, with our own means and our own money, we should establish an exchange. I wanted to put it up in Washington City, I said, where I lived, so that this instrument could be thoroughly tested and its utility thoroughly demonstrated. I was satisfied of its value working on single lines as I had seen it, but I had never seen it operating in exchanges, and I did not know how it would operate there. I was satisfied with the value of the instrument so far

as I had examined it, but all my idea was, and I suggested it to a number of my associates, that with our own money we should establish an exchange and put this thing in operation, because, I said, if it operates successfully, if it is the instrument we believe it to be, it is an extremely valuable undertaking. And I wrote in reply to one of these two letters to Dr. Rogers (perhaps it has been published) that I recommended that course to be pursued. I estimated that \$5,000 apiece from each one of us would accomplish that result. So that was still my idea when we had this meeting on the 23d of November, 1883, and those proceedings there were had, and I discussed it after that time. We had a settlement of some expenses that had been incurred, and, to go over your question and to disabuse these newspaper theories, it amounted, as the books showed, to over \$400 each. Harry Rogers would incur expenses, and I found them correct always and paid them. There was something said the other day about my refusing to pay an account that was presented to me.

Mr. MILLARD. The \$40 account?

The WITNESS. Yes; it was a small account. These things became a matter of extreme annoyance to me. I had not proposed to go into the business of a bookkeeper; I am not very well qualified to go into that business any way, and when they elected me secretary and treasurer it was under my protest, and I thought it was merely temporary and consented. But it got to be a very serious annoyance to me. I was a member of Congress and very busy, and sometimes accounts would be presented to me in the House or on the street, and this very account, as I now remember, was presented to me in the corridor of the Capitol. I said, "Bring it to my room and I will pay it to you." It was not, as Dr. Rogers suggested, because I did not have the money, for I had the money. He was fretted and provoked about it. I do not know what the man reported to him, but I did not repudiate it as an account. I simply did not think it was a proper place to present accounts, in the corridor of the House, such an account, and I said, "Come to my room and I shall be pleased to settle it." But I saw a note from Dr. Rogers to General Johnston about it, in which I saw he had taken offense. I met him and told him how the thing happened and he said it was all right, and that was the last I heard of it until now. I think it is barred by the statute now, and that is all I know about that thing.

After that meeting of November 23, it was still my idea that we should put up an exchange here and in Memphis, and I urged it, and very soon after that time, I do not remember the exact date, but I can come very near it by these papers, an attorney at Memphis, a friend of ours, General Wright, came on here and brought Mr. D. E. Myers, of Indianapolis, Ind., a gentleman who had been the agent of some capital stock in the west, I understood, in the purchase of lands down in our country, swamp-lands of Arkansas and pine-lands of Mississippi. I understood that he was a gentleman who had at his command a considerable amount of capital. He came here with General Wright, General Wright having previously notified us of their coming by telegraph.

By Mr. RANNEY:

Q. Was that Marcus Wright?—A. No, sir; General Wright, of Memphis. He telegraphed to me that he would be here in a few days to negotiate with us about the telephone. It had been mentioned previously, too, by Mr. Looney, who was an acquaintance of Mr. Myers, and as Dr. Rogers said the other day that Mr. Looney had something to do with it in his testimony I think it is very likely. But they came on here and we had a conference with them, and they made an examination, I suppose, of the inventions and the law of the thing, &c. But just previous to that time, or about that time, we went to Mr. Marble, the former Commissioner of Patents, in regard to the matter. We were extremely anxious that nobody should be misled. As Dr. Rogers said, we desired that nobody should be deceived, and I determined so far as I was concerned that no man should be deceived; that nobody should be misled, and that we would be as perfectly certain as it was possible for us to be that we were not venturing upon any uncertain ground. So we went to see Mr. Marble and got from him a written opinion as to the validity of our patents in respect to their mechanical construction. That opinion I have here, and I want to put it in evidence. We went to him and obtained from him a written opinion in which he advised us that there was no infringement upon the part of the Rogers telephone, of the Bell telephone, or any other telephone. We thought he was competent to advise us on that subject and we went to him for his advice. I have his opinion here among some of these papers.

By Mr. HANBACK:

Q. Was he Commissioner of Patents at that time?—A. No, sir; he was out of office; was a practicing lawyer here.

Q. He was Commissioner of Patents in 1882?—A. Yes; but this was in 1883. We did not get him. Perhaps, if he had been Commissioner of Patents, according to the chronicles of the history of this matter, we would have got him.

By Mr. RANNEY:

Q. You refer to Mr. E. M. Marble?—A. Yes, sir.

Q. He was interested in your stock, was he?—A. At that time?

Q. Yes.—A. Not to my knowledge.

By Mr. MILLARD:

Q. Did he not become interested in some of it?—A. I understood afterwards from Mr. Rogers that he had given him some of the stock.

By Mr. RANNEY:

Q. Let us see the date of that opinion.—A. I am looking for it now. I have it somewhere. Mr. Chairman, here are these letters, and I will turn them over and get them out of the way.

By Mr. MOFFAT:

Q. What letters?—A. They are the letters of Dr. Rogers called for. There is nothing in them which will throw any light upon this investigation at all, but I will put them in. [The letters were handed to the chairman.] I may have fifty or one hundred more just like them, but they have nothing to do with this matter. They do not prove any Credit Mobilier at all. [After a search.] I do not find that paper, but it is the opinion which he gave us.

Mr. RANNEY. I wish you would not state about the opinion unless you produce it.

The WITNESS. I am going to state every fact which I think will exonerate us from every improper imputation. [After a further search.] I do not find it now. Here is a subsequent opinion. Perhaps you might as well put these in here. [Producing two scrap-books full of letters.] I have about five volumes more.

The CHAIRMAN. We will have them examined.

The WITNESS. I will explain that that book there [referring to one of the scrap-books], contains the letters that I received from about January 1, 1884, up to May or June, 1884. At that time I went away, and the letters I received I received on the wing, and they are scattered about among other letters or destroyed or not kept at all. I have four or five volumes more like them which contain my private and political correspondence.

By Mr. EDEN:

Q. Do those relate to these matters?—A. Some of them. There are two letters there directed to Attorney General Garland (I know how happy these gentlemen may be to get them) after he became Attorney-General. One was from Mr. Strong, of Chicago, inquiring something about the Bell patents and titles. The Attorney-General just referred that letter to me without further notice, and the subsequent one in the same way. They were addressed to him as counsel of the company, one by Mr. Strong, of Chicago, and another by Mr. Skinner, of Baltimore. They were addressed to him and forwarded to me.

Q. They were not addressed to him as an official?—A. Oh, no, sir; one was an old friend of his, Mr. Burke, of the Helena World, who wrote to him about the status of this company. That letter was referred to me. I saw Mr. Burke afterwards. He got no answer from Mr. Garland, but when he got my answer he wrote me. Soon after Mr. Garland was made Attorney-General Mr. Skinner wrote to him, as the counsel of the company, about some stock he was entitled to, and that was forwarded to me, and I answered Mr. Skinner's letter. There are also private letters there that do not amount to anything.

By Mr. HANBACK:

Q. You did not find the opinion of Mr. Marble. Will you produce it if you do find it?—A. Yes, sir; I will produce it to the committee. As I stated before, it was my own idea—I don't know how far my associates participated in it—that we should put up this thing with our own means and develop it, and see how it was. But about that time Mr. Myers came with General Wright, as I said, and proposed to buy from us the right to use our telephone in the States of Indiana, Illinois, and Ohio, as I remember (here is the contract here), for \$150,000. It was not \$10,000, as Dr. Rogers stated. Of course he forgot about it. It was \$150,000. We were to receive a stated royalty of \$5 per annum for each telephone used, and we were to have a certain amount of the local stock of the company. That contract was prepared by General Wright, the attorney of Mr. Myers, in exact accordance, he told me, with the contract of the Bell Telephone Company with the local company in Memphis. We have been told that we did wrong and ought to be hung, but we had a good example to follow.

By Mr. RANNEY:

Q. Didn't you have that opinion of Mr. Marble's in your hand awhile ago?—A. No, sir. I had one which I will hand you if you desire it, but I cannot find the other one. However, I will give you a copy of it. The one I have here refers to the National Im-

proved Company. Here is the contract we made with Mr. Myers. It is a pretty long document, but in order to satisfy some of these gentlemen I will read it if they desire. Shall I read it, Mr. Chairman?

The CHAIRMAN. You may proceed.

Q. What is the contract?—A. It is the first contract we made with Mr. Myers.

Q. State the substance of it, that is sufficient, and put it in proof if you can verify it.—A. Very well. It is a long document.

Q. What is the date of it?—A. It is dated the 15th of February, 1884. That is the date of the first contract made with Mr. Myers.

Q. That opinion of Mr. Marble must have been prior to that?—A. Yes, sir; these are the terms: For the State of Illinois, \$50,000; for the State of Indiana, \$25,000; for the State of Minnesota, \$20,000. There has been a great deal of conjecture about these things, and I hope these gentlemen will get it right. Those are the terms for which these three States were to be disposed of. In addition to that we were to receive a royalty of \$6 a year for each telephone, and 25 per cent. of the local stock. That was the first contract we made with Mr. Myers. Mr. Myers remained here several days, the contract was made, and then he left. We were to furnish him within thirty days (I think that was the time, or perhaps within twenty days) three hundred telephones, which he proposed to put in immediate operation.

It was set out in this contract that we had to do it within a certain time, because we were anxious to put it into operation to test its utility and value. He was to have three hundred telephones in this specified time. I sent Dr. Rogers and Harry Rogers to New York to have the telephones manufactured. They were gone some three weeks and we found we could not get the telephones (it was probably longer than that) and the time expired. Mr. Myers was telegraphing us every day about those telephones, to forward the telephones, but we were not able to get them. Then after a while the telephones came on here and they would not operate, would not work, and we kept writing and telegraphing Mr. Myers we would send them if we could, and he kept complaining, and then came on himself. But still we could not get them. His lawyer, Mr. Wright, said: "If I were not a friend of you gentlemen I would sue you for damages for your treatment of my client. You have involved him in great expense and he will now have to abandon the whole enterprise, because you have not furnished the telephones within the time agreed upon. The capitalists in Indianapolis who put up the funds have become disgusted with the whole business, and he will have to give it up." Mr. Myers made that representation through his attorney, and I said to him, "I admit that we have treated you badly; it is our fault and not yours that the contract has not been carried out, and, if you say so, we will cancel the whole contract." And we did so, and it is marked across the face of it "Cancelled." About that time some gentlemen in Saint Louis—one in Memphis and one in Saint Louis —

By Mr. HANBACK:

Q. Before you go on with that I would like to ask you this question: Had any part of the \$150,000 to be paid been paid, or when was it paid?—A. It was to be paid in instalments, \$25,000 in thirty days, and so much more whenever so many telephones were furnished. There are various specifications in regard to the payments; it is a long paper. I got a young man to transcribe these contracts into the book, and he got them mixed up, and has not put them in the order in which they should come, and the book has not been indexed either.

Now, on the 14th of March, 1883, we made a contract with Dr. Harlan and Mr. G. A. Gustin, covering the District of Columbia at first—and while I am here at this point I want to say something about this negotiation with the Bell Company that was spoken of the other day. It is a little tangled up and muddled, and I want it straightened out as I go along. It was stated in the testimony of Dr. Rogers and Harry Rogers that there had been some negotiation between us and a man named Gustin in respect to selling out to the Bell Company. I want to explain that. Either Dr. Rogers or Harry Rogers, or both of them, told me they had a conversation with a gentleman who seemed to be very conversant with telephone matters, who seemed to have some relation with the Bell Company, and seemed to be informed about the matter; that he had some talk with them, and they gathered the impression in some way or other that he was a sort of agent or representative of the company.

They had another interview with him, and he led them to believe that he had such influence with the Bell Company, and especially with Mr. Vail, that he could make the most favorable terms between our company and the Bell Company. Dr. Rogers told me about that, but I did not have much faith in it, and I do not think he had either, but thought it was well enough to see what there was in the fellow, and what he did know. But I understood from him, and perhaps from Mr. Gustin himself, I do not know, that his relations with Mr. Vail were very intimate, and he also said that they were very anxious to get hold of our transmitter and receiver and telephone, and that a most favorable trade could be made with them, and it was Gustin's suggestion I think, that our stock should not be watered, but that the Bell Company stock

should be watered sufficiently to enable them to give us three, four, or five millions for our invention. When that was reported to me, I did not have confidence in the statement; I didn't ever expect he had such power in the Bell Company, and did not think they would pay any such price.

By Mr. RANNEY:

Q. What date was that?—A. On the 14th of March the contract was made with the parties, and that was along about the first of January or February, 1884.

Q. At the first meeting of your company, I believe you appointed a committee to confer with the Bell Telephone Company?—A. Yes, sir; but that is entirely in regard to another matter. I am now trying to explain the testimony of Dr. Rogers given the other day, because I do not want this thing to go out to the country in a false light, and I don't intend that it shall. I intend that the whole facts shall go out, and I intend to stand on them. There will be no apologies offered to anybody. That was the conversation reported to me. I did not have any faith in it, and I do not think the doctor had much. But it resulted in nothing—that suggestion of Mr. Gustin's to water the Bell stock, not our stock, to enable them to give us three or four million dollars. I did not think it would pay them to do it, and did not pay any attention to it.

This same man Gustin and Dr. Harlan came to us afterwards, after this conversation occurred, and we made an arrangement with them by which we agreed to let them have the right to use this instrument in the District of Columbia upon their giving to us only one-quarter of their local stock. I thought it was a very poor trade, and I never would have made it. It was made in my absence. But Dr. Harlan thought he was something of an electrician and mechanic and knew something about these things, and we were anxious to have an exchange established somewhere, the primary object always being that we should have an opportunity of establishing the utility of, the value of, this instrument. These gentlemen agreed that within a specified time they would put an exchange in operation in the city of Washington, and that was the inducement to let them have it upon those favorable terms, that they should do that. Well, they did not do it, and there was some little complaint about it; I made some myself; and afterwards we made another agreement with them, suggested to me the first time I ever heard of it by Dr. Rogers. Here is a letter I received from Dr. Rogers which called my attention for the first time I ever heard of it, to a change of our contract with Mr. Gustin and Dr. Harlan, to enlarge it so as to embrace not only the District of Columbia, but the States of Delaware, Maryland, Virginia, and West Virginia. Here is the letter (reading):

315 FOUR AND-A-HALF STREET NORTHWEST,
March 9, 1884.

MY DEAR SIR: Dr. Harlan and associates propose to add to their territory Maryland, Virginia, and West Virginia, and offer for the same to the parent company one quarter of the stock and to manufacture (as manufacturers only) their own instruments. Both I and Harry would cordially acquiesce if the directors should accept this proposition. I believe they would carry the stock to par and we would be at no expense.

Yours, truly,

J. W. ROGERS.

The WITNESS. I thought that was a bad trade, and I would not have made it myself.

By Mr. HANBACK:

Q. That is the letter of March 9, which you have read?—A. Yes, sir,

Q. I understood you to say that the original contract was dated March 14?—A. No, sir; I think the original contract was March 4.

Q. I misunderstood you.—A. I did say March 14, but that has reference to this subsequent contract embracing all these States. I will explain it in a moment. I thought that was a bad arrangement, but my associates differed with me, because they said these gentlemen would put up the instruments, and it would utilize their advantages and get the thing going; the contract for the District of Columbia had been made previous to that time. I think it is dated the 4th of March.

By the CHAIRMAN:

Q. Is it material, in your view, to go into so much detail in regard to this particular contract?—A. Well, I do not know; I am meeting the case made in the newspapers; it is not made anywhere else. We have been charged by the press with all sorts of irregularities.

Q. Still I do not see the use of going into so much detail.—A. I will do as the committee desires. I am prepared to answer any charge made in the newspapers or

anywhere else, and can show that our transactions are perfectly legitimate and lawful in every part and the whole of them. But if the committee does not desire to hear me—

The CHAIRMAN. You may make the statement in your own way; I merely make the suggestion.

The WITNESS. The reason I want to do it is that it has been charged that we made contracts and got \$40,000,000. I want to show how much basis there was for that sort of a story and for these fabulous stories about our selling \$40,000,000 of stock and swindling everybody in the country. We made this contract with these gentlemen to receive those States for which we never got a dollar; we have not yet. That was capitalized afterwards in a company known as the Washington Telephone Company, with General Bradley T. Johnson as president. That company was capitalized at \$5,000,000. I said that was too much. They insisted it was not, but finally it was reduced to half that sum, and we got one-quarter of the stock, and here it is (pointing to a bundle of papers). I have all the stock here yet. We received one-quarter of the stock of that company, General Bradley T. Johnson being the president. They were to go on and establish an exchange at once, but they did not do it, and that contract is legally forfeited. We let those gentlemen go on because of their friendly relations to us, but legally the contract is forfeited, and was long ago under the terms of it. They have gone on and put up some telephones in Baltimore, but we have never received any money for it.

The next contract that was made was with General Boyle and Dr. Arrington, both of them known to us. They opened a correspondence with us as to the right to use the telephone in the State of Missouri. In the mean time we never had published a circular or prospectus or put an advertisement in the paper. They commenced corresponding with us, and it resulted in our selling to them the right to use our telephone in the State of Missouri. After friendly conferences here with us they brought their own lawyer here, whose name I do not recall, and Mr. Garland had in the mean time given an opinion in respect alone to this broad generic claim undertaken to be covered by the Bell patent, and nothing else. That is what he gave the opinion upon; I was with him at the time. That was never published by our authority.

By Mr. EDEN:

Q. Your company never published that opinion of Mr. Garland's?—A. No, sir.

By the CHAIRMAN:

Q. I saw it in a pamphlet?—A. Well, we did not publish it.

By Mr. MILLARD:

Q. It was published in Pennsylvania, I think.—A. Very likely; but we never published it. I was helping look up the authorities solely in reference to the broad principle of telegraphy claiming to monopolize the whole field of electricity, and it followed the O'Reilly-Morse case, and all decisions on that point. These gentlemen came, and brought with them an attorney from Saint Louis; I do not remember his name, but a very intelligent young man. We talked together freely about it. I told him what I had learned in regard to it, and my views covering the broad claim which had been made; that I had based my opinion on Mr. Harry Rogers's statement of the mechanical construction, and subsequently on the opinion of Mr. Marble in that regard, and that he could examine these things, and I showed them all to him. These gentlemen were satisfied, and gave us \$10,000, or were to do it. They did not pay quite that much in hand for the right to use our telephone in the State of Missouri, but were to give us 25 per cent. of the local stock and \$6 a year royalty for each instrument that they used.

It was specified in the contract also that these gentlemen were to go right to work at once and erect an exchange in the city of Saint Louis and put the thing in operation. Soon after that time some friends of ours at home in the city of Memphis where they all lived—they had talked to me frequently when I was at home and had seen notices in the papers and had written to me about it—they commenced to correspond, but personally I had nothing to do with any of these things. I was consulted once or twice, but personally I had nothing to do with it, except that I signed the contracts as an officer of the company; but I did not negotiate these things and had nothing to do with it. Our own friends in Memphis, Mr. Oliver Moore, at the head of the very large manufacturing establishment of Mr. McFarland, and a number of gentlemen, reputable gentlemen, of Memphis, friends of mine, and who knew all about this matter, proposed to buy the right for the State of Tennessee for \$7,500. The terms of the contract were that we were to have 25 per cent. of the local stock and \$6 royalty a year, following in all these matters the contracts of the Bell Company, only cutting ourselves down 100 per cent. below their figures, and we thought we were doing all right until we were enlightened on that subject by repeated newspaper publications.

Next we disposed of the State of Texas to a son of Colonel Looney's and young Mr.

Hendricks. Dr. Rogers is greatly mistaken as to how much we got in that case. The books show that instead of getting \$10,000 we only got \$1,000, and they owe us \$4,000 yet. We finally consented to let them have the State of Texas for \$5,000, against my protest. They only paid \$1,000 of that, and have not paid the balance yet. We have furnished them a number of telephones, and they are going on with their operations.

Next, we sold the State of Alabama upon substantially the same terms for \$7,500 to General Upshur and Robert F. Looney, jr. Those are our sales of territory. In the mean time Dr. Rogers had applied to us for the State of Pennsylvania. He wrote a letter and I think it was referred to me. He said in his testimony that somebody objected to it. I never heard anybody object to it. I know I did not. I suggested to let him have it upon his own terms, and I was instructed to send him a telegram to that effect, that he could have the State of Pennsylvania on those terms, and he has stated what those terms were, and here is the contract recorded in this book. Soon after he commenced operations there—I do not know how far they got except from what he stated the other day, and I think that is correct—I learned something from Mr. Klotz about it; I think he stated all that was done there. A bill was filed against the local company there, which I believe was called the Rogers Telegraph and Telephone Company—

The CHAIRMAN. Do you propose to go into the Pennsylvania suit and explain that?

The WITNESS. Yes, sir; I have been put in a false light, and I want to straighten the whole thing out. The whole thing is muddled up and nobody understands it.

The CHAIRMAN. You may proceed.

The WITNESS. The bill was filed against us there in the United States circuit court for the eastern district of Pennsylvania.

By Mr. EDEN:

Q. Filed against the Rogers Company?—A. Yes, sir; and against our company also. The bill said it was against the Rogers Telephone Company and the Pan-Electric Telephone Company.

By Mr. HANBACK:

Q. Was there any service against you?—A. No, sir; there was no service. When that was made known Dr. Rogers was anxious that the fight should be made there, and the moment I saw that a suit was brought I said I was glad it had been brought, because I wanted to bring this thing to an issue. In the mean time I had examined all the legal questions pretty thoroughly, and all the principles of law that I thought would govern and control this contest. I had made up my opinion on the subject, and, like all gentlemen who get loaded up on any particular subject, I was anxious to ventilate my learning about it. I wanted to try the case. I was instructed to go over there, but I did not propose to try the case in Pennsylvania myself, being a stranger there in the courts, and I of course saw the necessity of employing a local lawyer. So I went to an old friend of mine in the House (Judge Kelley, of Pennsylvania) and asked him to advise me as to who was a competent lawyer in Philadelphia to take charge of that litigation. I told him what it was about, and asked him to advise me. I told him I was a stranger to the bar there, and did not know any lawyer there but Mr. George M. Harding, a very distinguished patent lawyer, and he was on the other side of the case.

Judge Kelley gave me a letter to his former law partner, Mr. J. Warren Colston, of Chestnut street, Philadelphia, and I went and saw him and informed him of my business, agreed upon terms, and gave him a retaining fee. I got the papers, brought them to his office, and staid there two or three days, and we examined them. I said to Mr. Colston, "It occurs to me that they have not got jurisdiction of our company. I do not believe this court here has jurisdiction of the Pan-Electric Company, and that; this service, made upon an officer of the Rogers Telephone and Telegraph Company, does not bind us, as he is no agent or officer of ours. We are not transacting business here, and I do not think the court has jurisdiction." He differed with me about that; but he said, "Mr. Young, I do not know whether you have a good case or not; I will not undertake to say about that; but I advise you not to try your case here." And right here I wish to say that it was not because we had any suspicion of the integrity or honesty of the judges of Pennsylvania that we did that, but for reasons which are entirely satisfactory to me, and would be to any other lawyer.

I was familiar with the Dowd case and the Spencer case, and if you gentlemen are not familiar with them I will explain them so that you will understand the matter better. In the beginning of the controversy with the Bell Telephone Company, soon after it was organized, the Western Union Telegraph Company started a rival company, under the management of one Dowd, whereupon the American Bell Telephone Company filed a bill against that company, setting up that they were infringing their patents. They went on taking proof, and finally a contract was made between the Western Union Company and the Gold and Stock Telephone Company, or the New

England Telephone Company, as it was then, by which the interests of all those companies were merged, and that suit was compromised and never came to a decision in the court. Afterwards the Spencer case was tried. The Dowd case was a collusive case; that is the true ground I put it on. Then the Spencer case came along, and the court held in that case, upon an agreed state of facts (it was not an arm's length litigation), that the Bell telephone patent was not antedated by the Reis invention, and if priority of invention could be claimed by Reis that telephone was inoperative.

All this, gentlemen, is in the record and is not denied. But the judge was imposed upon in the trial of that case, and he decided in favor of the validity of the Bell telephone patent. The next case that came along was the Dolbear case, and in that case was a stipulation or agreement by the lawyers that authorized the court to find just as they did find. That was another collusive suit. Mr. Colston said, "These cases all have been tried; I have examined the records, and Judges Gray and Lowell have made these decisions, and while nobody will impeach their integrity and capacity (for they were imposed on in these cases), yet under that rule of judicial comity which prevails in the circuits in the east our judges will follow those decisions; they have done it in that Maryland case in which I was the counsel, and they have done it in the Clay case, and it is a waste of your time and money to try these suits here, because the judges will pursue the rulings in the Dowd and Spencer and Dolbear cases." "Now," he said, "you gentlemen tell me you have exchanges in operation somewhere else, in Saint Louis, Memphis, and Texas. You let these gentlemen sue you there. Let it go to a new field where this thing has not been litigated; go where there will not be that reverence for judicial precedents and comity which prevails among our judges here, and there you will be more likely to have this whole question more fairly adjudicated." Never intimating that the Pennsylvania judges were corrupt or not learned, but simply putting it on the ground that they would feel called upon to follow the rulings of Judge Lowell and Judge Gray in the Spencer, Dolbear, and Dowd cases.

By Mr. RANNEY:

Q. All of them, you say, were collusive cases?—A. Yes, sir; because they were all decided on a state of facts agreed upon by counsel.

Q. That is what you mean when you say they were "collusive." If their facts were not right you could have put in the facts as they were, and had a real case before the court?—A. I do not know whether I could or not. It depends on the relation I sustained to this case. It is possible I might have compromised, as these gentlemen did, and that is not discreditable to anybody.

Q. Do you mean to say that you distrusted yourself lest you might enter into a collusion?—A. Oh, no sir; I was not afraid of that. I have a good deal of confidence in myself, and am not much afraid of myself in lawsuits or anywhere else. However, acting on the advice of Mr. Colston, we filed a plea in abatement in court on the part of the Pan-Electric Company; that, on argument, was sustained and the bill was dismissed as to our company, but retained as to the local company. Dr. Rogers, as I have stated, wanted to make a fight or contest at that time, and I had some difficulty in persuading him that it was not best to do that. He stated what his reasons were, and we finally concluded to let that suit go on, and let judgment go by default against the local company there, so that we might not be embarrassed when we came to try the whole issue in some new field of litigation.

Q. Right there let me ask you this: Were you not under obligations to defend your patent under your contract with that company?—A. Certainly, our contract shows that, but we were released from it by the action of that very company.

Q. You knew that an adjudication would be conclusive against that company in Pennsylvania?—A. Yes, sir; until reversed.

Q. And while you were under obligations to defend the patent you consented to allow a conclusive judgment to go against that company, did you?—A. No, sir; that does not follow as a legal conclusion. This is what I intended to do, and what I did with, their consent; I am answerable to them only, and not to Congress or to any one else, but I have no objection to telling the whole story. I did it after full consultation with a local lawyer, competent to advise in that regard, and after consultation with Dr. Rogers.

Q. What was the agreement that you made to pacify him?—A. I will tell you if you will let me get at it. I repeated to Dr. Rogers exactly what Mr. Colston had told me, and the same as Dr. Rogers has stated in his testimony, that I did not believe, on Mr. Colston's statement, that it was a wise thing for us to risk the whole question in a Philadelphia or other court that would be likely to follow the ruling in these three cases I have alluded to. I had some difficulty in convincing him that that was a proper course to pursue. But finally he consented to it, and his company held a meeting and passed a resolution authorizing that course to be pursued.

Q. As that destroyed his company and their operations?—A. That is a legal conclusion that you and I differ about. I do not hold that it does. I hold that when we

defeat the Bell Telephone Company in the litigation which we have pending now, as we will do, it will relieve him from the injunction which he is under in Pennsylvania. I say that on my judgment as a lawyer, and I will discuss that question with you on the authorities if you desire. That is my legal opinion in regard to it.

By Mr. MILLARD :

Q. In this suit was there any point made about the service, whether they had competent jurisdiction; I mean where the judgment was entered by default, was that point raised that there had not been a legal service?—A. In Philadelphia? Oh, I raised the point that the court had no jurisdiction in the case.

By Mr. RANNEY :

Q. You agree with me that inasmuch as they got judgment against them it would be a conclusive judgment against them?—A. It would be until it is reversed.

Q. Then the only thing to make it inoperative against them was to defeat the Bell telephone patent in some suit upsetting the Bell telephone patent?—A. In some suit determining the question that was involved in that case over there. I hold that when we get a case decided which we have pending now against the Bell Telephone Company, when we win that case, as we will win it, it will relieve him from the effect of the injunction pending against his company in Philadelphia.

Q. Do you mean the Government case?—A. No, sir; I mean my own case that I brought against them myself. I can do very well without the Government.

By Mr. EDEN :

Q. These cases which you have referred to in Pennsylvania were not cases that were ever heard in the Supreme Court?—A. No, sir.

Q. They were tried by the circuit court?—A. Yes; they never went to the Supreme Court at all. There have been nineteen adjudications in favor of the Bell Company, but only two of them so far have gone to the Supreme Court. There is a case pending in the Supreme Court, a branch of the Dolbear case, which will be reached this term perhaps, which involves one branch of this controversy, and in the Drawbaugh case they have entered a motion for an appeal. I do not know whether it has been brought up or not, but that involves a totally different question from those I have had anything to do with. Those nineteen cases, I think, were all fraudulent and collusive suits, and I have charged that in the bill we have filed.

By Mr. RANNEY :

Q. You say that you have charged the Drawbaugh case as being a collusive one?—A. No, sir; that involves a different question as to the priority between Drawbaugh and Bell. There is another question involved. It is a large record, and I have gone through it carefully, and find that is the only question involved in that case.

Mr. OATES. Are you through with your statement now?

The WITNESS. Yes, sir, in that respect. I was giving a history of the Pennsylvania suit, and that is all I desire to say about that suit.

Mr. OATES. I simply desire to say that we are permitting you to go ahead and make your own statement, but when you get through we propose to cross-examine.

The WITNESS. Very well, I shall be happy to answer any question you desire to put to me. I saw by the papers that I was to be rigidly cross-examined. While I was there in conversation with the attorneys of the Bell Company I proposed to them that they should sue us somewhere where they did have jurisdiction. I said, "You gentlemen know you do not have jurisdiction here. Now, we have one exchange in operation in Memphis, another in Saint Louis, and several of them in Texas. You go down there and bring suit, and let us decide this question and be done with it." They said they would select their own forum, and they had a right to do that. So I then directed my attention, and so did the company, to having this matter adjudicated as quickly as possible. I became satisfied then that we were going to have a serious contest before we would be able to establish the validity of our patents; that this was a powerful corporation, having in its service the most accomplished patent lawyers in the United States, and that it was to be no child's play to fight such an antagonist as this in the courts. I said to our board that we must prepare ourselves for the most tremendous legal struggle that had ever been had in this country with this company before we could establish the validity of our patents, and I said to them "we had better stop right here and not dispose of any more territory. We do not know how this is going to result, and we had better stand on this ground and fight it out." There are the resolutions in the book [indicating] in which we resolved that no more territory should be sold and no more rights disposed of.

Mr. OATES. Will you take up the books as to each of those resolutions at this time?

The WITNESS. Yes, sir. I mention all of this to refute some of these fine stories that have been so actively circulated, that I wanted Government suits brought and other suits brought in order to sell this stock to people. I will show you how much stock we have sold and what we gained by it.

Mr. RANNEY. I think you had better confine yourself to the facts.

The WITNESS. I know you do, but I don't. I think I had better explain as I go along. [The witness then read from page 45 of the minute-book of the company as follows:]

Pursuant to a call of the president of the board of directors of the Pan-Electric Telephone Company met at the rooms of the secretary, 606 Thirteenth street northwest, Washington, D. C., at 7.30 o'clock p. m., on the 7th day of April, 1885. Present, Joseph E. Johnston, J. Harris and J. H. Rogers, Robert Looney, and Casey Young. Mr. Harris represented by proxy, Mr. Garland and Mr. Brown.

The president stated the object of the meeting to be for the purpose of considering various propositions for the purchase of the right to use the Pan-Electric telephone in different localities in an exchange for the benefit of subscribers, and after discussion of the same, it was decided by the board that no more rights to establish exchanges should be disposed of pending certain contemplated litigation with the Bell Telephone Company unless ordered by subsequent motion of the board of directors.

It was decided, however, to sell telephones in pairs for individual use on private lines to such parties as may wish to buy them, and the secretary was instructed to furnish telephones on application for such, charging therefor the sum of \$40 for each telephone complete, including transmitters, receivers, bell, coil, battery, and boxes.

Mr. Harris offered the following resolution, which was unanimously adopted:

Resolved, That the secretary be, and is hereby, directed to give notice to the various parties to whom this company has sold right to use the Pan-Electric Telephone within certain States, districts, and territories, which contracts have by their terms been forfeited, that the company will, on a specified day, proceed by resolution to declare said contracts, and each of them, forfeited and annulled.

On motion of Mr. Harris the secretary was authorized and instructed to employ a person to write up the books of the company, and procure stock for issuance.

On motion, the meeting adjourned, subject to the call of the president.

J. E. JOHNSTON.

CASEY YOUNG.

By Mr. HANBACK:

Q. What is the date of that?—A. This is dated the 7th of April, 1885.

By Mr. OATES:

Q. Right in that connection let me ask, has any more territory been sold?—A. No, sir; no more. A gentleman wanted to send me \$5,000 in cash the other day for some, but I would not sell any. I have written a thousand letters to people that I would not sell any, all of which I will show before I get through.

Q. You may proceed.—A. Then I directed my attention to efforts to bring about a litigation with this company at some of these places where we had exchanges in operation. In regard to our company in Saint Louis, I will say for the benefit of my Republican friends that the president of that company, Mr. E. L. Adrian, is a leading Republican and formerly comptroller of the city of Saint Louis. He notified us that the company was organized, and sent us a circular published by the local officers of the Bell Company there and his reply, telling them that we would bring suit if they did not desist from using our telephone, and he did that under instructions from General Johnston and Senator Harris.

Mr. RANNEY. Dr. Rogers and his son keep sending us word that they have been told by the chairman that they can go, and that they desire to leave. We have not finished their testimony yet, and I desire to keep them in attendance.

Mr. OATES. I think it would be well to say to them that we will notify them when we want them again.

Mr. RANNEY. I think as this testimony of Colonel Young's relates to them chiefly they ought to be present and hear it.

Mr. OATES. That is for them to decide.

Mr. RANNEY. It relates to them entirely.

Dr. J. W. ROGERS. I only wanted to say to the committee that I have some engagements in New York, and I would like to go there if I could be excused.

Mr. RANNEY. When could you come back?

Mr. ROGERS. The latter part of next week.

Mr. RANNEY. This correspondence has not been read by us, and we reserve the right of examining you and your son when we get that correspondence before us, and as this testimony is designed to relate to yourselves, I think you ought to remain here and hear it.

The WITNESS. I think Dr. Rogers will corroborate anything I say.

Dr. ROGERS. The colonel seems to agree with me in nearly everything I said.

The WITNESS. Yes, I do. I hate to disappoint gentlemen who seem to expect

dramatic scenes here, but I think Dr. Rogers will corroborate everything that I have said or will say.

Mr. OATES. About what time next week can you return?

Dr. ROGERS. About Saturday. I shall come home Saturday night.

Mr. RANNEY. You will be in New York subject to call.

Dr. ROGERS. Yes, sir. Telegraph me and I will come without subpoena.

Mr. RANNEY. We can telegraph you then.

Mr. MILLARD. Is your son going with you?

Mr. J. H. ROGERS. Yes, but if you will send the message to Bladensburg it will be forwarded to us wherever we may be, and we will come immediately.

Mr. OATES. Very well then. The committee will excuse you.

The WITNESS. I have just found that opinion of Mr. Marble's. Here it is [Producing a paper].

Mr. RANNEY. You had better put it in the record.

The WITNESS. I will put it in right now; here it is. That is the first opinion. I have a second one, but I have not got to that yet.

The following is the opinion referred to:

ROOM 37 LE DROIT BUILDING,
Washington, D. C., February 27, 1884.

Hon. ISHAM G. HARRIS,

Vice-President of the Pan Electric Company, Washington, D. C.:

DEAR SIR: In compliance with your verbal request for my opinion as to whether the patent of J. Harris Rogers, No. 281560, dated July 17, 1883, infringes any patents theretofore granted, and particularly those granted to Daniel Drawbaugh, I have the honor to submit the following:

Infringements are of two classes, generic and specific.

Where a patent has been issued containing broad claim, covering any and every way and means of doing a particular thing, a subsequent patent operating on the same principle and being one of the ways to carry out the invention broadly claimed in the prior patent, infringes such prior patent generically, although the means by which the end is accomplished are substantially and patentably different from those shown and described by the first patentee.

A patent is specifically infringed when a subsequent inventor does the same thing in substantially the same way; that is, by the same means, or the well-recognized equivalents of such means.

The device covered by Mr. Rogers's patent, above mentioned, is a speaking telephone, by which articulate sounds are transmitted electrically by means of an undulatory current of electricity.

The principle or method upon which the instrument operates is covered broadly by the patent to Mr. Bell, numbered 174465, and dated March 7, 1876. So long as that patent, therefore, is sustained by the courts the invention of Mr. Rogers would be subordinate thereto.

After describing and illustrating his invention Mr. Rogers was allowed the following claims:

"(1) In a combination with the horizontal diaphragm of a telephone-transmitter connected to a battery and forming one pole of an electric circuit, as described, the flattened plate or button lying loosely and simply by its own weight upon the diaphragm, and connected to a line-wire and forming the opposite pole of said circuit, as set forth.

"(2) In a telephone-transmitter, the combination of a horizontal diaphragm forming one pole of an electric circuit, with a flattened plate or button forming the opposite pole, and resting on the diaphragm and adapted to receive sound-vibrations therefrom, as described, the said plate having a quantity of mercury in its upper part and a connection with a line-wire consisting of a dipping-needle, substantially as set forth.

"(3) In a telephone-transmitter, the combination of the horizontal diaphragm, the inclosing case, trumpet mouth-piece, the flattened contact-plate or button resting on the sensitive diaphragm, as described, the said plate or button being provided with a cavity in its top adapted to receive mercury, and the superimposed dome provided with a dipping-needle and a regulating screw, all substantially as and for the purposes set forth.

"(4) In combination with the horizontal diaphragm, forming one pole of an electric circuit, and the contact plate or button provided with mercury in its upper portion, as described, the superimposed dome having a screw, S, connected to a line-wire, and having a needle, n, as and for the purposes set forth."

This instrument, as well as the claims allowed, are distinctly different from any of the instruments or claims allowed to Daniel Drawbaugh.

The only patent thus far issued to him in which any feature embraced in Mr. Rogers's

patent is found is the one numbered 272865. In that patent one of the carbon blocks or buttons is held in place by gravity, as is the carbon button on the diaphragm in the Rogers patent. In no other particular is any feature found like the Rogers device.

I herewith transmit copies of all patents thus far issued to Mr. Drawbaugh for telephones.

Upon examination of patents issued for telephones, other than those to Mr. Drawbaugh, I find only one which, in my opinion, bears a close resemblance to Mr. Rogers's patent above mentioned. I refer to the patent of E. Berliner, No. 222652, dated December 16, 1879, copy herewith. Upon examination of said patent you will observe that the diaphragm forms one pole of the electric circuit, and the carbon pin resting thereon by its own weight the other.

In Mr. Rogers's patent, the diaphragm forms one pole of the electric circuit, and the flattened plate or carbon button forms the other pole; said button being provided with a cavity in its top in which is a small quantity of mercury, and being connected to the line wire.

The operation of the two instruments is precisely the same.

The only substantial difference in their mechanical construction being the one above mentioned.

Without question Mr. Rogers's instrument is the most sensitive, and as a transmitter the most effective; in fact, I think that no instrument, so far as I have been able to find from the examinations of the patents granted, is so sensitive as that covered by Mr. Rogers's patent.

I think there is clearly a patentable difference between the instruments of Mr. Rogers and Mr. Berliner, but, as above stated, this difference consists solely in the formation and manner of adjustment of the upper electrode.

The Pan-Electric Company have nothing to fear, in my opinion, from any other telephonic instrument patented, so far as specific mechanical construction is concerned.

It is possible, and, in fact, somewhat probable, that hired mechanical experts will swear that the upper poles of the electric circuits in these instruments are the equivalents of each other.

I do not think, however, that such is the case technically, and hence the view expressed, that the instruments are patentably different.

Very respectfully,

E. M. MARBLE.

The WITNESS (resuming). Now, about the Saint Louis business I was talking about. We were notified—a circular was sent us by the president of the local Saint Louis company, that had been sent to the president of our local company—that they were going to bring suit against us. I went immediately to Saint Louis and employed the best counsel in the city, I think.

By Mr. RANNEY:

Q. Have you got through with your statement in regard to the suit in Memphis?—

A. No, sir, I have not got to that yet. As I say, I employed the best counsel in Saint Louis, and perhaps it will not detract any from their reputation to say that they are both distinguished Republicans, and one a member of Congress with whom I served—Messrs. Pollard and Taylor, the leading counsel in Saint Louis. I employed them and paid them. I directed Mr. Adrian, the president of the company, to notify the local president of the Bell Company that I was in Saint Louis for the purpose of defending that suit, and that he would do us a kindness if he would institute the suit at once. I staid there a week and conferred with these gentlemen about our line of defense, and I have their written opinion and all their letters, and in this connection I will state that I expected Senator Garland to go and attend to that matter, as one of these gentlemen applied to us to send him there. He had been made the attorney of the company on the ground of being the best lawyer. Everybody west of the Mississippi River knew his reputation as a lawyer, and they wanted him to come there and advise them about that suit. But they could not get him to come; he was off at Hominy Hill, or somewhere over there, and wrote a letter saying that an important case at Little Rock needed his attention and called him there.

By Mr. EDEN:

Q. When was that?—A. That was some time in 1884, after this Philadelphia business. I will give you the dates soon. He gave a written opinion to these gentlemen, but did not go there, and they commenced to write to me, and I wrote myself. When I got there and saw his opinion I did not like it. I did not think it was a sound opinion, and I did not think he understood exactly the relations between our company, the parent company, and the local Saint Louis company, inasmuch as he seemed to think that he was merely giving them an opinion as their lawyer, and not as our lawyer. He did not seem to understand that we were under obligations according to the terms of our contract to furnish counsel to defend any suits that might be brought

against them in Saint Louis. So I sat down and wrote to Senator Harris a letter in which I criticised that and insisted that we were under obligations to defend that suit, and that Mr. Garland ought to take that view of it. I staid there a week or so trying to induce those gentlemen to bring a suit and have the question settled. It was not done, however.

I retained these lawyers, Messrs. Pollard and Taylor, and left them there on guard, telling them that whenever a suit was brought they should enter their name for us and telegraph me and I would come on and assist them immediately. No suit being brought there I went to Memphis. Being intimate with the local attorneys of the Bell Company there, I said to them, "Why don't you fellows bring a suit against us and stop this newspaper warfare? The newspaper is not the place to try your suit; the court room is the place to go for that. You are publishing these circulars and advertisements every day that we are infringing your patents, and you annoy us a great deal about it. Why not quit this newspaper fight and go into the court room? We are ready to meet you there whenever you bring a suit." But they did not do it, and still kept publishing these circulars every day.

Finally I saw one much worse than the others, saying that this was a sort of speculative corporation; that Dr. Rogers had imposed on some worthy gentlemen and got them to take his patents; that there was nothing in them, and they had better let them alone. I did not like that, and I wrote a reply which General Johnston signed, and published it in the Memphis newspapers in reply to the circular which they published in the same papers, saying that we did not believe we were infringing their patents and did not desire to do so; that if we were satisfied we were doing so we would abandon the field at once and suspend all our operations, but that the court was the proper place to test that question and not the newspapers; that we were there ready to go into the courts and decide the question as to the validity of our patents.

Well, no suit was brought, but these things continued to be published. I saw no resort then but for us to bring suit ourselves against the Bell Company. This thing had gone on then up to about May or June, 1885. I had been early in the spring of 1885 badly hurt, paralyzed in my arm, and was not able to go out of my room for several months and could not pay attention to it, but as soon as I was able I tried to set these things on foot. I went to Memphis and tried to get litigation there, but did not bring it, and I concluded that possibly we might sustain a bill against them.

I examined what is known as the Hurst cotton-tie case that came up from the circuit court of the United States in New Orleans, in which suit had been brought by one company, one patentee against another patentee, to restrain him from libelling his property, a very doubtful legal expedient not often sustained. The Supreme Court, however, sustained it. But the suit was brought in the United States circuit court in New Orleans and it was sustained there. I do not think it was the law and hardly think so yet, but the circuit court of Louisiana, decided that it was the law and strangely enough the Supreme Court up here affirmed it. So that I thought, under that case, perhaps I could sustain the bill against them. I had discussed that question with Pollard and Taylor at Saint Louis before, and we had gone over the authorities and prepared a brief, which I have here, which satisfied us that we could not maintain the bill; but thinking that the United States circuit court of New Orleans was a better judge of that matter than we were, and if that court was not, the Supreme Court of the United States was, I thought possibly I might by some means get action, and therefore acted on that theory with respect to that view of the case.

I concluded, also, that I might be able to sustain a suit against them under the sixteenth section of the patent laws, which authorizes them to file a bill in interfering patents to have one or both patents annulled. A suit had been brought of that character, reported in 3 Dillon, before Judge Tréat, of Saint Louis, and two cases in New York. Being unable to do anything else, we did proceed to file a suit against them in the United States circuit court for the western district of Tennessee at Memphis. That is the case of the Government suit we hear so much about, and here it is. [Producing a paper.]

Mr. EDEN. Is that the original?

The WITNESS. This is a copy.

By Mr. RANNEY:

Q. Can you state, in a word, what the scope of it is?—A. I have already stated it.

Mr. EDEN. Do you wish to put that paper in the record?

The WITNESS. Yes, I do. I want to show the folly and nonsense of all this stuff that has been published about these suits.

Mr. RANNEY. Rather than put it into the body of the record, you can state briefly what the scope and prayer of it is.

The WITNESS. It embraces two features; that is, that we might sustain a bill against them to restrain them from interfering with our patent and libeling our property, and I find now I could come nearer maintaining it than I could then, because many

English authorities, a Massachusetts case, and this New Orleans case have been discovered. It mainly goes on the ground that Bell's patent is invalid for the reason first that he is anticipated by Reis, by Van der Weyde, by Pickering, and by Drawbaugh, and two or three other inventors in this country, and by Boselle (?), a French inventor. Then we set out in this bill here that his patent is invalid for want of utility; that the patent of 1876 that covers his broad generic claim is not patentable for want of utility, for it won't operate at all; and we ask, under the sixteenth section, I think it is, of the patent law, that that patent be annulled upon the ground I have stated, and also the patent of 1877 being acknowledged as a patent that was inoperative.

By Mr. RANNEY:

Q. It embraced, then, the subject-matter of which you first spoke, restraining them from libeling you; that is in there too, is it?—A. Yes, sir; I think so.

Q. And then, likewise, to have the Bell patent vacated?—A. Yes, sir; under the sixteenth section, I think it is, which has a special provision. I have heard a good deal of nonsense about trying these suits, and I want to show what was done with that suit.

By Mr. EDEN:

Q. When was that commenced?—A. That was filed on the 10th of July, 1885. Please bear that in mind, because it will have an important bearing on many matters before the committee and aid to straighten out a great many crooked things.

By Mr. RANNEY:

Q. That is the date of its filing?—A. Yes, sir; the date does not appear on the bill, but I have a telegram stating that it was filed on the 10th of July, and I know that was about the time. Now, I will pursue that lawsuit a little further; I have seen a good deal of complaint in the newspapers and other places because I demurred to the jurisdiction of the court in Philadelphia—

Mr. RANNEY. Please confine yourself to this case, and not to the newspapers.

The WITNESS. I want to get the newspapers right; they are a very useful institution when you can control them. Upon the filing of this bill, you will find the jurisdictional facts set out here on the face of the bill, the facts that we thought gave the court jurisdiction. I will not trouble you to read it.

Mr. RANNEY. Can you give us the basis of the jurisdiction? Just state that.

The WITNESS. I do not remember it distinctly enough to state it. Shall I read it?

Mr. RANNEY. You may read it.

The witness read as follows:

"To the judges of the circuit court of the United States sitting in equity for the western division of the western district of Tennessee, at Memphis:

"Your orator would respectfully represent unto your honors that the Pan-Electric Telephone Company, your orator, is a corporation chartered by the laws of Tennessee, having its situs in this State, and whose charter of incorporation will, to the court, be shown at the trial of this cause, and is now made Exhibit A to this bill.

"Your orator further shows that the American Bell Telephone Company is a corporation chartered by the laws of Massachusetts, and that by provisions of its charter it has authority to do business in other States of the Union, and as a matter of fact is now doing business in the State of Tennessee. That it has an agent in this State who transacts business for it; that it sells telephones in Tennessee; that it collects royalty on other or the same telephones; that said agent represents said company in all of its business transactions in and about the telephone sales and the royalty on the same; that said agent reports to said company at its headquarters, and receives direction from said company; that the said agent (or agents) collects money due to said company, and transmits the same to its headquarters, and makes contracts for said company in this State. Your orator would further show that the defendant, the Cumberland Telephone and Telegraph Company, is a corporation chartered by the laws of Kentucky; that it has business offices in the State of Tennessee, and has agents in said State at different points in the State, at the city of Memphis, also at Nashville, and perhaps at other points; that said company does a large business in the State of Tennessee, sells and rents a large number of telephones, makes large and heavy contracts for materials and supplies, and expends and collects large sums of money."

By Mr. RANNEY:

Q. In other words, they were doing business in the State and had an agent there?—A. Yes, sir. Then we got service on their local agent, Mr. Henry N. Cook.

Q. Did the court order service?—A. It is not necessary to get service; you get a constable to go and serve it on the party.

Q. But I want to know if it was done.—A. The local attorneys of the Bell Company came in and filed these pleadings here. I will read them if necessary.

Mr. OATES. State it if you can.

The WITNESS. I will do so.

Q. Did the company plead or demur?—A. They hardly did either. They moved to strike out. It struck me at the time as rather a novel proceeding, but I made up my mind at the time that they had done just enough to give jurisdiction if we hadn't it already.

Q. I don't care for your opinion about that state of facts.—A. I am stating the facts, and if you will allow me to read this it will show you. [Reading:]

“UNITED STATES CIRCUIT COURT,
“*Western District of Tennessee:*

“The Pan-Electric Telephone Company *vs.* The American Bell Telephone Company
et al.

“I, C. W. H. Heiskell, hereby move to strike out and set aside so much of the marshal's return as purports to relate to the American Bell Telephone Company, and to dismiss the bill as against them for want of jurisdiction and for want of service; and in support thereof I refer to the annexed affidavits of Henry N. Cook and William H. Forbes, and I appear specially for that purpose only.”

They filed the affidavit of Henry N. Cook and the affidavit of William H. Forbes, the president of the American Bell Telephone Company, denying these jurisdictional facts which are stated in the caption of the bill, and that is the issue between us now. We have never been able to get this case brought to a hearing. I have been away, and the thing stands there now in the court at Memphis, and we are ready to meet these issues and try the case. That was the 10th of July. The bill was prepared some time before it was filed. About the 6th of July I went to Baltimore and saw General Bradley T. Johnson about a company there, and also went to Philadelphia, perhaps it was earlier than that, to see Mr. Colston, who was our counsel in the case there, about the order of the court to take proof in respect to damages.

I will state right here now that in compromising and settling this thing I was concerned to protect Mr. Klotz, who is a friend of mine and served in Congress with me, who was the only man who had a dollar in it, and I wrote to him and he met me in Philadelphia and was present at the conference between myself and Mr. Colston, and consented to the propriety of the course we pursued, and was perfectly satisfied with it, and he is the only man who has a dollar in it that I know of. I went there to settle up the matter. I did not want any bill of costs against Mr. Klotz. I knew it could only be nominal, because no telephone had been put in operation there. I was there and also in Baltimore to see General Bradley T. Johnson, and while I was there I picked up a newspaper and saw that on the next day a case was to be tried in the United States circuit court at Pittsburgh that involved the questions at issue between the Bell Company and other companies. I did not know who was on the other side at the time. They gave as the defendants a local company of Pittsburgh. I see a gentleman present who could tell me the name of the company, I think. Yes, it was the Western Pennsylvania. The suit was against them.

There is a good deal of discrepancy in Dr. Rogers's and Harry Rogers's testimony. They have forgotten that. I thought I would go there, as I might learn something. So I telegraphed Senator Harris from Baltimore, and he telegraphed back for me to go to Pittsburgh. I was not here and did not go off in a hurry without a carpet-bag, as they have said. I left Barnum's Hotel at Baltimore, where I was stopping, and went to Pittsburgh, and the next morning went into the court room, where I saw the walls strung up with wires and a lot of models, and the whole room looked like an exchange. I saw models spread out on the tables. I saw Van der Weyde's and Pickering and Reis's models and Bell's of 1876 and 1877, and there seemed to be a thorough preparation made for the trial of that case, just as I thought it ought to be tried and never had been tried.

I took my seat there to watch the proceedings of the court. The parties came in, and I heard the argument of Mr. Storrow, a very accomplished lawyer of Boston, one of the ablest patent lawyers in the United States, I think. I heard his argument, which lasted two days, and when he closed his argument, and the argument on the other side, by Mr. Von Briesen, had commenced, and he had spoken only about ten minutes, the district judge stopped him, and said: “This question has been decided, and I cannot hear argument on it. The Dowd case, and the Spencer case, and the Dolbear cases have already decided this question. My brother judges, Gray and Lowell, have decided these questions, and I won't undertake to reopen them.” Mr. Bakewell, of Pittsburgh, an excellent lawyer and accomplished gentleman, rose and protested most vigorously against that line of action by the court, insisting on a right

to argue the case, inasmuch as all these preparations had been made, and said that he was there to demonstrate the fact that the Bell instrument was not operative and not patentable for want of utility, and that there were prior inventions, and so on. The court said, "If we are wrong, Mr. Bakewell, the supreme court will reverse us. You can take it up, but we will not depart from the rulings of our brother judges, and will not reopen this case," and there it ended.

By Mr. RANNEY.

Q. Who was the judge?—A. Judge McKennan was the circuit judge. I have forgotten who was the district judge.

Q. They sat together, did they?—A. Yes, sir; they put it on the ground that it would not do for one circuit judge to be reversing another, which is a very proper view to take of it, and one that all judges take.

Q. Was that an application for an injunction or for a final hearing on the merits?—A. That was an application for a preliminary injunction, and the order was granted.

Q. Which side brought the bill?—A. The Bell Company brought it to enjoin the Western Pennsylvania Company, which was a licensee of the National Improved Company that you have heard of.

Q. It was only preliminary and not on the merits?—A. Yes, sir; that was it.

By Mr. HANBACK:

Q. You say the judges heard the argument on one side?—A. Yes, sir; they heard argument for two days on the Bell side, but there was nothing new in that, and perhaps that may have been the view they took.

By Mr. RANNEY:

Q. The evidence had been put in by either side?—A. I take it that it had; I did not hear any of the evidence read.

By Mr. MILLARD:

Q. The application was made on affidavits, I suppose?—A. I do not know how it was; I know they did not test those instruments and the judge took no measures, that I saw, to satisfy himself about them at all; it was not an unusual thing, as every lawyer knows; but they heard Mr. Storrow.

By Mr. RANNEY:

Q. That has been the practice of judges when a patent has been granted by judicial decision?—A. Yes, sir. I do not know what the purpose was in hearing Mr. Storrow so long; he is a very entertaining speaker and accomplished lawyer and gentleman. This was the first of the Government suits we hear so much about. After this argument was over (I knew Mr. Bakewell very slightly; he is a most reputable gentleman), I went to his office and had some conversation with him about the telephone; he is one of the lawyers of this company, and a member of the firm of Bakewell & Kerr. Mr. Von Breisen, of New York, was the gentleman who undertook to make the argument, and it was Mr. Bakewell who protested against the action of the court.

So I went to Mr. Bakewell's office, and I had with me a book that we had had prepared (that I omitted to state as I went along) by one of the most distinguished and accomplished electricians of this country, and it was used in the defense of our case, or the prosecution of our suit against the Bell Telephone Company; I refer to Dr. Wellington Adams, of Saint Louis, one of the best electricians in this country; he is a mechanical electrician as well, and thoroughly conversant with the telephone and the laws that govern it. We employed him to write a book; I will speak of that after awhile. I had that book with me, and I thought it would be of service to those gentlemen, and I called at Mr. Bakewell's office and showed him the book; he looked over it a little; he is very conversant with the telephone question, and he pronounced it of considerable value.

After spending an hour with him, I went back to my hotel, and it was stated here the other day that I sent my card to Mr. Van Benthuyzen. That is not so. I came to my room at the Seventh Avenue Hotel with Mr. C. P. Huntington, and he sent his card to him. I had heard of him before. He is now president of what is known as the National Improved Telephone Company, and this Western Pennsylvania Telephone Company was a licensee of that company, and he was there defending it on that ground. He was a party in interest, of course. He came to my room, and I found him an exceedingly intelligent gentleman, a man of fine executive ability, with a strong will and much force of character—

Mr. RANNEY. Hadn't you better omit those personalities?

The WITNESS. No, sir; I think I had better bring them all out. There has been a good deal said about Mr. Van Benthuyzen.

Mr. RANNEY. He may be obliged to you for advertising him, but I see no use in it.

The WITNESS. No, sir; he does not need advertising; he advertises himself as well

as any man you ever saw. Well, we got to talking the matter over and I believe he made a proposition that we should join forces. I told him of a suit we had in Memphis, and while I was in Pittsburgh on the 12th or 14th of July, 1885, I got a telegram stating that a bill was going to be filed, I think. I told him about that and he told me he had a suit pending against the Bell Company at New Orleans, I forget the grounds of it, and I saw that he had accumulated a great quantity of material in the way of evidence, models, and mechanical structures that would be exceedingly valuable in the trial of any lawsuit with the Bell Company. We had spent a good deal of money in getting models up, but he had a large amount of testimony from Germany in respect to the Reis invention, which I thought was the strongest and most reliable ground on which we could base an attack on the Bell Company. He had gathered a large amount of testimony, and for those reasons, as stated by Dr. Rogers the other day (I do not think I said it was worth \$75,000, but perhaps I did), we agreed we would join forces in fighting these two suits, and we drew up a written contract to that effect. I have telegraphed to Mr. Van Benthuyzen to send me that contract, and I expect it here to-morrow and I will submit it to the committee.

During our conversation there I saw that he had examined the authorities a good deal, and although he was not a lawyer, I talked with him more as a lawyer than I would ordinarily to a layman. I said to him that a bill had passed at the last session of Congress that conferred on the Attorney-General of the United States the right and made it his duty to file a bill to annul the patent. He said at once, "Well, why don't you get Garland to do it?" I said, "Mr. Garland is a member of our company, has been our counsel, and I would not ask him to do it. It would be a delicate matter, and I would not ask him." He said, "I will do it." I said, "You had better consider whether it would do you any good, and whether you would want such a suit brought." But he persisted that if there was such a law, he intended to have it executed, and said that he would apply to Mr. Garland himself, and have that bill brought. I said, "All right, you are at liberty to do as you please about it." So I left him and went back home. From a memorandum book I find that I arrived at Washington on the 30th of August.

In the mean time our bill at Memphis had been filed against the Bell Company. I wanted certain exhibits here and patents and certain applications for patents that were pending that we made exhibits in this bill here. I had written several times to Harry Rogers and to Mr. Marble to send them to me, but I could not get it done. I had a number of models of these things I had manufactured, and I came on here. Mr. Van Benthuyzen in the mean time had gone to Waukesha Springs, but we corresponded about this proposal to consolidate our companies, and we agreed to meet here in Washington City, I telegraphing or writing him, I do not remember which, that I would be here, and that our lawyer, Mr. Gantt, would be here with me, and that we would arrange the terms of consolidation for these two companies.

When I got here Mr. Van Benthuyzen I think was not here; perhaps he came the next day. He had with him his own lawyer, Mr. Von Briesen, of New York, and Mr. C. P. Huntington, who was a member of his company. They were at the Ebbitt House, and there we stopped. I went during that time to Harry Rogers's house to get him to go to the Patent Office and get these applications or these patents for a receiver that I had been writing for all this time, and that Mr. Marble had in his hands. I found him and his father at their home on Four-and-a-half street, but the family had moved out to Bladensburg or somewhere about there. I told him what I had come for. He took me in his buggy and we went to Mr. Marble's office. We saw Mr. Marble about this application, and Mr. Marble said the reason he had not gotten it out earlier was because Harry had not furnished him with some drawing or model he had promised he would give him, but that the patent should be issued in a day or two.

That was the time (not in July) that this conversation occurred, that Dr. Rogers and Harry told about when they said I told them that Mr. Garland had promised to bring suit. I had forgotten it and would never have thought of it again, and when Harry Rogers commenced to testify about it, I should have sworn I never had heard it, but when he mentioned the circumstance that he had talked with Major Gardner on the subject, I remembered that he had a conversation with Major Gardner, and that Gardner had told him certain things. The conversation was this and nothing more. I wish Dr. Rogers was here.

However, I am going a little too fast. On the 24th of May, 1884, Dr. Rogers wrote me a letter to Memphis, which is printed there among those papers, I believe, in which he said he had seen a decision by Judge Wallace, of New York, in what is known as the Gunning case, in which it was held that a suit might be brought by the Attorney-General of the United States to annul a patent. That was brought by Attorney-General Brewster, the case decided by Judge Wallace; I have seen it. He wrote to me, inclosing me a slip of paper, as he testifies, stating that this decision had been rendered, and he seemed to be greatly enthused over it, saying now is our time, and we must make Garland file a bill at once to annul the Bell patents, and wanted me to

write immediately to Mr. Garland about it. Immediately upon the receipt of that letter I wrote to him that Mr. Garland could not file that bill, and that I could not ask him to do it, that it would be a delicate matter to ask him.

Mr. RANNEY. You are stating the contents of the letter. The letter will show for itself.

The WITNESS. I do not know whether you have the letter or not. I know I have not got it in my possession, for I sent it to him.

Mr. RANNEY. Have you a copy of it?

The WITNESS. No, sir; I have not a copy of it; I don't keep copies of my letters. That is the substance of what I wrote him, and I expect it has been published. The substance was as Harry Rogers testified and writes in two or three letters of his own, and in his letter to the New York Tribune he states what I told him. I wrote back to him that it would be an indelicate thing for me to ask Mr. Garland to bring that suit, and I declined to do it. When I had that conversation with him at his house, he alluded to this letter about his having written to me about Senator Garland's bringing this suit, and that he had written to Senator Garland to bring the suit, and that Mr. Garland paid no attention to it. I told him then in that connection of the conversation that had occurred between myself and Mr. Van Benthuyzen at Pittsburgh, and that Mr. Van Benthuyzen was here and had applied to Senator Garland to bring this suit under the bill that I supposed had passed.

Mr. OATES. You mean Attorney-General Garland; he was Attorney-General then.

The WITNESS. Yes, sir; Attorney-General Garland. That letter was written on the 12th of July by Van Benthuyzen, and this was about the 1st of August. I got here on the 29th of July or the 1st of August, and it was about that time, not early in July, for I was not here. I told him what had transpired at Pittsburgh with Mr. Van Benthuyzen; that that letter had been written, asking Mr. Garland to bring a suit under this bill that I supposed had passed and become a law. We discussed it, and I said it would put Mr. Garland in an awkward position to have the suit brought. He was very anxious that that suit should be brought, and I said, "It is the law, and I presume if Mr. Van Benthuyzen insists on it, the Attorney-General will have it to do. I do not know how he can escape it; but under the law it was his duty, and," I said, "if Mr. Van Benthuyzen insists on it, I suppose he will have it to do, but we will take no part in it, and we do not want it."

I said to Harry Rogers (and that is the only thing that makes me remember it), and it is not likely I would tell him anything I did not want published to the world, because he publishes everything from the house-tops—I said to Harry Rogers, speaking of our proposed consolidation, at the Ebbitt House, with the New Orleans National Improved Telephone Company, who were here for that purpose—I consulted him about that and I did say to him: "I want you to go down there and hear this conversation, but I do not think you had better take your father there." I said: "He has had some quarrels with some of these gentlemen, and Mr. Huntington doesn't like him in consequence of a quarrel about the National Secret Telephone Company that he was interested in." He had a quarrel with him then, and for the same cause as with us, and I said: "Don't let the old gentleman go there, but you come yourself." I thought he went, but he says that he did not go; but in talking about this suit it occurred to me, riding up in the buggy with Harry Rogers, that perhaps it might get out that our company had something to do with it in some way, the thing we were talking about and contemplating then, and I said to Harry: "It is better to say nothing about this and the consolidation we were thinking of." That is all the conversation we had on the subject. We never had two conversations.

By Mr. RANNEY:

Q. Conversation about what?—A. About the Government suit and the consolidation. That was in August and not in July.

By the CHAIRMAN:

Q. Did you tell Mr. Harry Rogers or his father that Attorney-General Garland agreed to bring the suit?—A. No, sir; I have told you exactly what occurred.

Q. You heard the testimony of Dr. Rogers and his son?—A. Yes, sir. I had forgotten the circumstances until I heard their testimony. He came to me next day and said: "I find that Major Gardner knows all about our business here; somebody has told him." I said it didn't make any difference; perhaps I said General Bradley T. Johnson or Mr. Huntington had told him, because they were there and knew all about it. That is all the conversation I ever had with any one of them on the subject. I should have forgotten that but for this reference to Major Gardner, and the conversation which I had with Major Gardner about the matter some time afterwards.

By Mr. RANNEY:

Q. Do you mean that you had forgotten about this conversation until you heard him testify to it?—A. Yes, sir; I had forgotten it, and I should not have remembered

it then if he had not mentioned this conversation with Major Gardner, because, as I will proceed to explain in a moment, he could not have misunderstood it in that way. I must have been a fool——

Mr. RANNEY. Never mind ; you need not state that.

The WITNESS. Yes, I will explain it in my own way.

By Mr. OATES :

Q. Do you state positively that you did not tell either one of the Rogerses, in any conversation, that Attorney-General Garland had agreed to bring a suit against the Bell Company to annul their patent?—A. Yes, sir ; and I will state exactly what I did say at the time, and I am going to show to the committee why he was mistaken.

Mr. RANNEY. Don't go into any argument about it.

The WITNESS. I know you don't want to hear anything about it, but I am going to make one if the balance of the committee want to hear it.

Mr. RANNEY. I protest against a remark of that kind.

The WITNESS. I have a right to show any fact now that goes to my credibility or his credibility or as to our memory about these circumstances.

The CHAIRMAN. There is no objection to your stating any fact.

The WITNESS. I will not state anything improper. I know my rights in the matter.

The CHAIRMAN. Still you have to be controlled by the committee.

The WITNESS. Yes ; if the majority of the committee say I am not to speak at all, I have nothing more to say.

The CHAIRMAN. Just state the facts and leave us to draw the inferences.

Mr. RANNEY. You said a moment ago that you would make an argument whether we wanted it or not.

The WITNESS. Oh, no, sir. I say if the committee does not want to hear me I will stop.

Mr. HANBACK. That is an imputation against the committee I think.

The WITNESS. Oh, no, sir ; I will get it all right before I get through. I was going on to state some circumstances. On the 24th of May this letter to me was written——

Mr. OATES. Let me interrupt you. Is that explanation to be in regard to the last question you answered ?

The WITNESS. Yes, sir.

Mr. RANNEY. If you have the letter, let us have the date of it.

The WITNESS. I have just given it to you. I was just saying that the letter of Dr. Rogers of the 24th of May was the first I had heard of it.

Mr. RANNEY. You did not say who wrote the letter ?

The WITNESS. Well, Dr. Rogers wrote it to me. Here is a letter that the Saint Louis counsel wrote that I could not find awhile ago. [Producing a letter.]

By Mr. RANNEY :

Q. Have you the letter that Dr. Rogers wrote to you?—A. He wrote me a letter on the 24th of May, as I stated a little while ago, inclosing to me a newspaper slip that he testified to in reference to the decision made by Judge Wallace in the Gunning case, and in that letter asked me to write to Mr. Garland, as I stated.

Q. Have you that letter?—A. No, sir ; I stated awhile ago that if it is not published I have not got it. I kept no copy in my possession.

Q. I mean the letter——A. But I don't find that. I didn't keep all his letters. The books and papers connected with the Telephone Company are all here——

Q. You travel off a great way in your answers. I simply asked you if you had that letter of Dr. Rogers, which would be in your possession.—A. I have told you that I have not.

Q. Have you looked for it?—A. Yes, sir, I have, and furnished you with all the letters I could find, as I told you in the beginning.

Q. What has become of it?—A. I do not know ; I suppose I threw it away or tore it up ; I don't remember. It would be rather a difficult matter for me to account for every letter I have received in the last three years. I suppose I have received ten thousand letters in that time. I have ten volumes of letters.

Q. Your letter-book would not contain his letter, would it?—A. It might ; I put them in my books.

Q. I wish you would find that letter ; I would like it.—A. I will if I can. He testified to writing it.

Q. Yes, he says he wrote you.

Mr. HALL. And he stated what was in it, too.

A. There are one or two other things. If you will let me have those letters I will demonstrate that Dr. Rogers was mistaken—not on my testimony, but upon his own.

Mr. RANNEY. If you are going to demonstrate from his own evidence, that is mere argument. If you have any facts let us have them. Give us more facts and less argument.

The WITNESS. I will try and oblige you. I want the printed letters of Dr. Rogers.

By Mr. MILLARD :

Q. Have you the letters that passed between you and Van Benthuyssen in regard to the bringing of the suit?—A. I do not think but one letter ever passed between us on that subject. I do not know whether I have it or not. He wrote to me from Waukesha Springs. I may have two or three ; I do not remember.

Q. Will you look and see if you have, and if you find any bring them here?—A. Yes, sir ; I will. He keeps copies of all his letters, and can furnish copies of them, and he will be here.

Mr. OATES. I move that the committee adjourn until 12 o'clock on Monday.

The motion was agreed to, and the committee adjourned.

WASHINGTON, D. C., *Monday, March 22, 1886.*

The committee met at 12.47 p. m.

Mr. HANBACK. In regard to the report of Colonel Oates and myself as to certain letters in the correspondence submitted to us that we deemed material, there was some understanding as to publication. It was understood that they should be published for the information of the committee. I presume the only way that can be done is for the clerk to have them transcribed. They are all numbered and should be published as soon as possible.

The CHAIRMAN. They are attached to the book in which they are, are they?

Mr. HANBACK. They are attached to the book. It is impossible to take them out, because they are pasted on both sides of the same sheet. We have tried to do it, but cannot do it. We cannot separate the letters from the pages of the book. The only way it can be done will be to have those thirty-seven letters transcribed and then have them published.

The CHAIRMAN. There will be no objection to that, I presume, as there is no other practicable way.

Hon. CASEY YOUNG then continued his statement.

The WITNESS. I have not seen the stenographer's official report of my testimony on Saturday, but I notice some inaccuracies in what purports to be a statement of it in the newspapers, which I would like to correct. I do not know how it appears in the official report. I notice in one of the papers I am made to say that very recently I was offered \$75,000, which I declined to take, for an interest in the Pan-Electric Telephone Company. I said \$5,000 instead of \$75,000. It is also reported that I gave very important testimony in this, that I stated a contract had been made between myself and Mr. Van Benthuyssen in reference to the prosecution of a suit by the Government against the Bell Telephone Company. I made no such statement, and no such contract was ever made. I stated that a contract was made between myself and Mr. Van Benthuyssen for the prosecution of a suit at Memphis instituted by us against the Bell Telephone Company, and for the prosecution of one at New Orleans instituted by his company. That was what my statement was, and I desire to make that correction. I have telegraphed for that contract, as I said before, and I presume it will be here shortly. I have a telegram that it is on its way. I have not a copy of it.

Here [producing paper] is a copy in blank of all the contracts we have made. I would like to put it in evidence. The contract is as follows :

This contract, made and entered into on this the — day of —, 188—, by and between The Pan-Electric Telephone Company, a corporation chartered under the laws of Tennessee, party of the first part, and —, of the —, and State of —, party of the second part :

Witnesseth, that whereas J. Harris Rogers is the inventor of a certain telephone, transmitter, a receiver, a telephonic repeater and telephonic exchange, and certain improvements on the same, upon which he has obtained patents from the Patent Office of the United States, described as follows :

	Numbers.	Date of issue.
One exchange	268, 294	November 28, 1882.
One repeater	269, 326	December 19, 1882.
One telephonic	281, 560	July 17, 1883.
One telephonic	297, 166	April 22, 1884.
One telephonic	297, 167	April 22, 1884.
One telephonic	297, 168	April 22, 1884.

And has filed applications for telephonic patents as follows:

	Serial number.
One filed December 26, 1883	115, 564
One filed March 4, 1884	122, 965
One filed April 1, 1884	126, 310
One filed April 2, 1884	126, 384
And an undivided interest of one-half of one filed April 21, 1884	128, 789

And whereas the said J. Harris Rogers and others, his assigns, have conveyed and assigned said inventions, patents, and applications to the party of the first part:

For the considerations hereinafter mentioned the party of the first part hereby agrees and binds itself to convey and assign to such corporation as the said ——— may cause to be organized in the State of ——— all the right, title, claim, and interest that the said party of the first part has in and to the right to use the said telephonic inventions and patents, with all improvements upon the same made or hereafter to be made or acquired by the party of the first part, within the limits of said State, for and during the term that said patents have to run.

And in consideration of said agreement to convey the said ——— ——— agree and bind ——— to organize a corporation for the purpose of constructing telephone lines and exchanges and conducting a general telephonic business in the said State of ——— within the next ———, and that immediately after the organization of said corporation it shall pay the party of the first part ——— in cash, and shall give to the party of the first part 30 per cent. of its fully paid-up stock, which shall be non-assessable for any purpose whatever, and said corporation shall pay to the party of the first part a royalty of 50 cents per month for each transmitter with its receiver which it uses, and the royalty shall be paid to the extent of the cost of said transmitters and receivers when the same are delivered at the manufactory, and afterwards the royalty shall be paid in monthly installments of 50 cents per month. That is to say, if the actual cost of transmitter and receiver is \$3.50, when that is paid on delivery of the instrument, it will be in full satisfaction of royalty for the first seven months.

Or at the option of said corporation it may pay to the party of the first part a bonus in cash of ——— at the time of organization in lieu of the cash bonus, and 30 per cent. of stock above provided for, but if the full cash bonus is paid the corporation will pay the royalty of 50 cents per month as above provided.

And it is further agreed that the said corporation shall have the right to sell telephones with the right to use them within the said State of ———, but to be used only in pairs, and by certain named persons and in certain named houses; and the contract of sale must stipulate that if said telephones are transferred from the persons or houses named without the written consent of the corporation selling the same, or if they are at any time connected with a central office or exchange, the purchaser shall forfeit all his rights as owner, and such telephones shall, after such transfer or connection with the exchange, pay to the corporation selling the same the same rental as other exchange telephones, and such corporation shall pay to the party of the first part from that time the same royalty as upon other telephones, and for each transmitter with its receiver so sold the corporation selling the same shall pay to the party of the first part \$25 on delivery of the same.

And it is further agreed that within a reasonable time after demand the party of the first part, will furnish to said corporation transmitters and receivers at the manufactory in Washington, D. C., the corporation ordering paying at the time of delivery \$3.50, supposed to be the actual cost, which will be credited on royalty account.

And it is further agreed that said corporation shall have the right to convey and assign all its rights to use said invention to corporations, associations, or individuals within the various cities, towns, villages, and counties in said State.

And it is further agreed that if said corporation shall elect to give its stock to the party of the first part, said corporation giving its stock is hereby prohibited from issuing bonds; nor shall such corporation allow to its officers salaries in the aggregate of more than ——— per annum without the written consent of the party of the first part, and that the party of the first part shall be represented by at least two directors in such corporation taken from the stockholders of the party of the first part, and that the books of such corporation shall be always open to the examination of such agent as the party of the first part may appoint.

And it is further agreed that in the event of any judicial proceeding against the party of the second part, or their assigns, upon the ground that said patents infringe any older patents or inventions, the party of the first part agrees and binds itself to defend such suit or suits with its own attorney, and at its own expense, and if said corporation shall be restrained from the use of said inventions by the judgment, order, or decree of any court, the royalty on such instruments shall cease during the time of such restraint.

And it is further agreed that if the party of the second part shall fail to organize the corporation above provided for in said State within the time specified, or if organ-

ized, said corporation shall fail to pay to the party of the first part the money or moneys and stock above provided for within seven days after organization, the party of the first part shall have the right by resolution of its board of directors to annul this contract.

In testimony whereof the said party of the first part has caused its seal and the signature of its president to be hereunto affixed and countersigned by its secretary, and the party of the second part has signed his name and affixed his seal on the day and date above written.

This form was used in the various contracts we have been talking about, made for the different States. It is the form of contract that we used in contracts of that sort. There have been more trifling alterations, interlineations, &c., but in the outline that is the contract we have made, and that is the one, as I stated, we understood to be substantially the same as that used by the Bell Telephone Company. In my statement on Saturday I proceeded a little out of order and I will have to go back in date of the events a little to state some facts that it may be important for the committee to know, and that I believe are embraced in this resolution. I speak in reference to the alleged sale of stock on the part of the company. After the company was organized, in December, 1883, we agreed at the first meeting, in pursuance of the third clause of the original contract, that no stock was to be sold by an individual shareholder, and that all stock, if any should be sold, should be sold under the direction of the executive committee, as provided for in the original contract, and in the subsequent contract under the direction of the board of directors.

By Mr. RANNEY:

Question. You are now speaking of the contract made in New York?—Answer. Yes, sir; I just allude to that in connection with the matter I am speaking of. You will find by that clause of the contract made at the first meeting in December, 1883, that we decided no stock should be sold except for the general benefit, and under the direction of the board of directors, and that the proceeds should go into the treasury. About the time of the first meeting Dr. Rogers made a transfer of \$8,833 worth of stock—I think that was the amount—to Colonel Looney, and Colonel Looney came to me and wanted me to give him some evidence of his ownership of that stock. I told him he was present when the agreement was made that the stock should not be issued; but he insisted that he ought to have some evidence of his ownership; that Dr. Rogers might die or he might die; and that it should be put upon the books in some sort of shape. So he sat down and drew up a paper, a substantial copy of which I have here, and which was followed afterwards in similar cases. Perhaps I had just better read it.

The CHAIRMAN. It is suggested that you have not given the correct amount. You said \$8,000.

The WITNESS (Mr. Young). I meant to say \$883,330. He wrote substantial that paper which I hold in my hand. Shall I read it.

The CHAIRMAN. If you please.

The WITNESS (Reading).

“OFFICE OF THE PAN-ELECTRIC TELEPHONE COMPANY,
“Washington, D.C., July 5, 1884.

“This is to certify that L. P. Cooper is entitled to one hundred and eleven shares (\$11,000 worth) of the capital stock of the Pan-Electric Telephone Company, whenever it is the policy of the board of directors to issue the same, and to be charged to the account of J. Harris Rogers on the books of the company.”

Colonel Looney sat down at my table and wrote a paper something like that and asked me to sign it. I declined to do it at first, but he insisted upon it, and finally I did sign it and made an entry upon the books that he was entitled to that much of the stock when it was issued. I supposed, as a matter of course, that would be the end of it, and that this agreement we had entered into would be carried out; but very soon after that orders commenced to come in to me from Dr. Rogers, like this—

By Mr. HALL:

Q. Do I understand that you adopted that form shortly afterwards?—A. No, sir.

Q. That seems to be printed.—A. That was printed, but not by the company. That happened like this: Dr. Rogers had transferred to General Wright \$10,000, or had given him an order to me like those I spoke of for \$10,000 of this stock when it should be issued. General Wright came to my room and wanted me to divide it up into various certificates, and I told him I couldn't do it. I said, “You will go to selling and peddling this stock around town, and I won't do it.” He assured me he would not do so; he said he wanted to divide it between some of his children or among some of the members of his family. He brought me about a dozen printed certificates like that, and I filled out three or four or five of them for him, very much against my judgment. These were a few that were left—some half a dozen—and I used them;

but nearly all the certificates that are down at my room (I will bring them up—perhaps they are here) were written by my clerk. When one of these papers would come to me from Dr. Rogers or Colonel Looney, I would hand it to a young man I had clerking for me and tell him to give the bearer of it a paper about like that.

By Mr. RANNEY:

Q. Can't you give the name of the clerk?—A. Yes, sir; Eli Hirshfield. He is in the city. He wrote the most of them. He was my clerk at the time I was a member of Congress. I commenced getting these papers. They would be presented to me on the street, in the lobby of the House, and everywhere else. They would read something like this—differently worded—but all substantially the same:

Hon. CASEY YOUNG, *Secretary, &c.*:

Please deliver to L. P. Cooper a certificate for \$11,600 of the Pan-Electric Telephone stock (say 116 shares) and charge to the account of

J. HARRIS ROGERS.

Here are a whole pile of them [indicating papers]. These papers commenced coming to me constantly.

Mr. RANNEY. I suppose we need not encumber the record with the papers.

The WITNESS (Mr. Young). No; I don't think it was important. As I say, these papers commenced coming to me constantly. It was in violation of our agreement and our understanding. I did not think it was a proper thing to do, but I did it to oblige Dr. Rogers. They kept coming and coming and coming, until it came to my ears that these papers were being peddled around town and being sold and transferred from one to another. I saw that that sort of business would necessarily ruin any company; that it was utterly inconsistent with any correct idea of business transactions, and I determined, so far as I was concerned, that I would withdraw from the company before I would permit that to be done any longer. I was in a fix where I couldn't resign, or I would have done it.

I spoke to a number of my associates and talked with Dr. Rogers and his son about the impropriety of conducting business in that sort of way; that no company could be carried on in that kind of way and have any credit and any standing. I insisted that we should keep the stock as it was, the property of the company, until it had some value and we had established the validity of our patents and their utility; but they took a different view of it. Finally, with the concurrence of most of my associates that I conferred with on the subject, I called a meeting of all the stockholders at the Ebbitt House. I forget the date of that meeting. It is in the minute-book. I think it was some time in February, 1884, that I called the meeting.

When they met there I stated to them the object of the meeting; that this stock had been peddled about town at all sorts of prices, and that I thought we ought to adopt a different mode of transacting our business, and they agreed with me. Dr. Rogers and his son were both there. Nobody dissented from that proposition that I ever heard of. Here are the minutes. They are too long to read. The committee can look at them. We agreed at that meeting, upon my suggestion, that all these outstanding papers I had been foolish enough to give should be called in, and that in lieu of them we should prepare another paper, which would be evidence to these gentlemen that they were entitled to so much interest in the company when the stock was issued, and should so show upon their face. I objected to these papers being peddled around, for the reason that they might impose on somebody who might think they had a greater value than they really had, and I didn't want any man to go into it without being thoroughly advised of all the facts. So I proposed that we should prepare a paper showing upon its face that it could not be transferred to anybody, and that when the validity of our patents was determined in any litigation for that purpose, they would be entitled to the amount of stock specified in the paper.

By the CHAIRMAN:

Q. Was any official action taken by the company to that effect?—A. Yes, sir; here it is.

Q. You have the minutes of the meeting before you?—A. Yes.

The CHAIRMAN. Had you not better give it in evidence?

The WITNESS (Mr. Young). Wait a moment, until I turn to it [taking up book of minutes.] Here is the meeting that I speak of:

"STOCKHOLDERS' MEETING.

"Pursuant to a call made by the president, the stockholders met at the Ebbitt House, in the city of Washington, at 7 o'clock p. m., January 26, 1885, whereupon, the roll being called, the following officers and stockholders were found to be present, namely:"

Shall I read them?

The CHAIRMAN, You may as well read them.

The WITNESS (reading): "Joseph E. Johnston, president; I. G. Harris, vice-president; Casey Young, secretary; J. H. Rogers, electrician; R. F. Looney, Robert Alexander, H. H. McNeil, P. P. Little, J. N. Denver, Marcus J. Wright, R. C. Winter-smith, Robert Klotz, C. G. Schneider, R. F. Crowell, William Helmick, J. W. Rogers, A. H. Garland, John C. Brown, Mrs. Pattie Collins, John D. C. Atkins, John Boyle, Mrs. Louisa Carlisle, W. G. Whitthorne, represented by proxy by Senator Harris."

None of the latter ones were there at all. Senator Harris represented them by proxy. Then there were a number of others represented by proxy by me.

(Continuing to read): "J. C. Neeley, Samuel Watson, L. P. Cooper, H. D. Money, Eli A. Marshfield, Mrs. L. C. Taylor, and Richard Contee."

By Mr. RANNEY:

Q. Was Senator Vest represented there?—A. No, sir; he was not represented by anybody and was not present.

"At the request of the president, the secretary, Casey Young, stated that the object of the meeting was to lay before the stockholders the condition and prospects of the company, and to suggest certain measures which he deemed important to secure the ultimate success of the same in its operations. He said a suit was already pending against the company in Philadelphia, and that others would no doubt be instituted"—

That was before this suit had been disposed of in Philadelphia—

"and that these suits would in the end involve a very large expense, and that it was necessary to raise by some means more money than was then in the treasury for the purpose of meeting these expenses. He therefore offered the following resolutions, setting out what he considered the proper method of raising the money:

"*Resolved*, That each stockholder in the company surrender 10 per cent. of the stock to which he may be entitled, which shall become stock in the hands of the board of directors with power to sell or otherwise dispose of so much of it, at such price and upon such terms as they may fix and as may be necessary to create a fund sufficient to meet the expense of any suit or suits that may be brought against the company to restrain it from selling, using, or operating its telephones and the successful prosecution of its business; but no more of such common stock shall be sold or otherwise disposed of than shall be absolutely necessary for the purpose above stated, and none of it shall be so sold or disposed of until after all the common stock now owned by the company, amounting to about \$150,000 worth, shall have been used in the same way and for the same purpose; and should any of the common stock hereinbefore mentioned remain undisposed of at the end of the litigation, it shall be issued pro rata to the present shareholders; and should any money arising from the sale of the same remain in the treasury unexpended, it shall be paid to the shareholders as a dividend in proportion to the stock by them respectively held.

"*Resolved*, That in order that the provisions of the foregoing resolution may be carried into effect, each stockholder shall return to the secretary the evidence which he now holds of the amount of stock to which he is entitled, and the president and secretary shall then issue to him a certificate showing upon its face that there is now pending a suit touching the validity of the patents held by this company, and when that or any other suit instituted for the same purpose is decided in favor of the company, he shall be entitled to have issued to him the amount of stock specified in said certificate; but the certificates here provided for shall not be transferable by the holder without the indorsement of the president and secretary.

"*Resolved*, That the president and secretary shall issue certificates representing the common stock hereinbefore mentioned and provided for, for such amounts as the board of directors may order, which certificates shall show upon their face that the holder shall be entitled to have issued to him the amount of the paid up and unassessable capital stock of the company that is therein specified, which certificates shall be sold at such prices as the board of directors may fix, and shall be transferable by the holder."

That was a different character of certificate, as you will observe, for the purpose of providing for the sale of this reserved stock.

"These resolutions were unanimously adopted, whereupon the following agreement was drawn up and signed:

"We, the undersigned, stockholders in the Pan-Electric Telephone Company, hereby agree to turn over to the board of directors of said company 10 per cent. of our entire stock for the purpose set forth in and in accordance with the resolutions adopted at a meeting of the stockholders of the company, held in accordance with a circular letter calling a meeting for certain purposes at the Ebbitt House, in the city of Washington, D. C., at 7 o'clock p. m., the 20th of January, 1885; and we hereby transfer to the said directors the 10 per cent. of stock so transferred for the purposes set forth in the said resolutions."

That was signed by all the persons present. It is not necessary to read the names again, I suppose. Senator Harris signed for Mr. Garland, Mr. Atkins, and others, and I signed for these friends of mine in Memphis.

"On motion of R. F. Looney, the president was authorized to appoint a committee to draft a form of certificate provided for in the preceding resolutions, whereupon the following gentlemen were appointed said committee: J. W. Rogers, Philip N. Dwyer, William Helmick, H. N. McNeal, and R. F. Crowell.

"On motion of Robert Klots, the president, secretary, and Marcus J. Wright were added to the committee.

"On motion, the board of directors were authorized and empowered to carry into effect the matters and things agreed upon at this meeting in such manner as may seem best for the interests of the company.

"On motion, the meeting adjourned *sine die*.

"J. E. JOHNSTON,
"President.

"CASEY YOUNG,
"Secretary."

That committee met and they agreed upon a certificate like this [exhibiting paper] to carry out the object of the meeting. Dr. Rogers met with us first, and finally he said to us, "You and General Wright and Mr. Helmick just attend to this business yourselves;" and we did. Here is the certificate that we prepared in accordance with those resolutions [handing book to committee]. In the book are the stubs of all the certificates that have been issued.

Mr. RANNEY. One of the certificates had better be put in the record.

The WITNESS. I will cut it out.

Mr. RANNEY. I would like to have the reporter insert, in that connection, from the stubs, the names, the amount of stock, and to whom issued.

The WITNESS. I can give that to you from the stock book. When that book was prepared I filled out the certificates, which you can see from the stubs have been taken from the book, and sent them to each man, and each man returned to me these little papers that my clerk had given him before, and that had my signature, showing that he was entitled to so much stock in that company whenever it was the policy of the board of directors to issue stock. They sent in those certificates to me and I gave in lieu thereof a paper taken out of that book. Most of them were receipted for in person, but some I sent by mail. You will notice on the stubs that those that were received in person are receipted for, while I got receipts by letter from those I sent through the mail. You will find a good many that I sent by mail. I have the receipts and letters acknowledging them, if I have not thrown them away.

By the CHAIRMAN:

Q. Please, now, give a list of the parties to whom certificates were issued, the number of shares, &c.—A. I will do so. I have the stock book in my hands. Here [indicating book] is another book that I had probably better put in evidence. While all these transfers were going on, and Dr. Rogers was sending me all these orders every day, and giving me a world of annoyance, I would tell my clerk, who was keeping the books, to make an entry on the book here, and he improvised a style of bookkeeping himself to keep all these entries straight; to show to whom the stock went and from whom it was to be taken. For instance, if an order was given by Harry Rogers, it would be taken away from him on the book and credited to the other man. Here is the old stock book that shows those transfers.

After those certificates were sent around I intended to wind up and stop all that business of the stock being sold until a proper time, when the board of directors should agree upon it, at least so far as I could; but I had a little difficulty in stopping it; it was not stopped. I told my clerk, however, at that time to close up this old stock book and draw off the balance due to each man upon the new stock book, which I have here. Here is the old stock book. If you want it put in evidence you can have it, or I will submit it for examination. It contains the various entries. When I would receive an order from anybody to give stock to another man, I would enter the name and amount, and the name of the party to whom the stock was to go, so as to keep the account straight; but when the certificates were prepared and we agreed to stop all this business, I had a balance drawn from the old stock book and carried into the new stock book, and that shows the interest of every man in the company.

Here is the new stock book, and here is the list of stockholders. Every man who holds any interest in this company is named in this book—every man that I have any knowledge of, or whose name has been reported to me—to the number of fifty-one persons. I will go over this list of stockholders, if the committee will permit me, and explain how each man came by his stock, so far as I know, and I know pretty well about how it is (referring to book). J. D. C. Atkins, \$450,000, the ten per cent. having been deducted from the original \$500,000; Robert Alexander, four and a half

shares, 450. I don't know where Alexander got his stock—not from the company; it must have been stock disposed of by other parties. W. T. Avery got his stock from General Marcus Wright, who got his originally from Dr. Rogers. He is a young man who lives in Memphis; a friend of ours. General Wright asked me to send it to him, which I did.

Q. How much did he have?—A. Five and two-fifths shares—\$540. John C. Brown: That is Governor Brown, formerly of Tennessee, and to whom \$100,000 was given, as has been testified to. He has 900 shares, or \$90,000. John Boyle, of Saint Louis: That is General Boyle, who bought his stock from Colonel Looney or Doctor Rogers, or both. He has \$9,000, or 90 shares. James Blake: I don't know about him at all. He got his stock from Doctor Rogers, and I sent that to him.

Q. How much?—A. Thirty-five and a tenth shares, or \$3,510. W. W. Briggs is a gentleman who lives in New Orleans. I learned by correspondence with him—I sent the paper to him and got an answer—that he got his stock from Doctor Rogers also. I do not know what the consideration was or anything about it.

Q. How much stock has he?—A. Five and two-fifths shares, or \$540 worth. C. Bankes Brookes: I just do know him. He lives in the city, I think. He has 52½ shares, which he got from Doctor Rogers or some of Doctor Rogers's assignees. John M. Bishop has 90 shares—\$9,000. I do not know him at all. I think he got it the same way. Mrs. Carlisle and Mrs. Collins, ladies, and Alexander Elliot, jr., come next.

Q. Where do those ladies reside?—A. One of them, I think, resides in Memphis, and the other lives here. One of them formerly lived at Macon, in Mississippi, and removed to this city. She is a literary lady, and writes for periodicals, &c.—Mrs. Collins.

Q. Is Mrs. Carlisle in any way connected with the Speaker?—A. Oh, no; none in the world, that I know of; and not connected with anybody in this company, except by mere ties of friendship and social ties. Further along another witness will explain how those ladies happened to go in. Mr. Elliott has four and a half shares, \$450. I do not know him at all; that is probably one of Dr. Rogers's sales. Here is A. N. Fletcher, a gentleman who did live in Philadelphia. His certificate has not been taken out of that book. It is in the book now. That was one of Dr. Rogers's transactions also.

Q. How many shares has he?—A. Forty-five shares, \$4,500. Mr. Fletcher was formerly connected with the House of Representatives, in the Forty-fourth Congress. He lives in Philadelphia, I think, although I saw him here the other day. His certificate is in that book. He never got it. A. H. Garland, forty-five hundred shares, \$450,000. A. S. Griggs, fifty-six and seven-tenths shares; I don't know him at all. That was stock that came from Dr. Rogers. E. J. Gray, four and a half shares; I don't know him. Isham G. Harris, 4,500 shares, \$450,000. George A. Howard; he is a friend of ours from Tennessee, who bought \$5,000 worth of stock, for which he paid \$500, and has remaining forty-five shares with 10 per cent. off, \$4,500. William Helmick, a magistrate of this city; he got his stock from Dr. Rogers; three hundred and sixty-four and a half shares. Eli A. Hirshfield, my clerk; I gave him \$1,000 worth of the stock. He is a boy that I raised up in my office.

Q. Did he pay you anything for it?—A. Oh, no; he was my clerk, and I gave it to him; he is a boy I took in my office ten years ago and have kept ever since. Here are two little girls that were namesakes of mine, General Wright's little daughter, Casey Young Wright, and Casey Young Miller. I gave them \$5,000 apiece; they did not pay anything for it. General Joseph E. Johnston, 4,500 shares, \$450,000; D. T. Jones, 31½ shares; I don't know him; he is one of the parties Dr. Rogers sold stock to, or some of his assignees; I don't know about that; by reference to the stub his name and residence can be found; I think it is on the stub in each case as a general thing. Next is the name of Robert Klotz, the gentleman who resides at Mauch Chunk, in Pennsylvania; he was formerly a member of Congress. He got that stock from Dr. Rogers in the way Dr. Rogers stated in his testimony. He is connected with the Rogers Telegraph and Telephone Company, and that stock was directed by Dr. Rogers to be turned over to him on the books, which I did. Robert F. Looney has remaining to his credit now \$378,700, or 3,787 shares out of the 8,000 he had. That is still remaining to his credit on the stock books.

Q. So that Colonel Looney became a larger stockholder than any of the original parties except Dr. Rogers?—A. Yes; sir. He acquired his interest from Dr. Rogers, and I did not know, until the other day, exactly what the contract was. I did not know before that he was to sell stock until I heard Dr. Rogers testify to it. His share was intended to be one-sixth of the whole amount, that is, one-sixth of \$5,000,000. H. D. Money, \$9,000. This spring a year ago I was disabled and badly hurt. I was paralyzed in my arm and leg, and was not able to be out of my room for two months. Mr. Money is an old and very close friend of mine. I gave him this stock a long time after both of us were out of Congress. He attended me during my sickness, and looked after my correspondence and business, and when I went to make out the cer-

tificates, I just sent him a certificate for \$10,000 worth, and that is how he happened to get it.

Q. That was after the expiration of Mr. Money's term in Congress?—A. Oh, yes. I will give you the date exactly. It was a long time after both of us were out of Congress. He is an old and very intimate friend of mine. He came to my room and staid with me, and assisted with my correspondence. He never asked me for it, and I said nothing to him about it, but just sent it to him. It was April 28, 1885.

The CHAIRMAN. That is the date of the stub.

The WITNESS. Yes; that is what the book shows. Thomas A. Mitchell, twelve and sixth-tenths shares; that is some more of Dr. Rogers' stock. Hector McNeil; that is another one of the same sort. He has two hundred and forty-one and one-fifth shares. J. C. Neely is a Memphis gentleman, having thirteen hundred and fifty shares. He is a friend of ours who resides at Memphis, that Colonel Looney sold to. I don't know what he got for it, or anything about it. It never went into the treasury, and I had nothing to do with it, except to send him a certificate when Colonel Looney requested me to do so. J. Harry Rogers has remaining to his credit on the books twelve hundred and forty-two and nine-tenths shares. Mrs. Cora E. Rogers, his mother, has nine hundred shares, or \$90,000 worth. J. W. Rogers has twenty-seven hundred and ninety shares still remaining to his credit on the book. Mr. Charles Royce has seven and a fifth shares. He is a gentleman living in this city, and that stock came from Dr. Rogers. S. L. Snell has forty-five shares. I don't know where he got that, but I think from Dr. Rogers. W. C. Stout is a gentleman who lives in a little country town near where I live. Dr. Rogers transferred to him in payment of a debt a hundred and twenty-six shares, and I sent it to him. C. G. Schneider I have seen, but I don't know anything about that transaction. He got his stock from Dr. Rogers. I don't know what he gave for it. I think he lives in the city somewhere.

By Mr. RANNEY:

Q. There is a man of that name who is Comptroller of the Currency; is that the man?—A. I do not think it is that man. I think he is a groceryman of some sort in this city. I have seen him. Mrs. L. C. Taylor, four hundred and fifty shares. Her husband, Mr. Julius A. Taylor, is a leading member of the Memphis bar, an old friend of mine, a friend of many years' standing. When we were talking about this thing, before it assumed definite shape, he said he would like to go into it. I was at home and talked with him about it, and he proposed to me that he should take an interest in it. I said, "Well, if you wish to do so you may, and whatever I have to pay you can have the stock at." Time went on and Mr. Taylor got in bad health and went to South America, and I heard nothing from him for quite a while. When I next saw him he claimed that he was entitled to so much stock under this agreement; and without making any more talk about it I gave him the certificate for \$50,000 worth, less the 10 per cent.; or, at least, I made it out in the name of his wife. He asked me to do so and I did so, and that is how that came about. Mr. Taylor is an old and intimate friend of mine at home. We have been associates for twenty-five years. He used to be in my office.

Q. He paid the full value of the stock, did he?—A. He was to pay it, but he did not pay it. I gave him the stock afterwards. Before I saw him again we had received considerable sums of money, and when we were making those dividends I sent him what he would be entitled to on that \$50,000, deducting what he ought to have paid but had not paid up to that time. He would have paid for it. He was perfectly good for it, and if I had drawn on him at any time he would have paid it. He is here now.

By Mr. HALL:

Q. What you sent him represented the advance on what he was to have, did it?—A. No, sir; we had no definite agreement. I had a talk with him before the matter assumed definite shape, and he said, "I would like to go into that telephone company," and I said, "You can do it, and it shall not cost you any more in proportion than it does me." I saw no more of him for some time. He went off to South America, and when he came back, a year or two afterwards, I met him, and we got talking about it, and I just sent it to him. He asked me to make it out in his wife's name, which I did. They were very intimate friends of mine. The next one is W. H. Trainor, forty-five shares. I don't know anything about him; that is some of Dr. Rogers' stock, I suppose. Jacob Thompson, four hundred and fifty shares. That is the Jacob Thompson who was formerly Secretary of the Interior, and died recently. The stock was sold to him by Colonel Looney; I don't know anything about what he got for it. We had nothing to do with it. The next is George G. Vest. I know nothing personally about that, but it had been communicated to me how he got it, and the money came to my hands, and I have put the transaction on the book.

By Mr. RANNEY:

Q. He has made his own statement about that.—A. Yes, sir; and he has stated it correctly. I saw his statement, and so far as I know it is a correct statement. The money came to my hands, and I entered it on the books. Marcus J. Wright, $53\frac{1}{10}$ shares. He was formerly sheriff of my county and lived in my State. That was given to him by Dr. Rogers, I do not know for what consideration. R. C. Wintersmith: That was originally stock of Dr. Rogers, and he got it from him. He was formerly a resident of our city. I don't know anything about what he gave for it at all. The next is W. C. Whitthorne, who formerly represented one of the districts of our State. He has 9 shares, \$900 worth. The way he came by his stock was this: There were some business transactions between him and General Wright, by which General Wright had become indebted to him in certain amounts of money. I don't know how much, but in the payment of that debt he gave General Whitthorne an order on me, setting out in the order what it was for. I don't know whether or not the order is among the papers. It stated that he was indebted to General Whitthorne in some matter or other, I don't know what, and directed me to send this certificate to General Whitthorne when it was prepared, which I did, and that was the way he became possessed of the stock.

By the CHAIRMAN:

Q. Was he a member of Congress at that time?—A. Oh, no, sir; and had not been for a long time. He never paid anything for the stock; he got it in payment of an old debt. Samuel Watson, four hundred and fifty shares. He lives in Memphis and is a minister; an old friend of ours, who has lived there a long while. He got his stock from Colonel Looney, and I don't know what he gave for it. John F. Waggonman, six hundred and twelve shares. He lives here. I don't know anything about that stock; I suppose it came from Dr. Rogers or from somebody who got it from Dr. Rogers. Martin V. Webb, two and seven-tenths shares. I don't know who he is; I never saw him. He got that from Dr. Rogers or some of his assignees. L. P. Cooper is a lawyer who resides in my town, a highly respectable gentleman. Dr. Rogers owed him an old debt, somehow or other; I don't know just what the transaction was. I think his order is among the papers. He gave him an order for one hundred and seventeen and nine-tenths shares of stock in payment of the debt, and I sent the paper to him. Mr. R. F. Crowell; he is here in the city somewhere. I think he used to be connected in some way with the Post-Office Department, as auditor, or something of that kind. He got his stock from Dr. Rogers also.

By Mr. MOFFATT:

Q. How much did he get?—A. Two hundred and twenty-five shares.

By the CHAIRMAN:

Q. Was he connected with the Post-Office Department at the time he got this stock?—A. I don't think he was.

By Mr. RANNEY:

Q. What was his position?—A. I understood he was an auditor, or something of that sort.

Mr. MOFFATT. He was Sixth Auditor, or Deputy Sixth Auditor.

Q. Does he hold any office under this administration?—A. Oh, no; I think not; I don't think he was in office when he got that paper, either; I just heard from somebody that he had been connected with that Department.

Mr. MOFFATT. Judge Crowell was there until some time in May.

The WITNESS. Last May?

Mr. MOFFATT. Yes.

The WITNESS. Let me see when he did get it. [Referring to book.] He got it May 1.

By the CHAIRMAN:

Q. May 1, 1885?—A. Yes, sir; does that correspond with the stub?

Q. I do not find it here. You say you think he was not in the Department at that time?—A. I really do not know. I don't know that he ever was in the Department. I just mentioned that to identify the man. I saw him often about town. I saw him a few days ago. He is a very nice gentleman.

Q. Is he in the Department now?—A. Oh, I think not. I hardly think he was then, but really I do not know. I don't know that he ever was.

Mr. MOFFATT. It was just about that time that he was superseded; I don't recollect the exact date.

Mr. RANNEY. It made him so rich I suppose he thought he could afford to go out.

Q. Was he appointed by this administration?—A. Oh, no; not that I know of. They might have done it very properly. He is a very clever gentleman. Next comes

Mr. Philip N. Dwyer. He is an architect here, a young man. He has nine hundred shares. He got them from Dr. Rogers. Next comes Mr. Julius Lansburgh. I think he is a merchant in town here. He has twenty-seven shares. The next is Dr. J. A. Harlan, two hundred and sixty-five and a half shares. He lives here in the city. That completes the list. If there is anybody else that has any interest in the world in the company, I don't know it. It has never been reported to me, and I have never heard of it.

Q. You did not state from whom the last gentlemen you named received their stock.—
A. All of them from Dr. Rogers. I will show the committee the stock the company sold. The company never sold a dollar's worth of interest in this concern to anybody except Senator Vest, Mr. Howard, and those two ladies. That is all the stock or interest in the stock the company ever has sold to anybody.

By Mr. MILLARD:

Q. Do you mean by that statement that all the other persons who received the stock of the company received it without making any compensation for it?—A. I do not know what they paid Dr. Rogers and Colonel Looney. I presume they did pay something for it. I do not know.

The CHAIRMAN. The statement of the witness is that the company itself disposed of stock only to these four persons.

The WITNESS. None of the proceeds of this stock ever came into the treasury of the company, except, as I have stated, and that is what I objected to. I did not propose to be an advertising medium for those gentlemen to sell their stock and get rid of it and leave us with the concern on our hands, to sell it to people who knew nothing about it. I do not know what they got for the stock. I know we did not get anything, or, at least, the company did not. That is the cash-book (indicating book), and if the committee desires to examine it I will put it in evidence. In the fore part of the book, as I told you in my testimony previously, is set out the amount of money that was received and the sources from which it came, and here is a statement of all the expenditures of the company.

Q. Perhaps you had better state it, so that we will get it into the record.—A. To go over all these expenditures would take two hours. There are about five hundred items.

Mr. MOFFAT. We should have the individual accounts of the various members. We would like that to show how much they received in dividends.

The WITNESS. I can go through that part of it directly.

By Mr. MILLARD:

Q. It was not kept separately?—A. No.

By Mr. MOFFATT:

Q. Is there not an account with each one of the stockholders to show how much he has contributed and how much he has received?—A. I believe there is. I am not an expert bookkeeper, and never was. This book was kept by my clerk from time to time, and it is not a model of bookkeeping.

By Mr. MILLARD:

Q. Let me right there ask you a single question. Do you say these four persons are the only persons that received stock for which anything has been paid to the company?—A. Oh, yes; we never sold to anybody else.

Q. To nobody else?—A. No, sir; nobody at all. Nobody has any interest in it, either by gift or by sale.

Q. Did not the Pan-Electric Company transfer stock to the local company here?—
A. No, sir; not that I know of. There was no transfer of stock to the local company here. The local company here gave us stock.

By Mr. RANNEY:

Q. They were licensees, and you transferred the right to them?—A. We sold the right to use the telephones, but did not give them any stock in our company.

Q. You gave them a limited interest in the patent rights?—A. Yes, sir; in a certain territory.

By Mr. MILLARD:

Q. What did they give you in return?

The WITNESS. Which one? You see they gave different prices.

Mr. MILLARD. The company here in Washington.

The WITNESS. When they organized the company in the District of Columbia, under the first contract we made, Dr. Harlan was to take charge of it and attend to the manufacturing here, as we supposed that he knew more about electricity and was more of an electrical and mechanical expert than we were.

Mr. RANNEY. Suppose you leave that until it is reached in regular order. That is another branch of the inquiry.

Mr. MILLARD. Very well.

By the CHAIRMAN:

Q. In regard to a matter about which you have testified, you stated that a certificate was issued to Mr. Klotz, of Pennsylvania?—A. Yes, sir.

Q. Was it issued to him in his individual capacity, or as treasurer of the Mauch Chunk company?—A. He holds it as treasurer of the Rogers Telegraph and Telephone Company. There are a number of papers in my possession that relate to that matter, but they are simply legal papers about the transfer.

Q. I see by the stub that the certificate was issued to Mr. Klotz as treasurer.—A. That is the way it appears here, but possibly I did not state it that way. He holds it as treasurer of that company. There were some stipulations and agreements about it between him and Dr. Rogers; I don't know what they were. Mr. Millard asked me something about the individual accounts of members. I will turn to them. I wanted to refer to them, any way, and might have overlooked it.

Mr. MOFFATT. Perhaps it would be just as well for the colonel to indicate to the clerk these accounts, and let him copy them off and put them in the record.

The CHAIRMAN. The accounts are not long, are they?

The WITNESS (Mr. Young). Oh, no. I don't believe I have got the book here that has them in it. If I have, it is not indexed.

Mr. MOFFATT. I noticed them in some of those books the other day.

The WITNESS. Here is the book. I will turn to the account of one of these parties. They are all counterparts. All the accounts are the same. They expended the same amount of money, and received the same amount of money.

By Mr. MOFFATT:

Q. They received, of course, according to the number of shares of stock they held—did they not?—A. I mean these original incorporators. They are the only ones that paid any money in. These accounts are kept with the original parties to the organization.

Q. State also what money was received.—A. That would not involve an account with each member, because money came from these associations we sold rights to. That is in the fore part of the book. I will call it off if you desire, but I will go through these accounts first. Here is the account of General Johnston. By the first assessment he paid \$105. I am not sure I have that exactly right. That is the only entry I have made in these books since the inquiry has been commenced.

By Mr. RANNEY:

Q. Was that money received, or paid out?—A. That was an assessment against General Johnston. I do not know that that is exactly correct. It may be a few dollars less or a few dollars more. That was paid over by General Johnston to Harry Rogers, and never passed through my hands, and therefore I never put it on the books until the other day, in order that I might get the whole facts before the committee. Then there was an assessment made November 26, 1883.

By Mr. HALL:

Q. An assessment upon what?—A. Upon General Johnston.

Q. Upon his stock?—A. Not upon his stock exactly, but to pay expenses. We had agreed, under the original contract, to experiment and test these instruments, or these various inventions.

Q. That was an assessment upon him as an individual?—A. You may call it upon his stock or upon him as an individual. It was assessed in proportion to his stock.

By the CHAIRMAN:

Q. In proportion to his interest?—A. Yes, sir; that is about \$105. I am not sure that is the exact amount. That was in October. That was October 24, 1883. Then on the 26th of November, 1883, General Johnston was assessed again, \$65.60; then on March 6 he was assessed \$116.37; on April 25 he was assessed \$23. That is what General Johnston paid in; something over \$400.

Mr. HALL. Suppose, without dwelling on all the items, you turn to Mr. Rogers's account. He had a large account, and that will give us a relative knowledge of the matter.

Mr. RANNEY. Give the aggregate of the sums paid and received, and that will do.

The WITNESS. It was a little over \$400 that each one of the original incorporators paid in if my figures are correct. He paid in a little more because he held more.

By Mr. RANNEY:

Q. How much did he receive in dividends?—A. I will go on and state it. General Johnston's account is a counterpart of all the others, except Harry Rogers's. He re-

ceived in dividends on June 4, 1884, \$298.17. On June 6 he received \$788.90. On July 25 he received \$750. That is a counterpart of the account of all except Harry Rogers and Colonel Looney. As they had more stock, their accounts would be a little larger.

Q. Those who contributed the same sums received dividends in similar amounts equally?—A. Yes, sir; General Johnston, myself, Senator Harris, Mr. Atkins, and Mr. Garland. The accounts are exactly the same—the same amounts paid out and the same receipts.

Q. Mr. Garland received no more than the rest of them?—A. No, sir; just the same. We never could get him there. He would not go, or pay any attention. He was never at but two meetings. We could not make him attend. He ought not to have had anything; that is the truth about it. Now about the dividends: When the company was first organized they made me the secretary and treasurer without my consent and against my protest. I had no idea it was going to be more than a temporary affair, and never dreamed I was going to have so much trouble about it. When this money came into our hands, I was personally opposed to the distribution of it, and the only thing that reconciled me to it was that I wanted to get it out of my hands. I was the treasurer, and I did not want to be troubled with it. I preferred that they should have it instead of me. So far from Mr. Rogers wanting it for another purpose, I think he was just as anxious to get it as anybody else, as his letters will show. I think everybody else was entirely willing, except myself and General Johnston. Personally, we opposed it. Out of the whole sum received by us, about \$24,000 (I have not added it up, and I couldn't give the exact sum), was distributed in that way, with the understanding on the part of these gentlemen when they received it that if it should become necessary in carrying on our operations, this money was to be refunded by them, and I was glad enough to get it out of my hands, because I didn't want to be troubled with it.

By the CHAIRMAN:

Q. Do I understand you to say that \$24,000 was the whole amount received?—A. Oh, no; I say that much of the amount received was distributed among them. It was not nearly so big a thing as the imaginations of some gentlemen have caused them to represent it to be. The whole amount received was \$35,000.

By Mr. HALL:

Q. From all sources?—A. From all sources, as shown by these books.

By Mr. RANNEY:

Q. When you say from all sources, do you mean to include money received from sales of rights?—A. All the money that ever came into our hands.

By the CHAIRMAN:

Q. Does it include the contributions by the members?—A. Everything. Here is the cash book, which shows all the receipts, and that is the aggregate as footed up here. If my figures are correct, and I have gone over them pretty carefully, and I think they are, that represents the full amount received, \$35,002. Of that sum, about \$24,000—I have not made a careful calculation, but have calculated hurriedly in my head—was divided among the different stockholders. The balance was expended as shown here in the items of expenditures. They are too long to read them all, for there are four or five hundred of them—expenditures in the prosecution of the enterprise. We paid to an electrician that was recommended to us—that was against my advice also, but they decided to do it—\$1,000 for the preparation of a book that was to be used in the prosecution or defense of any suit we might have in respect to the telephone. He was quite an accomplished electrician and knew a good deal about the law of telephones. He was raised in the Patent Office. The gentlemen who made the agreement thought it would be valuable. I did not think so myself. He prepared the book and we paid him about \$1,000 for that; and altogether the preparation of that book cost us a little over \$2,000, as appears from the various items—publishing the book, &c. The balance was expended in preparations for trial, making models, &c., and the money that was not expended remains in the treasury.

By Mr. RANNEY:

Q. Preparations for trial where?—A. Wherever it might occur.

Q. In no specific place?—A. Not at that time. We knew we were going to have a trial, and we wanted one somewhere, and we were preparing ourselves for it, wherever it might occur. We had a book prepared a little larger than that volume there [indicating book], called The Telephone Case. I don't happen to have a copy of it here. It embraced the grounds that were necessary to be gone over in a litigation affecting the validity of the Bell patent.

By the CHAIRMAN:

Q. How much money remains in the treasury?—A. I have not added it up; something like \$3,000 or \$2,500. I have not laid a finger on these books for some time.

Q. I gather from your testimony you received about \$35,000?—A. Yes, sir.

Q. And divided \$24,000 or \$25,000?—A. About that.

Q. And there remains in the treasury about \$3,000?—A. Say about \$2,500, perhaps.

Q. And the rest was used for the expenses of the company?—A. Yes, sir; under the orders of the directors. Well, perhaps all my expenses have not been passed upon by the company. I don't know but what they may catch me up on some of them. In some cases I have taken the responsibility of making expenditures I thought proper.

By Mr. RANNEY:

Q. Were any expenditures made in the way of development of patents?—A. The expenditures were made in the publication of this work, in the preparation for trial whenever one should come, and for my traveling expenses also. I have been traveling about a good deal, and have charged my expenses to the company; nothing more. I have never received a dollar of salary from the company, nor a dollar for any professional service, but I did charge them with my traveling expenses, which appear on the books here. Then there were expenses for construction of models and various things that will appear.

Q. Models prepared for the purpose of the trial?—A. Yes; models of the Reis telephone, &c.

By the CHAIRMAN:

Q. It has been suggested by Mr. Harris Rogers that the first payment by the stockholders was repaid.—A. Oh, yes; that is all true; but I find I have made a mistake here of \$100 in these assessments.

By Mr. RANNEY:

Q. What do you mean by that; that the sums that were assessed upon them were subsequently repaid?—A. When they were paying these assessments only \$298 of the money passed through my hands. The balance had been paid to Harris Rogers before I came on here. He had expended some money of his own with General Johnston in fixing up things here. I don't know exactly what they were doing, but it was some proper expenditure. He gave me the account afterwards, and I found the money had been expended. He drew, or General Johnston drew, on us for our pro-rata share of the money that had been expended, and as it did not go through my hands I have not entered it on the books.

Q. Are those items which were repaid embraced in the items which you gave—the money received by them?—A. The money that was assessed on them they paid.

Q. And it went in your book and you have given us the items. Then you have given us the items of money paid to them?—A. Yes, sir.

Q. Do those items embrace the repayment?—A. I see the point, and I want to explain it. All that passed through my hands went upon the books; but when I came to make this calculation about how much each man was entitled to I got another gentleman, who was better at figures than I am, to make the calculation, and I left out altogether \$300 which had been sent to Harry Rogers, and only calculated the \$298 which had passed through my hands. That \$298 was paid back—

By Mr. HALL:

Q. Do you mean that the \$300 was never entered on the books?—A. Never until the other day. I put it on for the purpose of this investigation, to show how much money had passed through my hands.

Q. Did that transaction occur before you became the secretary and treasurer?—A. No, sir; I was secretary and treasurer then; but I was at home and they were here. I was in Memphis. That is the way it was. When I came to estimate what each man would be entitled to, I only figured on this \$298 which had come through my hands; and so the company really owes those gentlemen \$300 yet, though it did not occur to me until I went to fix up this thing the other day.

By Mr. MOFFATT:

Q. There is a charge to one of these parties that you spoke of, or a credit to him, of \$400, which he contributed in dividends.

A. No; that was an assessment of \$400.

Q. Those assessments, of course, were credited to him on his account?—A. Yes, sir.

Q. Then there was eighteen hundred and odd dollars of dividends?—A. Yes, sir; something over that.

Q. Does that eighteen hundred and odd dollars include any of this money that was paid back?—A. It embraces \$298 of it, all that passed through my hands. All of the assessment that came through my hands was embraced in these figures. This \$100 that went to Mr. Rogers I did not include, because it had not come through my hands,

and escaped my attention. I only embraced the \$298 of the assessment that passed through my hands. That which went through his hands I did not think of at the time, and did not take it into account until the other day. Those were the money transactions we had, and these are the reasons that governed us in doing as we did. There has been a great deal of comment about our dividing this money, just as if there was some crime involved in it. I did not want to be charged with the responsibility of keeping the money myself. I was the treasurer, with no bond or anything of that kind, and it was a good deal of annoyance and trouble to me; and these gentlemen wanted the money, and it was given to them with the express understanding that if it was required for any purpose connected with the transaction of the business of the company it was to be refunded by them, and that is all there is about it.

By Mr. RANNEY:

Q. Have you any record to that effect?—A. No; there was no record.

Q. No articles of agreement?—A. No; it was just the understanding at the time when we received the money. I did not want to keep it. It was a great annoyance to me.

By Mr. HANBACK:

Q. You and General Johnston opposed the distribution of this money?—A. Personally we were opposed to it. I did not say very much about it anyhow.

Q. It was against your judgment?—A. I thought possibly it would be better to leave it alone. In addition to that we have owing to us about \$12,000 that I have not tried to collect. I have not needed it and I have not tried to collect it. I got a letter the other day from one of the gentlemen who owes a part of it, saying that he was ready to pay it whenever we would draw on him for it; but we have not needed it, and I do not care to get any more in my hands or to do anything that will involve making calculations for dividends. I am tired of it.

By Mr. HALL:

Q. The parties to whom you refer are not Congressmen, I suppose?—A. Oh, no; I am the only Congressman who ever had anything to do with it one way or the other. Something was said the other day about my drumming up Congressmen to go in with us. I want to explain about that.

By Mr. EDEN:

Q. Right there, before I forget it: Was Mr. Atkins a member of Congress at the time he became interested in this matter?—A. He was not a member of Congress at the time this contract was drawn up. I don't know how long previous to that he had talked about it. I never spoke to him about it until after he was out of Congress. I talked to Dr. Rogers about it myself before the adjournment of Congress. I was a Congressman-elect then—not in the House; but I talked to him about it often before I came on here. General Atkins went out on the 4th of March, 1883, and this contract was entered into on the 13th of March.

By the CHAIRMAN:

Q. His successor had been elected in November, 1882?—A. Oh, yes; Mr. Taylor was already elected, and is in Congress still. Now, about selling stock to Congressmen: They were not the sort of people I wanted to sell stock to. That grew out of a conversation something like this: Before we had made any sales, and before we had any money in the treasury excepting what we put in ourselves (we contributed a thousand or so—at least we made a note which Senator Harris and I indorsed, and got the money on it, and put it in the treasury)—we were talking about the ways and means by which we would put this thing in operation, and, as I said yesterday, I was always in favor of doing it with our own money, and proposed that we contribute \$5,000 apiece and put it up. Nobody objected to it particularly, but it was not done, and before we really had time to do it these gentlemen commenced to negotiate with us to buy these rights.

By Mr. RANNEY:

Q. What gentlemen?—A. The gentlemen in Saint Louis and Memphis and other places that we finally sold rights to—General Boyle in Saint Louis, for one.

Q. You said "these gentlemen," and I wanted to know to whom you referred.—A. I spoke of the ones we had sold these rights to. We were talking about selling this common stock that belonged to the company, and I said that a good many people had applied to me and wanted to buy it; I had talked with I don't know how many members of Congress, and never offered to sell a dollar's worth to one of them in my life, and I don't know as one of them ever offered to buy a cent's worth of it.

By Mr. HALL:

Q. Did you offer to give it to them?—A. No, no. I thought more of it than Dr. Rogers did. I did not want to "scatter it around so fluently," as my friend Cox would say.

I did not want it scattered around the way they wanted it scattered. I suppose fifty members of Congress spoke to me about it, as I said to Harry Rogers; I don't know how many. They were not exactly the sort of people I wanted to sell to. I have had enough of that sort of men. I don't think Congressmen are worth much in a business enterprise of this kind. I wanted to put it upon a business basis; and I never offered to sell a dollar's worth to a member of Congress and no member of Congress ever offered to buy a dollar's worth from me. I talked with them about the telephone very frequently.

By Mr. EDEN:

Q. You never offered to give them any?—A. Oh, no; to nobody except my friend Money; and after a while I thought too much of it, considering the trouble it had given me and the money it had cost me, to give it away.

By Mr. RANNEY:

Q. You did say, as has been testified to, that a great many members of Congress had spoken to you about buying it?—A. I think it is likely I did; I don't remember—no, not that any member of Congress wanted to buy it; I never said one of them wanted to buy it.

Q. Wanted to get in?—A. Oh, no; I couldn't say that they wanted to get in; my colleagues talked to me generally about it.

Q. What was the talk about at the time Rogers mentions?—A. I don't remember exactly what the talk was. I don't think it was at a meeting of the board that this conversation between Rogers and myself took place. I expect likely it was at some time when we met on the street. All I remember about it is that I said, perhaps, a number of people had come to me and wanted to buy stock, and we talked about it in some way, and wanted to know what we should charge. I heard Harry Rogers say that I thought about \$10, and he thought about \$20. My recollection is the reverse; that I wanted \$20, and he suggested \$10. There was never anything definite done about it. It was a mere informal conversation between ourselves, either at a meeting or at some accidental dropping in at our room, or in some such way as that. Mr. Dunn, of Arkansas, talked to me about the matter once. He said he was about to trade with Dr. Rogers or Colonel Looney—I don't know which—a house at Forest City for some of this stock, and asked me what I thought of it. I said to him, "Keep your house and let the stock alone." I have advised at least five hundred men not to buy it until its value was established.

Q. You cannot tell what members of Congress spoke to you about it?—A. I cannot remember. If the committee deems it important that I should tell the men I have had conversations with casually I will try and think of them. I talked with Mr. Dunn, and I think with my colleague, Mr. Taylor, and Mr. MacMillin, and I don't know how many—I expect fifty, at least. I talked with Mr. Hopkins.

Q. Have you mentioned all you talked with?—A. Oh, no; I couldn't mention all of them.

By Mr. EDEN:

Q. They were not offering to buy and you were not offering to sell?—A. Oh, no; there was never any proposition to buy or sell. They were men of no account to us. We wanted no legislation, and never dreamed that Congress would have anything to do with our telephone; and I know enough of politicians to know as a general thing they are worth very little for anything else than politics.

By Mr. HANBACK:

Q. What was the general nature of the conversations you had with these members?—A. I have just stated that it was in reference to the telephone generally, what I thought on the subject, and what we were going to make out of it, and if it was a good invention; conversation like that. I talked to a great number of them. The way it happened was this: One of our telephones was put up in my committee room. I belonged to the Committee on Public Buildings and Grounds, and Dr. Harlan, who had the contract for the District of Columbia, put up the telephone in the committee room and connected it with some other point, and gentlemen would come in and ask me about it, and I talked to them about it—members of the committee and others. I suppose I talked with fifty members of Congress; I don't know how many.

By Mr. RANNEY:

Q. They seemed to know all about it, did they, before they talked with you, or did you tell them about it?—A. I have never found a fellow yet up to the present day that knew all about it. They seemed to know nothing about it at all.

Q. How did they happen to inquire about it?—A. If some of them are called before the committee I expect they will tell you. I cannot call to mind how the conversation came up. I have given you the names of half a dozen gentlemen, and if it is deemed material I will talk with them and try to ascertain how the conversation did

come up, or you can summon them here and make the inquiry of them. I have mentioned Mr. Dunn, Mr. MacMillin, Mr. Taylor, and Mr. Hopkins, of Pennsylvania. Mr. Hopkins was a member of my committee, and I remember speaking to him about the telephone there, and also Mr. Stockslager, of Indiana, the chairman of the committee. If you will summon those gentlemen perhaps they can enlighten you.

By the CHAIRMAN:

Q. From the conversations you had did you gather that they wanted to get an interest in the company, or were they merely speaking of the character and merits of the invention?—A. Oh, they were merely talking about the instrument as I used to hear them talk about the Bell instrument when it was first put up here. I was here then, and talked about that. I expect I could have sold stock to some of them if I had tried. I could have sold to a great many people, but I declined to do so. In order to satisfy the committee perfectly of what our purpose was, I will state that I have at my room probably five hundred letters from people who wanted to buy either the right to use this telephone or wanted to buy the stock or the telephone itself, and to all of them I have written uniformly—I don't think there is an exception—advising them not to do it; that it was in litigation, and there would be a lawsuit, and when the lawsuit was over we would be ready to negotiate with them. I will give the committee, if desired, a list of my correspondents, and they can summon them all. There are three stenographers that wrote my letters. I think they have got their note-books, and if the committee want them they can have them. I can show the letters I received, and some of them will show the nature of my reply. I have all the time advised people not to invest their money in it until they were satisfied.

By Mr. HALL:

Q. I understand the inquiry is directed more particularly to Congressmen.—A. That is all that Congressmen ever had to do with it.

By Mr. RANNEY:

Q. How did they learn anything about the Pan-Electric Telephone?—A. I am unable to tell you that.

Q. Did they get it from you?—A. They possibly might; I don't think I ever did mention it to a man in my life, unless it was called out by some other circumstance or incident. Dr. Rogers kept the papers full of it all the time, as he said, with his advertisements and his circulars; we never published a circular.

Q. What I want to know is whether these Congressmen learned about your interest in it, and that you were engaged in the enterprise, from you or otherwise.—A. It would be impossible for me to call to mind now what brought about these various conversations, for I attached too little importance to them. It ought to be sufficient that the fact is that although the books show every man interested in this enterprise, no member of Congress has any interest in it whatever.

Q. Did you explain to them or did you conceal from them what you knew about it?—A. I told them all I knew. I didn't know much to tell. I never withheld anything from anybody in connection with it. Any information I have had I have given, perhaps a little too freely. I have never withheld any fact in my possession connected with the telephone. Very often men with whom I would converse would understand the subject better than I did. I would not perhaps understand it all myself. It is a subject that requires long study.

By Mr. EDEN:

Q. Was there any secret about the fact that there was such an enterprise?—A. Not at all; everybody knew it, and Senator Garland was known all over the country as its counsel. There was no secret about its operations or its meetings or anything else about it. Nobody ever dreamed that we were not engaged in a perfectly proper and legitimate enterprise, and we have not dreamed of it yet. I have no apology to offer and no excuse to make on the subject. I have shown here the minute book. If the committee desires I will put it in proof, also the contract book, the old stock book, the new stock book and the cash book. Those are all the books we have. I have this to ask of the committee: That I would like to have an opportunity to explain any part of these books that is to be put in the printed testimony, if there is anything that appears by the committee to need explanation. I would like also to look at the letters that I wrote that have been published, and be given an opportunity to explain them. I see some of them that are liable to be misconstrued, and I would like to explain to the committee the circumstances under which each one of these letters was written, and the motives which prompted me to write them. I have got copies of them in the newspapers, but I do not know which of them have been put in evidence. I have got all that were published, but I do not know what has been the determination of the committee as to their relevancy.

Mr. HALL. I suggest that you go on and make your narration, and when you come

to a date or an event upon which any of those letters bears, that you make any explanation that may be necessary.

The WITNESS. A good deal has been said about legislation, I don't know whether in the letters published, but certainly in the printed publications, about our trying to secure legislation in furtherance of the interests of this company. I want to show that legislation. I happen to have it here. There never was a bill introduced by me or by any of my associates that I know of, or advocated, that related in the remotest degree to this enterprise. If any of them ever had such a thought, I never heard of it. If any such bill was ever introduced or ever advocated by them, I never heard of it; and certainly I never did myself. I have seen it published that we had introduced a bill authorizing the Attorney-General to annul a patent.

By the CHAIRMAN:

Q. Let me ask you a question just there, as affecting Mr. Money. It seems that he holds \$10,000 of this stock. If I recollect aright, he received it last May?—A. Last June, May, or April. I think the date is on the stub.

Q. Some time during 1885?—A. Yes, sir.

Q. Was he at that time a member of Congress?—A. Oh, no.

Q. It is stated here that he was the chairman of the Committee on Post-Offices and Post-Roads.—A. That was long before he got this stock, and I wanted to say a word about that.

Q. To your knowledge had he any interest in this company at the time he was a member of Congress?—A. None whatever. I talked with him about it fifty times, I suppose, and he never intimated to me that he wanted any interest.

By Mr. EDEN:

Q. Was the interest which he acquired obtained from the company?—A. No, sir; I gave it to him myself. He staid with me during my illness. He is a very close and intimate friend of mine.

By Mr. MOFFATT:

Q. Did not Dr. Rogers testify in regard to selling some stock to Mr. Money?—A. That was different stock.

The CHAIRMAN. That was some stock in the Pennsylvania Company.

By Mr. HALL:

Q. I understand this stock was not given for any money consideration existing or coming into existence when he was in Congress?—A. Oh, no; I gave it to him myself, individually; the company had nothing to do with it. I don't suppose any of the company knew it until I mentioned it to them. I never mentioned the subject to him until I sent it to him. He staid with me, as I said, during my illness, and attended to my correspondence and looked after my business for me. I got very badly hurt in front of the Capitol here, and my arm and leg were paralyzed. I was not able to get about at all, and have not got over it yet. Now, about the legislation we were engaged in. I have seen it continuously published that we had a bill introduced for our benefit to enable the Attorney-General to annul patents. Here is the bill [exhibiting bill]. It was introduced in the Forty-sixth Congress, long before this company had any existence. I never heard of the bill until it was brought up on its passage in the House and read at the Clerk's desk.

By the CHAIRMAN:

Q. Do you know the date of its introduction?—A. The date is on the bill itself, June 9, 1880.

By Mr. MOFFATT:

Q. Is that the only bill you know of, of that character?—A. The only one I ever heard of, and this bill has been offered in every Congress since; first in the Forty-sixth, then in the Forty-seventh, and then in the Forty-eighth; it is identically the same bill offered by Mr. Vance.

By Mr. RANNEY:

Q. Who introduced it originally?—A. This bill was offered by Mr. Vance; and I think a bill similar to it, perhaps identical with this, was offered in the same Congress by Mr. Herbert, of Alabama.

Q. Is the bill you hold in your hand the original bill of 1880?—A. Yes, sir; it appears to be.

Q. Offered by Mr. Vance in the Senate or in the House?—A. Mr. Vance of the House. I don't know whether he originally offered it or not, but it was reported from the committee by him, and I think it was his bill. He was the chairman of the Committee on Patents, and I think he offered it, and also reported it from the committee.

By the CHAIRMAN:

Q. He was the chairman of that committee also in the Forty-sixth Congress?—A. I think in the Forty-fifth, Forty-sixth, and Forty-seventh Congresses. I don't remember who was the chairman in the Forty-fourth Congress, but I know he was in a number of Congresses. I was here at that time, and I never heard of the bill in my life until it was read at the Clerk's desk; and it is a singular fact that I am the only man in the House of Representatives, that I know of, that opposed it.

By Mr. HALL:

Q. At what date did you oppose it?—A. I opposed it when it came up on its passage. I don't remember the date now.

Q. What Congress was it?—A. It was in the last Congress. I was not in the Forty-seventh Congress. It came up on its passage at the last session of the Forty-eighth Congress. I heard it read at the Clerk's desk, and it struck me that it might be a dangerous bill, that it might be construed into an exclusive remedy; and I see lately that very eminent lawyers have taken the same view I took hurriedly when hearing it read.

By the CHAIRMAN:

Q. Is the Mr. Vance who introduced this bill the gentleman who is now Assistant Commissioner of Patents?—A. Yes, sir.

By Mr. MOFFATT:

Q. Is it your impression that this bill passed in the second session of the Forty-eighth Congress?—A. I know it passed the House. I thought it became a law.

Mr. MOFFATT. I think you will find it was passed January 24, in the first session. The WITNESS. No; I think not.

By Mr. RANNEY:

Q. Did you say you made a speech in opposition to it?—A. Oh, no; I spoke to Mr. Vance, the man who offered the bill.

Mr. MOFFATT. It was passed the 24th of January, 1884.

The WITNESS. It may be; but my impression was all the time it was the last session, though I have not examined the record to see. I know I never heard of it before.

By the CHAIRMAN:

Q. What is the date of its passage?—A. I think it was on the 24th of January, 1884; the first session of the Forty-eighth Congress.

The CHAIRMAN. I think you must be mistaken about that, though I have not looked.

Mr. MOFFATT. It was reported from the committee, I know, the 11th of January.

The WITNESS. It may be; I do not remember; I have forgotten a good many things that occurred there. I thought it was in the second session. But I had the impression that it was a law, and I did not know any better until a period that I will call the attention of the committee to, and introduce another witness to prove it, so that you need not take my own word for it.

By Mr. RANNEY:

Q. I only want to understand you. You say you were the only man who opposed it. Did you oppose it on the floor of the House?—A. No, sir; I had no opportunity to oppose it on the floor of the House. There was no vote taken. A witness will come before you after a while and show you how I opposed it. I went to Mr. Vance, who had the bill in charge, and I said to him: "It looks to me like a dangerous bill; you had better examine it carefully before you pass it," and he said: "Oh, no; that is all right."

Q. What Congress was that?—A. It was in the Forty-eighth Congress, the last Congress I was a member of.

Q. Did you vote or speak against it?—A. No, sir; I did not have a chance to speak against it. It was a rising vote, and there is no record of it. I thought I voted against it; I was under the impression I had voted on it, but it seems I did not. I thought another gentleman would remember about it, but he tells me he has forgotten it. I met Mr. Vance the other day, and he laughingly said to me, "It is singular that you would have a bill introduced there when you were the only man in the House who opposed it."

Q. Did you confer with Mr. Garland in the Senate about it, after it had passed the House, or write him a letter about it?—A. No, sir; I have no recollection of writing him a letter, or of talking to him about it. But I did think from the reading of it that it was a dangerous bill.

Q. Why, if it authorized the Attorney-General to bring a suit in the name of the United States, did you think it was dangerous?—A. If the committee will pardon

me, and will not say it is argument, I will give you the legal reasons I had for opposing this bill—and two of the most eminent lawyers in the United States have since taken the same ground. It occurred to me, from hearing it read at the Clerk's desk, being familiar with the patent law, that it might be construed into an exclusive remedy by excluding all other remedies, and if the Attorney-General should see proper to bring suit under this bill (and there seemed to be no compulsion about it) it would deprive anybody else of the right.

Q. You mean it would authorize the Attorney-General to vacate it and nobody else?—A. Yes, sir; that was my idea. It seemed to me that it might be construed to be an exclusive remedy. But it was a very hurried thing with me, and I do not think I thought about it afterwards until I went to Pittsburgh.

Q. Won't you try and recollect whether you went to the Senate to see about it afterwards and saw Mr. Garland or wrote him a letter?—A. No, sir; I am sure I never wrote a letter about it. I should have recollected if I had. I did not think of that bill any more until July, 1885, supposing all the time it had become a law. At Pittsburgh, as I stated to the committee the other day, I remarked to a gentleman there that such a law had passed at that session of Congress. He asked me, as I stated, why I had not applied to Mr. Garland to bring the suit. The reason I gave was that it was a delicate matter to engage Mr. Garland in, and I had still another reason, which I explained frequently, and which any lawyer will understand. I did not think if that was the law it was exactly what we wanted brought. I knew the ground on which the Bell patent could be vacated, if at all, at the instance of the Government, and the effect of such a decree would be to open the telephone to the world and let everybody come in, and I knew that would not do me any good.

By Mr. HALL:

Q. Explain that a little more particularly, if you please?—A. This bill provides now—

Q. I do not mean in that direction. But in the first place you were representing a telephonic patent yourself?—A. Yes, sir.

Q. You were anxious to preserve the monopoly that would result from the ownership of the patent?—A. Yes, sir; to the extent to which a patent confers a monopoly.

Q. And your idea was that if application was made in the name of the Attorney-General, for the Government, that it would affect yours as well as the Bell patent?—A. Yes, sir; that it would wipe us all out. I want to explain about the Government suit, what kind of a suit I wanted. To use a popular phrase, we should have got "hoisted on our own petard," and got one we did not want. Any lawyer will see that. When I talked to Mr. Van Benthuyzen about it, and he was wishing to bring that suit, I said to him "I do not think so. That is not the kind of a suit we want," under what I supposed was the law. I supposed that had become a law. He insisted that he was going to apply to the Attorney-General. I left Pittsburgh and went home, and he went to Waukesha Springs and then to New York. As I say, I went home, and I heard from some source that he had applied to the Attorney-General to bring that suit. There has been a good deal of misapprehension about when our bill was filed. In the meantime we had filed a bill at Memphis on the 10th of July. That was filed when I was at Pittsburgh, a bill prepared by Mr. Gantt. I went home and saw that bill had been filed, and saw it was necessary that we should have certain patents for which we had an application pending, especially one for a receiver, and certain telephonic models which we had here, in order to make them exhibits to that bill. It is set out there in the bill itself. I came on here for that purpose, among other things, and to meet Mr. Van Benthuyzen, who in the meantime had written to me that he was going to press this Government suit, for he said if it was the law he intended to have it done whether Mr. Garland was Attorney-General or not.

By Mr. RANNEY:

Q. Have you that letter?—A. No, sir; I have looked for it, but I cannot find it. But that is the substance of it. I have written to him personally to see if he can find it. All the letters and books of the company and the files I kept them in were here in Washington and I was at home. I had some correspondence, which will be shown by letters we have got, about 'consolidating the two interests. However, while in Pittsburgh he told me that he had brought a suit against the Bell Company in New Orleans for infringing one of his patents, he claiming that he owned the patent which covers the principle used in the Bell receiver, that he owns the McDye receiver, and that is the one used by the Bell Company. We had also brought a suit in Memphis against the Bell Company, and upon comparing notes we concluded to join forces in fighting these two suits—not in fighting the Government suit, as was published in the newspapers, and we made no such contract as that. We entered into a written contract by which we agreed—

Q. We want that written contract.—A. I will state it to the committee, and will produce it if I can find it.

Q. I would rather you would not state it until we have it.—A. I do not know whether you can get it. I have a duplicate of it, but the contract is in the possession of Mr. Van Benthuyzen. I have telegraphed him to send it to me, and I have his telegram that he has sent it.

By Mr. HANBACK:

Q. Has he already sent it?—A. Yes, sir; he has mailed it. It is on the way here.

Mr. HALL. I do not see any objection to the witness stating in a general way the object of the contract.

Mr. RANNEY. I think the contract would be the best evidence.

Mr. EDEN. He can state the fact of the making of the contract. I understand him to say he has sent for it and it will be here.

The WITNESS. I think it will be here to night.

Mr. HALL. My only object is to make progress.

Mr. HANBACK. But we want to make it as regularly as we can.

Mr. HALL. If he can state that such a contract was made and the object he had in making it, then if we have the contract itself afterwards, I see no objection to that.

The WITNESS. It has been stated that we made the contract in reference to a Government suit, and I want to state that we did not. I want to correct that false statement which has been made in the newspapers.

Mr. RANNEY. We cannot undertake to contradict outside newspaper statements.

By Mr. HALL:

Q. I understand you to say that you made a contract, you representing the Pan-Electric Company, and this Mr. Van Benthuyzen representing the company called the National Improved Company. You did make a contract?—A. Yes, sir.

Q. What did that contract relate to? What was the subject of it?—A. It related to a suit pending in New Orleans of the National Improved Telephone Company against the Bell Company, and to a suit pending in the city of Memphis, about to be instituted in the city of Memphis—

Mr. RANNEY. That is going into the papers.

Q. I will ask you if at that time you or this gentleman made or entered into any contract relating to a suit to be brought by the Attorney-General on behalf of any company?—A. Oh, no, sir; we made no contract about it.

Q. I do not ask you for the contents of any paper.—A. Well, I say I did not make any. We did make a verbal agreement though, but there was no contract about it. I do not know whether you would call it a contract or not.

Mr. HALL. I am not asking anything about the contract. You can proceed in your narration.

By Mr. MOFFATT. Do you recollect the date of that contract?—A. I think, since I have been sitting here, that instead of making it at Pittsburgh I made it at Washington some two weeks later. We made an agreement at Pittsburgh, but I do not think it was reduced to writing until two weeks later in Washington. That is my recollection now.

Q. About what time would that be?—A. About the 1st or 2d of August. That just occurred to me at this moment. I think now that it was made in Washington. My recollection is not very distinct on that point.

Mr. HALL. Now proceed. What transpired afterwards?

The WITNESS. I came on to Washington City to see him, not to have a suit brought, but to keep a suit from being brought in that way. My idea about the suit was, and the one I wanted—

Mr. MILLARD. Please state that again.

The WITNESS. I came to Washington City, not to get him to bring that suit as he proposed to bring it—

Mr. MILLARD. You say you were opposed to the bringing of a Government suit?

The WITNESS. No, I do not; I say I was opposed to the bringing of the suit that he wanted to bring, and for these reasons, which I will give to the committee: That suit would have destroyed us as well as the Bell Company, and I did not want to do that. But I did want and advised him that if the suit was brought by the Government it should be brought by the Government at our relation, so that we could control the suit, and it would not undermine us together with the Bell Company.

By the CHAIRMAN:

Q. You have stated that you made no agreement with Mr. Van Benthuyzen in regard to the bringing of this Government suit?—A. Not at the time this contract was entered into. Subsequently, I suppose, it might be called an agreement.

Q. Was it in writing?—A. No, sir; we never had any writing.

Q. State it when you come to it.—A. When I got here he was here with his attorney at the Ebbitt House

By Mr. HANBACK:

Q. Who was his attorney?—A. Mr. Von Briesen, of New York, was one attorney; Mr. Beckwith, of New Orleans, was another, and I am not sure whether Mr. Bakewell, of Pittsburgh, was here or not; possibly he was; I am not sure about that. I stated the other day that I got here on the 1st of August; my memorandum-book says so; but I have looked at the register of the Ebbitt House and see that I got here on the 31st of July. So I made the mistake of one day. These gentlemen were here, and we discussed that question, and I insisted to Mr. Van Benthuyzen that he was making a mistake. I said to him, "If you bring that sort of a suit, and it is successful, you will open up the whole question of telephony to everybody, and everybody can come in and put up and use a telephone. But," I said, "if you have a Government suit at all you should have one at our relation, so that we can control it." And that was the reason, or one of the reasons, that we were forming this consolidation, so that we alone could fight this suit, and leave the balance of the companies out in the cold, so to speak, and not destroy ourselves, as well as the Bell Company. That was one of the reasons, and this record shows it, why that letter was withdrawn from the Interior Department at that time. That was done on my advice.

Another thing was the other remedy we talked about pursuing. I insisted that if we got a suit at all it should be brought at our relation in the name of the Government—the only way we could bring it. I think that would have been a proper suit, and I believe the authorities sustain it, although it is a legal question as to whether they do or not. At that time I thought that was proper, when we reached this agreement about July, and did not withdraw it then because I thought that bill had become a law. He did not know it, and I did not know it either.

By Mr. EDEN:

Q. You thought it was the law?—A. Yes, sir; and so did he; and he did not know any better until I told him. The indorsement of that letter may lead to the conclusion that he knew it on the 31st of July, when it was indorsed on that letter to the Commissioner of Patents, that he wished to withdraw it. But he wished to withdraw it for the reasons I have given you. He writes from New Orleans on the 23d of October, after learning that the bill had failed to become a law in the Senate, withdrawing it—

Mr. RANNEY. You are justifying what another man did, and saying what another man's motives were.

The WITNESS. Well I helped to do it, and I know about it.

Mr. RANNEY. State all the facts, and let him state what his motives were.

The WITNESS. I am stating what my motive was. I was an adviser in that matter.

By Mr. MILLARD:

Q. Have you that letter that he wrote you then?—A. I am talking about a letter that he wrote to the Commissioner of Patents which is in this record here [indicating] of the inquiry before the Commissioner of Patents. He did not write to me. About the first or second day of August, I think, thinking this bill had been passed and become a law, having persuaded Mr. Van Benthuyzen that he had better withdraw that, I came up to the House of Representatives to get the bill and see exactly what it was. It had been insisted upon down there that I was mistaken; that my view of the law was not correct, and I came up to the House to get that bill and went to Mr. Harry Smith, the file clerk.

Mr. HALL. Were you still laboring under the impression that it had become a law?

The WITNESS. Oh, yes, sir. I went to the file clerk of the House and asked him to give me the bill, one that had become a law, in regard to the filing of a suit to annul a patent, and he looked about and said he could not find it. I was in a hurry at the time, and I said to him, "I will be back here this evening, and I wish you would hunt it up for me." I came back later in the evening, and he said to me that that bill had not become a law. I insisted that it had. He said it had passed the House, and he had traced it to the Senate, but he could not find it there, and that it had not become a law. That was the first time I knew that the bill had not become a law. Then I told the gentlemen at the hotel what I had ascertained, and said that it was not necessary for them to give themselves any more trouble about that bill for there was no such thing there.

But before I ascertained that fact, I think that was probably about the 30th of July, these gentlemen there were at the Ebbitt House, and they asked me to introduce them to the Attorney-General. I declined to do so. Mr. Van Benthuyzen insisted that he was going to have that suit brought. I said, "Mr. Garland will not bring it." "Well," he said, "I am going to make him bring it; he has got to do it; that is the law, and this suit has got to be brought, and I am not going to leave this city until it is done; if Mr. Garland will not do it I will go to the President, for I am going to have it done." They started to go out, and it occurred to me that perhaps

they might in some way mix up our company with their proposed suit, before Mr. Garland, and I said to them, "Gentlemen, I will go over with you." I went there and introduced them to Mr. Garland; they were all strangers to him. Mr. Von Briesen had an affidavit in his hand, which is published in that book there [indicating], in reference to the Gray patent. He stated what they had come for, and Mr. Garland said, "Gentlemen, I am interested in a telephone company; I am the counsel for it, and I cannot talk to you on that subject."

Q. State as briefly as you can just what he said.—A. Well, that is exactly what he stated. Mr. Von Briesen had in his hand an affidavit, and he said, "Mr. Attorney-General, I have come over here as attorney for Mr. Van Benthuyzen to present you this affidavit, and ask you to institute a suit against the Bell Telephone Company." That was the substance of it, and I believe his exact language.

Q. To institute a suit on behalf of the Government?—A. Yes, sir; in the name of the Government. Mr. Garland said, "Gentlemen, I cannot talk to you on that subject. I have been the attorney of a telephone company and am interested in it now, and I cannot talk to you." Mr. Von Briesen insisted again upon reading his affidavit, and Mr. Garland said, "I cannot hear it; I do not want you to read it to me; I can have nothing to do with it." Mr. Van Benthuyzen got up excitedly and said, "I have a right to have this suit brought. If the law requires you to bring this suit, I want it brought, and am going to see that it is brought." He spoke with some little warmth. Mr. Garland waved his hand and said, "Gentlemen, I cannot talk with you on that subject," and he retired. That interview lasted about five minutes.

By Mr. RANNEY:

Q. Can you fix the date?—A. That was somewhere between the 30th of July and the 2d or 3d of August, 1885. I think it most likely it was on the 31st of July, or somewhere along there.

Q. That is the day you arrived here?—A. No, sir; I arrived on the 30th of July, as I see the register shows. You gentlemen have examined it, no doubt, and I have looked at it.

Q. Was it before or after the time when you came up to the House to get the bill?—A. I think it was before I came up to the House.

By Mr. EDEN:

Q. Was it before you learned from Mr. Smith, the file-clerk, that this bill had not passed?—A. I think it was. I came up, perhaps, the next day. These gentlemen went off with the impression that they were going to have their suit brought under this bill, and Mr. Van Benthuyzen swore that he would have it brought; that he would go to the White House about it, if necessary. He said he was not going to have his rights imperiled by the fact of Mr. Garland's interest in a telephone or anything else. He was a pretty strong-willed fellow, and said he was going to have it brought, even if he had to go to the White House about it.

By the CHAIRMAN:

Q. Had you at any time prior to that had any conversation with Mr. Garland with reference to the bringing of a Government suit?—A. No, sir; never before or since. I never wrote him a letter or spoke a word to him before or since that day about this telephone suit.

Q. Do you know of any person else, within your knowledge, having seen him about it?—A. No, sir; I do not know of anybody. I understood that Mr. Van Benthuyzen went and made a fuss about it a few days afterward, but I do not know it.

Q. I mean anybody connected with the Pan-Electric Telephone?—A. No, sir; I do not know of anybody who ever mentioned it to him before or afterwards, and have no reason to believe that they did.

Q. Did you say anything to the Attorney-General on that occasion indicating that you wanted a suit brought?—A. Not a word. There were four gentlemen besides myself present: Mr. Gantt, Mr. C. P. Huntington, Mr. Von Briesen, and Mr. Van Benthuyzen. I did not speak to him except to introduce these gentlemen. I intended if they had in any way referred to our company to say to the Attorney-General that they had no authority to do it. That is what I was there for.

Now, there was something said about our efforts at legislation, and I want to show the committee what that was. While I am on the subject of the conversation with the Attorney-General, here is the only letter, in this package (producing a pile of letters), that he ever wrote that I know of in connection with our company. The fact is, we never could get him to do anything. He never attended but two meetings, and would pay no attention to it at all; and when we had a suit at Saint Louis, when it was certain to be brought there, we tried to get him to go there and attend to it, and he wrote a letter to a lawyer there, and if the committee wants it they will see all the action he ever took about this company—all that he ever did. *There is a copy of his letter, and a copy of a letter from the president of the company there, and*

a letter I wrote to Senator Harris, which I happened to find among the papers in reference to that matter. That is a copy of the Garland letter, and a copy of the letter of the president of the local company to us, and also a copy of the notice served on us by the local Bell Company at that place.

By the CHAIRMAN:

Q. I find among these letters which you have just handed me one from you to Senator Harris.—A. That is in reference to the letter which Mr. Garland had written. I do not know that any of them are of any importance. I just want to show the committee all that he did do about this company.

Now here is a matter published in the newspapers and testified to by Dr. Rogers in regard to that underground cable or wire. That has been testified to by Dr. Rogers. Here is the bill he spoke of. It was introduced in the Senate by Senator Mitchell. It grew out of this report here, and that grew out of a resolution offered in the Senate by Senator Mahone instructing the Commissioner of Public Buildings and Grounds to make an inquiry about the propriety of having an underground system of cables for telephones and telegraphs, and the cost of it to the Government, and this report was made. When that was introduced in the Senate I saw a notice of it in the paper somewhere, and I met Dr. Rogers at my room door one morning, and I said to him, "I see there is a bill introduced into the Senate about a telephone; you had better look at it." That is the conversation I had with him about it, and here is the bill. So far as my shaping it for or against the Bell Company, or introducing any bill or amendment, that is purely imaginary. I never wrote a line of it.

Q. Do you know who it was that proposed to put those wires under ground?—A. That is shown here in the report.

By Mr. EDEN:

Q. That is the report of the committee?—A. Yes, sir. It was some company.

Q. Was it not Mr. Waring, of Pittsburgh?—A. Yes, sir; I think so. I talked with him about it, and he came to see me two or three times. I asked him about this cable, and how it worked, and all that sort of thing. I paid no more attention to that bill, and never offered an amendment or wrote a line of it. It came over to the House and was referred to my committee—the Committee on Public Buildings and Grounds—and I went into the committee room one morning, and Mr. Hopkins, the chairman of the committee, who was standing up, said: "Here is a telephone man, and we will refer it to him." I looked at the bill, and I said: "No; you will not refer it to me. I will not have anything to do with it." And that is the last I know of it. I never looked to see what became of it. If the committee will summon Mr. Hopkins he can tell all about it. That is all I know about that legislation, and all I ever had to do with it in any way whatever. The first I ever knew of it was a notice I saw in a paper or in a Congressional Record that this resolution had been introduced into the Senate by Senator Mahone. Here are the papers in regard to it, and if the committee wants them they can examine them. Something has been said about forty millions of stock that the newspapers said we got from these local companies, but it is something short of that—about a million—but that is not much difference.

The CHAIRMAN. A million short, or a million in all?

Mr. HANBACK. You had better confine yourself to what is testified to here. The newspapers you speak of have not been put in evidence, and we do not know anything about them.

The WITNESS. Dr. Rogers testified to a much larger amount, and I want to show the committee what the facts are. Here (indicating) is the stock we received from the Missouri Telephone Company. That was capitalized for \$1,000,000, and we got one-third of that stock. We never have sold a dollar of it, and I have it all here now. Some members of our association have wanted this divided, but we refused; and one reason was we thought it might be sent there, and put on the market where they were, and do them an injury.

By the CHAIRMAN:

Q. Who wanted that done?—A. Colonel Looney, I think was one; and, perhaps, Dr. Rogers. But we could not distribute it the way we had received it. We received it in single certificates, and never sent back to get them changed. We never made any effort to sell this stock or our stock.

By Mr. RANNEY:

Q. What stock are you talking of now?—A. The stock of these local companies. I say we never sold any of the stock of these local companies.

Q. Have you named all the local companies?—A. No, sir. There was the Missouri company with 20,000 shares, and the Texas company, from which we got 40 per cent., which was capitalized at one million, and that would make it forty thousand.

Q. Have you a certificate for that?—A. Yes, sir; there are eight certificates of five hundred shares each.

Q. That is Pan-Electric too?—A. Yes, sir; Pan-Electric Telephone.

Q. Texas Pan Electric?—A. Yes, sir.

Q. How many shares are there?—A. Four thousand shares—\$400,000.

Q. That is one hundred dollars a share, is it?—A. Yes, sir; I think so.

Q. Now, let me have the others, please.—A. Here is Illinois, 10,000 shares. Those shares are \$25 each, I believe, which would make \$250,000, one-quarter of the one million at which it was capitalized. I have here the old certificates of the Washington Company. Since the reorganization they have not filed their certificate. There is some little trouble between us.

Q. How much should you have?—A. That is an open question between us; and then as to how much we ought to have. The company has been reorganized, and there has been some misunderstanding about it. The original contract was for one-quarter, and they capitalized at \$5,000,000, the 5 States here. I told them the capitalization was too high, and they reduced it one-half.

Q. Then you are entitled to one-quarter of how much?—A. To one-quarter of \$2,500,000.

Q. I mean in the original contract.—A. The contract specified that they were to give us one-quarter of the original stock, and they capitalized at five million dollars.

Q. They were to give you one-quarter of the five million dollars?—A. Yes, sir; but we didn't get that; they reduced the capitalization to two million five hundred thousand.

Q. So that you have one quarter of that?—A. Yes, sir. Now, here is Tennessee. That is capitalized at one million. I have a number of certificates of that. There are six of these certificates at fifty thousand, and that is three hundred thousand. We got 33 per cent. of the capital stock, and that was capitalized at a million dollars.

Q. Is that the one you have been heretofore talking about?—A. Yes, sir; the same one. It is a licensee of ours. They have a local company in Memphis. We have but one company in Tennessee. They have several local companies in Tennessee under licenses from us, but I do not know anything about them or where they are. These books refer to the parent Pan-Electric Company, and this Tennessee company was operating under a license from us. We sold them the right to Tennessee.

Q. How much did you get?—A. One-third, or 33 per cent (\$333,000).

Q. That is the number of shares reduced to dollars at par value?—A. Yes, sir.

Q. How much stock do you hold of these subordinate companies?—A. I cannot turn to it just now. It is on the book.

Q. You gave us Missouri, Texas, Tennessee, Illinois, and the Washington companies?—A. You have all but the Alabama company, and that was the same as the Tennessee. The capitalization is \$1,000,000, and we have one-quarter, or \$250,000. I think that is the capital stock of it. It does not appear on the face of the certificate what the capital stock is. It does not give the capitalization.

Q. There are 1,500 shares here?—A. Yes, sir. Now, I believe I have given you all the facts that occur to my mind under the scope of the resolution. I would like to examine the letters written to me which have been printed—I mean all those which are to be put in evidence—so as to explain any of them that I think necessary.

By Mr. HANBACK:

Q. You said something on Saturday about an opinion which Mr. Garland had prepared, and that you would obtain it. Did not Mr. Garland prepare an opinion on this subject?—A. Yes, sir; two opinions.

Q. Have you that opinion here?—A. I handed one over just now.

Mr. RANNEY. The one given to Mr. Myers you put in?

The WITNESS. Yes, that was one.

Mr. RANNEY. What was the other?

The WITNESS. The other was given to the Saint Louis Company. In reference to that Saint Louis matter here is another paper, and I will state what it is. We employed counsel there whenever suits were threatened, and advised our licensees to go ahead with their operations; and I have his opinion here.

Mr. HANBACK. I will state, Mr. Chairman, that as the record of Colonel Young's examination of Saturday has not as yet been published I think perhaps we had better adjourn now and continue his examination when the record is in print. I think we had better adjourn till Wednesday, and by that time the letters will be printed.

By Mr. MILLARD:

Q. Do you know where either of these original opinions of Mr. Garland's is?—A. I do not. I do not know that I ever saw them. I know that I did not see the one that went to Saint Louis.

Q. You are custodian of the company's papers?—A. Yes, sir; they may have been given to me, but that one I do not recollect. It has been published a dozen times.

I have seen it in the papers, but I really do not know where it is. I have received a telegram from Mr. Van Benthuyssen's clerk saying that it has been sent on.

By Mr. RANNEY:

Q. Were there not three opinions of Mr. Garland's?—A. No, sir; I think only two; one went to Saint Louis and the other to Mr. Myers.

Q. And there was another one given to the New Orleans man?—A. I do not know anything about that.

Q. I have one printed in the New Orleans paper, which would make three.—A. Yes, if that would be considered an opinion. I saw it published in the papers; it was a short note, I think.

Mr. MOFFATT. As books and papers have been introduced in evidence, I think the committee should determine what portion of them should go into the record.

Mr. OATES. The better way to determine that, it seems to me, is by a subcommittee.

The WITNESS. It might perhaps be well for me to give more in detail our connection with this Government suit.

Mr. RANNEY. We will give you an opportunity to do that.

The WITNESS. And then if there is anything I have omitted I can state it.

Mr. RANNEY. Is there any further statement you desire to make?

The WITNESS. Nothing, unless the committee desires it. Yes, there is one thing I desire to explain about these books. Dr. Rogers has testified about the \$170,000 of stock that he had a right under the original articles of agreement to dispose of. I thought, until the other day, that had been furnished. I find I was mistaken, and that he is entitled to a part of it yet. I find I made a mistake of \$30,000. I thought it had all been issued, but it seems not, and he is entitled to that. That will appear when you come to look at the books. It was my mistake, and not his. In regard to these stock books, Mr. Looney came in one day when I was absent and set my clerk to filling them out. I found him doing it and stopped it right off, and there was no certificate taken out of them.

Mr. OATES. I move that the committee now adjourn until 12 o'clock Wednesday.

The motion was agreed to and the committee adjourned.

WASHINGTON, D. C., *Wednesday, March 24, 1886.*

The committee was called to order at 12.26 p. m.

Mr. RANNEY. Are the letters from Dr. Rogers to Casey Young printed in the appendix which has been laid before us this morning?

The CHAIRMAN. I do not know whether they have been or not.

Mr. HANBACK. You will find an index in print, which will give you the information you want.

Mr. RANNEY. I do not see some of the letters that Mr. Casey Young produced, which he had received from Dr. Rogers.

Mr. CASEY YOUNG. Those are in my testimony.

Mr. RANNEY. Have we all that Mr. Young produced?

The CHAIRMAN. I think some of them were produced just before the adjournment of the committee, and were handed back to Mr. Young and he put them in his pocket. We will resume the examination of Mr. Young.

Hon. CASEY YOUNG then came before the committee and continued his testimony as follows:

The WITNESS. I would like to call the attention of the committee to my testimony given on Saturday, in order to have some corrections made. One of these pamphlets put into the record on Saturday starts out by speaking of the Pan-Electric Company, showing that it was organized before this pamphlet was published; then the other pamphlet shows upon the back of it the names of General Johnston and others. I never saw either one of these pamphlets before the organization of the company; I may have seen the substance of them. I saw simply the pamphlet with some parts of the correspondence, some passages of which are in these pamphlets, but it was not the same one that I see on page 128. The pamphlet speaks of the Pan-Electric Company; no Pan-Electric Company had been formed until we got to New York. Here on page 132 you will see the pamphlet sets out "Pan-Electric Company, to be incorporated under a charter, now primarily organized by Gen. Joseph E. Johnston." That was published after the meeting in New York, and was not the pamphlet I allude to as having seen at Dr. Rogers' house previous to the organization. It may have contained in substance the same things, and I think it probable that it did.

The CHAIRMAN. I understand from you now that the pamphlet you saw at Dr. Rogers' house is not embraced in this record—is not in evidence up to this time.

The WITNESS. Not the whole of it. Some parts of it seem to be embraced in these

two pamphlets that are included in the record, but it is not the identical pamphlet because both appear to have been written after this organization in New York. But I think the substance of them is very much the same, perhaps entirely so; I do not know; there may be some alterations; unless I had it to compare with them I could not tell.

The CHAIRMAN. Have you now concluded your general statement?

The WITNESS. Yes; I have a number of other things to state, but perhaps they may be brought out in my further examination by the members of the committee, and if I think of anything more as we go along I will state it.

Mr. MOFFATT. I think you said on Saturday that you wished to make a further, statement in reference to your connection with the Government suit.

The WITNESS. That was day before yesterday.

Mr. RANNEY. He did make one statement about that.

The WITNESS. That will come out in the course of my examination by the committee; if I think of anything more that I think will aid the committee in their investigation I will tell it without being asked. I have not examined my testimony of day before yesterday, and I do not know what corrections I may want to make in that. I have just received it, but have not had time to read it.

By the CHAIRMAN:

Q. Will you allow me to see your cash-book?—A. It is in the box.

The CHAIRMAN. The box is here.

The witness produced the cash-book, and handed it to the chairman.

Q. I observe on the fourth page of your cash-book an account purporting to show the moneys received by the Pan-Electric Telephone Company. Does this include all the money received by the company?—A. All the money that came into my hands as treasurer.

Q. From all sources?—A. Yes, sir. I do not think there was any received by the company that did not pass through my hands.

Q. You say you think that all the moneys passed through your hands?—A. Yes, sir; I do not know of any that was received by the company that was not turned over to me and entered by me on that book.

One other matter I had better state here, which I had forgotten. When I was calling over the list of stockholders day before yesterday, I stated that that embraced everybody who was interested as a stockholder in the company. I remember now that we agreed to give our attorneys in Memphis a certain amount of stock, but I did not put their names on the book for the reason that we had not agreed exactly upon what amount they should have. Our attorneys there were Gantt & Patterson, Wright & Foulkes, and Taylor & Carroll. We were to give them, as fees, a certain amount of the stock, and they declined to accept what we offered. That is an open question yet, so that I did not put it on the book. That comes out of the stock of the company.

The CHAIRMAN. I would like to have page 4 of this cash book copied into the record.

The extract referred to is as follows:

CASH ACCOUNT.

Amount of money received by Pan-Electric Telephone Company from all sources.

Date.	How received.	Amount.
1883.		
Nov. 26	From Assessment No. 1.....	\$277 30
1884.		
Mar. 6	From Assessment No. 2.....	800 00
Apr. 25	From Assessment No. 3.....	121 90
Apr. 25	Proceeds of company's note discounted at Riggs's Bank.....	1,000 00
June 4	Missouri Pan-Electric Telegraph Company.....	9,750 00
June 7	George G. Vest for stock, &c.....	1,000 00
June 7	Miss Louisa Carlisle for 125 shares capital stock.....	625 00
June 7	Miss Pattie Collins for 125 shares capital stock.....	625 00
June 25	Texas Telephone Company, in part payment for right to use telephone in Texas.....	1,000 00
June 25	Missouri, for right to use telephone in.....	482 80
June 25	Tennessee, for right to use telephone in.....	7,500 00
June 25	George Howard, for 50 shares of stock.....	500 00
June 25	Alabama Telephone Company, in part payment of cash bonus for right to use telephone.....	2,500 00
Sept. 22	Alabama Telephone Company.....	1,000 00
Oct. 2	do.....	500 00
Dec. 27	General Joseph E. Johnston, check.....	20 00
Dec. 27	Illinois Pan-Electric Telephone Company, for right to use company's telephone..	7,500 00
	Book footing.....	35,002 00

Q. Did you, in your statement, give the amount of money received by Harry Rogers in the way of dividends?—A. No, sir; but it is in the book there.

Q. It has not yet been given?—A. I just gave General Johnston's as a counterpart of the five. I can go over the book and state the amounts if desired.

The CHAIRMAN. No; I do not care about going all over it.

The WITNESS. Harry Rogers and Mr. Looney received more than the others for the reason that they owned more stock. I do not remember the exact amount.

Q. I see General Johnston's account is not an exact counterpart of the others. On the 4th of June General Johnston received a dividend of \$298.17, while Senator Harris received only \$56.77.—A. That came from this fact—you will find it set out in the book—he had received some money which he had not paid over to the company, and I charged him with that, leaving a balance due him of \$56.77. That is how that came about.

Q. Are the other differences to be accounted for in the same way?—A. I don't remember; it may be.

Q. For instance, I see Mr. Atkins received as a dividend, June 4, \$275.—A. I think that occurred in this way: That Senator Harris had paid General Atkins's assessment, as General Atkins was not here, and I paid it back to Senator Harris; the amount was \$23, or something like that; at least, it was the difference between \$275 and \$298.17; that difference was the amount due to Senator Harris that he had advanced for General Atkins. That accounts for that.

Q. And it appears from this book that you received \$348.81?—A. That was an excess that I had paid over and above the money in bank. I had sent my own individual check for \$300 to Harry Rogers in New York when I did not happen to have on hand the company's money.

Q. That \$348.81 was not all dividend?—A. No, sir; not all. It covered the money we had paid out. The first dividend was intended to cover all the money that had been expended by each one of the parties. They had expended \$298, and there were some other little expenditures for small matters, for which I gave my individual checks.

Q. On page 202 I see that Robert F. Looney received, March 6, 1884, first assessment, \$194.78; June 4, first dividend, \$200; June 6, \$1,300; July 25—these are all dividends—\$1,227.54; June 17, check No. 16, first series, \$234.75.—A. That was the amount of money due him for some money he had advanced for expenses of the suit at Saint Louis.

Q. These amounts were paid to Mr. Looney, were they?—A. Yes, sir. I have receipts for all the money on that book.

Q. Here is the payment of an amount to J. Harris Rogers, on page 206, November 27, 1883, \$176.10—it does not state upon what account paid—December 12, \$100.—

A. That is some money that we advanced him for various things. I think I gave him \$100 at one time, when he was sent over to Baltimore to attend to some business there.

Q. February 4, 1884, expenses to Richmond \$81.00; February 29, \$300?

A. That was money I sent him to New York, I think.

Q. April 26, expenses \$446.—A. That was money I sent him to Philadelphia; it was a balance due him; he had been paid some.

Q. July 3 he was paid some small amount, and June 4, first dividend, \$774.50.—A. That was the amount found due to Harry Rogers at that time. He owned more stock than any one else.

Q. June 6th, second dividend (which includes J. W. and C. A. E. Rogers' stock) \$1,640.10.—A. Yes; he represented that much stock.

Q. July 26, third dividend, \$1,386.10.—A. That was the amount of stock he represented at that time, and was in proportion to what the others received. He owned more stock than the balance of them, and therefore got a larger dividend.

Mr. MOFFATT. Would it not be well to put in the accounts of all these parties?

The CHAIRMAN. They are in substantially, because he has given one, and said the others are counterparts.

Mr. MOFFATT. Would it not be best to have them in? You see there is some variation.

The CHAIRMAN. I see no objection to it. He gave in the amount of General Johnston, and stated that the others were similar, differing only a few dollars.

Mr. OATES. As between these parties?

Mr. MOFFATT. No, sir; the receipts and amounts of dividends received according to the original incorporation, on the books.

The CHAIRMAN. The account I have put in from page 4 shows all the money received.

Mr. MOFFATT. For instance, General Johnston and Senator Harris—

Mr. RANNEY. They were put in the other day.

Mr. MOFFATT. They are not in the record; there was only one put in really.

Mr. RANNEY. He put in one, and said the others were all like it.

Mr. MOFFATT. The amounts as they stood on the book.

Mr. OATES. What have we to do with that?

Mr. MOFFATT. I think we have something to do with it, to ascertain how much Mr. Garland got out of it, and how much Senator Harris got out of it.

Mr. OATES. I do not think so. We have something to do as to the amount of stock they received, but I think we have nothing to do as to any settlement among themselves.

Mr. MOFFATT. I would like to have it appear in the record just how much each of these gentlemen got out of this institution, and what the property was worth.

The CHAIRMAN. That ought to appear when the testimony of Colonel Young is taken.

Mr. MOFFATT. He testified in regard to one account, and said the others were substantially the same. Now, it seems that there is some variance, and it seems to me it would be better to have them all put in.

The WITNESS. If that is done, gentlemen, I must go back to that book and explain how it happens that one got more than another. It was a transaction purely between us, but if you put in the whole book, I want an opportunity to explain.

By Mr. MILLARD:

Q. The amount that each one got is not posted, is it?—A. Yes.

Mr. MOFFATT. That is what I wanted to get in the record.

Mr. OATES. Mr. Chairman, I am unable to see the relevancy of the method of their book-keeping, or how their accounts stood one with another.

The WITNESS. I have never heard any complaint about the accounts in any way. If there is anything wrong, I ought to be allowed to correct it.

Mr. OATES. There is no objection to the statement going in of the whole amount they received on their stock and for sales of State rights.

Mr. MOFFATT. Colonel Young testified the other day in regard to one account, and said all the rest of them were similar to that. There was no objection made, and it is just as relevant for all to come in as it was for one.

Mr. OATES. I know; but that probably was irrelevant, and letting in one irrelevant matter does not form a basis for letting in a number of other irrelevant matters.

Mr. MOFFATT. It seems to me it is relevant to get those amounts on the record to show how much stock there was and what they got out of it.

The WITNESS. We have never sold any stock, and I do not know what it is worth.

Mr. MOFFATT. The value of the stock might be judged of to some extent from the dividends paid.

Mr. EDEN. I understand there is no objection to the amount received going in.

Mr. OATES. It is objected to unless I can see its relevancy.

The WITNESS. It would be publishing our whole transactions to the world. If the committee think it important, under the resolution, to inquire into those things, let it be done, but I prefer not to publish the transactions between ourselves. I do not see any necessity for it. But if you deem it proper for the public information or the public interests, there is the book.

The CHAIRMAN. I think it is already in evidence substantially.

Mr. MOFFATT. If it is in substantially there cannot be any objection to putting it in in detail.

The CHAIRMAN. Is there any objection?

Mr. OATES. The only objection I have is that this record is being encumbered with a great many things that we have no right and no business to inquire into.

The WITNESS. If the committee wants it, I can furnish a receipt for every dollar I have paid out, and can explain every item, although it would take me two or three days to do it.

Mr. RANNEY. It seems to me, Mr. Chairman, the witness having said, when he put in one, that the others were about the same, if you put in the others, the differences ought to be explained.

The WITNESS. What I meant by that was that each one had received the same amount, and it appears in different parts of the book how they received it. For instance, Senator Harris owed the company money that he had collected somewhere, and I just charged him with that and gave him credit for the balance; I think it was \$57.

Mr. OATES. Mr. Chairman, as I understand it, all the witnesses who have testified, have testified that there was no quarrel, no difficulty, or dispute among them as to the distribution of what they had received. They agree, as I understand, that that had been distributed in proportion to the amount of their respective interests; and I cannot see any reason or necessity for our going into the question of bookkeeping and the balancing of each one's account.

Mr. MOFFATT. That I care nothing about, but I would like to have it appear on the record how much each one received.

Mr. OATES. You cannot learn it except by looking at the books.

The WITNESS. Each one received precisely the same amount in proportion to his stock.

Mr. RANNEY. It is already in.

Mr. MOFFATT. It is in in a general way. He stated the amount for General Johnston, and said the rest of them were substantially the same. That is all that appears on the record. It seems to me there is nothing improper in showing how much each gentleman has received in dividends.

Mr. RANNEY. The book shows how much was paid as assessment, and how much was paid as dividend to the same person. Those who had the same amount of stock would pay the same assessment and receive the same dividend. But I do not object to its going in again if it is necessary.

Mr. MOFFATT. I move that it be included in the record.

The WITNESS. Have what in the record?

The CHAIRMAN. The individual accounts.

The WITNESS. Then I would have to have an opportunity of going through the book and explaining.

The CHAIRMAN. There is nothing requiring explanation.

Mr. OATES. I object to it. I am unable to see any relevancy.

The WITNESS. As it would appear that I paid one man \$58 and another \$298, I should want to explain that, if it is deemed proper.

Mr. RANNEY. You explained that the other day.

The WITNESS. They each got the same amount, but it does not appear exactly how it was paid.

The CHAIRMAN. As I understand the gentleman from Michigan, he does not care to go into any settlement between these parties.

Mr. MOFFATT. Not at all.

The CHAIRMAN. You want to see how much each one of these gentlemen received from this company.

Mr. MOFFATT. In dividends?

Mr. RANNEY. I would suggest, Mr. Chairman, that when it comes Mr. Moffatt's turn to examine the witness, he can ask in his question for any of these things.

The CHAIRMAN. That you can do.

Mr. MOFFATT. With that understanding I withdraw my motion.

The WITNESS. My statement was that each man has received precisely the same amount in proportion to his stock, and that is the fact.

By the CHAIRMAN:

Q. You have stated that the principal difference between the Messrs. Rogers and other persons concerned in this company was this: That they desired the incorporation of the Pan-Electric Company, and that the stock should be issued and put upon the market; is that correct?—A. I never heard of any other cause of complaint than that the stock had not been issued.

Q. And the others of you were opposed to that?—A. Colonel Looney was in favor of issuing it, but all the balance of us were opposed to it.

Q. You, Senator Harris, Mr. Atkins, General Johnston, and Senator Garland were opposed to the issue of the stock?—A. Whenever it was discussed at the meetings of the board every one of them agreed to it.

Q. Will you state the ground upon which you opposed the issuance of that stock?—A. Yes; I can state the reasons that influenced my own mind, and I suppose they were the reasons of the balance of them. It is what we discussed together. We thought it was proper, before issuing this stock, to ascertain the precise value, as nearly as we could, of these various inventions, and to demonstrate their utility. We thought it was not a proper business method of carrying on these enterprises to flood the whole country with stock before we knew what its value was going to be, and we did not desire that it should fall into the hands of parties who did not have all the information about it which we possessed. It was purely to protect the public against any sort of imposition or mistake or liability to be misled. There was a difference of opinion between us as to how the business of the company ought to be transacted, they thinking one way and we thinking the other.

Q. The company did sell territorial rights—rights to set up this telephone and use it in certain States?—A. Yes, sir.

Q. What distinction do you make between selling the stock of the company itself and putting others in a position to sell stock of their local companies, which stock was based upon the same inventions?—A. The only distinction I know of is this: we wanted to utilize these patents; of course we wanted to make our enterprise profitable; we wanted to have exchanges established; and all of these gentlemen to whom we sold these territorial rights agreed in their contracts that, within a specified time, they would erect exchanges and put the telephone in operation. Of course, after we sold the territorial right to a party, we had no power to control the disposition of their stock, except that part of it which came to us, and that we have held

in our hands ever since. Another reason was that every company of which I have any knowledge, and I took some little pains to learn their methods of conducting business of that character, has conducted its business in just that way, and every patent that has been granted in the United States was sold to different parties to use in different territories. So we pursued that course, and the gentlemen to whom we sold these rights were thoroughly advised of everything connected with the matter. Some of them sent their lawyers here, and we conferred with them and gave them all the information we had in our possession. And when we found that we were going to have litigation certainly, we passed that resolution which I read the other day, in which we decided to sell no more territorial rights and to proceed no further until all these questions had been adjudicated. Everybody agreed to that—everybody who was present or who was represented by proxy.

By Mr. RANNEY:

Q. When you say everybody agreed to it, do you mean the subordinate companies?—

A. Oh, no; we did not consider that the subordinate companies had anything to do with the management of our affairs, and we did not consult them on that subject at all. I do not know what they did with their stock; I do not know that any of it has been sold. Most of them wrote to us and asked us not to put their stock on the market, because it might be sold at a price that would hurt their operations very much. I remember that three companies did that—the Saint Louis, the Texas, and the Memphis, and perhaps all of them did. We never did sell any of it.

By the CHAIRMAN:

Q. Dr. Rogers stated in the course of his testimony that you had spoken with twenty members of Congress who wanted in this company, on the ground floor; have you any recollection of a conversation of that kind?—A. Oh, yes; I recollect a conversation on that subject—not exactly that conversation, but I remember a conversation out of which that proposition grew; and there may have been more than one conversation; I don't know.

Q. You may state it.—A. This is the substance of the conversation as I remember it; my recollection is not distinct about it, because I attached no importance to it at all: I think at an informal meeting at my room—I do not think it was at a meeting of the board—these gentlemen were present. I remember on one occasion, and there was a conversation about disposing of stock, and about people wanting to buy stock, and we talked about members of Congress in that connection. I remember now why I talked to some of them about that. Mr. Ranney asked me that question the other day, and I did not remember at the time. I spoke to Mr. Calkins, of Indiana, to ask him about the solvency and reliability of two or three gentlemen who wanted to purchase the right to use our inventions in Indiana. That was about all I said to him. I just wanted to ascertain about those parties, and I don't remember what he told me. Then I spoke to Mr. Ryan, of Kansas. I had great numbers of letters from Kansas, and get them yet; and some of the parties wanted to purchase the right to use our inventions in that State.

Mr. RANNEY. I do not understand that you are answering the question.

The WITNESS. I hope the committee will allow me to tell the whole conversation and why I did it. I think that is fair to me.

Mr. RANNEY. I do not object to it, if you will confine it within such limits that we may know whether you are stating your version of the conversation to which Mr. Rogers testified.

The WITNESS. I cannot state it all in a breath. I have necessarily to say a number of things in order to state the facts, and it is but just to allow me to do so. If the committee rules that I must be confined to answering yes and no, then I shall have to submit.

Mr. RANNEY. Oh, no. He said you had that conversation in which you stated that you had talked with twenty members of Congress on the subject.

Mr. OATES. Colonel Young is stating a conversation, and at the same time stating the circumstances out of which it grew, as he goes along.

The WITNESS. I could not state a conversation so that it would have any sense to anybody unless I did that.

The CHAIRMAN. Proceed.

The WITNESS. I have talked to those members of Congress for that reason, and I was stating those facts generally. A number of other members of Congress had talked about buying and selling, and we were discussing the propriety of selling, at what price, &c. I don't remember that anybody said anything about coming in on the ground floor; I don't remember any such remark. If anybody wanted to come in at all, I presume he did want to come in on the ground floor. But I do remember distinctly that I never sold a dollar of stock to any member of Congress; I don't remember that any one made a direct proposition to me to buy stock; and I never proposed to give stock to anybody; and no one ever did get it, either by gift or purchase.

Q. Recurring to the former question, can you state the conversation, or the substance of it, to which Dr. Rogers seemed to refer in his testimony?—A. I have stated it. That is about the substance of it, as I remember it.

Q. I did not understand you as stating a conversation; I thought you were stating the facts out of which it grew.—A. I had it with gentlemen who were present. I don't know how many were there, but that is about the conversation that occurred on that subject, so far as I remember. I may have had more than one conversation; I don't remember.

Q. Have you any recollection of any number of members wanting to get in this company on the ground floor or otherwise?—A. I never knew of one wanting in on the ground floor or on the top floor.

Q. The testimony of Dr. Rogers, as I understood it, was that you had stated that there were twenty members of Congress who wanted it on the ground floor?—A. I have no recollection of stating any such fact. The conversation that I remember is substantially as I have stated, and that is all there was said about it.

Q. You state that that is not the fact—that there were no members that wanted in?—A. No members that I know of ever wanted in on any floor.

Q. Were you at any time instructed by the company, or by any members of the company, to make sales of the stock to members of Congress?—A. No, sir.

Q. Or to any other person?—A. In this general conversation it may be that somebody said to leave it all to me; I don't remember whether that is so or not. I attached no importance to it, and had forgotten all about it until I heard it mentioned here.

Q. Dr. Rogers stated also that he knew of no offer by the Bell Company, or any person for it, to buy stock of your company, except something that he had heard indicating an offer made to you for your stock by the Bell Company or by some one for it. Did you ever have any dealings with the Bell Company?—A. Never.

Q. Was there ever an offer made to you by the Bell Company or by any person for it?—A. Not that I am aware of. I think I can state the incident out of which that grew.

Q. You may do so.—A. When I was at Hot Springs last year, 1885, one of our local companies wrote to me from Saint Louis, inclosing me a slip from a Saint Louis paper, in which it was stated that the Bell company, or an agent of the Bell company, was in Saint Louis trying to make a compromise or some sort of settlement with our company there, in order to get control of that company, or to make some sort of consolidation with us. I wrote him with reference to that, that if the Bell company wanted to make any compromise I had no objection to a compromise. I suppose it grew out of that. Or I may have mentioned that to Dr. Rogers; I don't know. I have often had men come to me and want to buy stock, and I had no reason to suspect that they had been sent by the Bell company; I had no fact in my possession to induce me to believe that. A great many people wanted to buy our stock, but I never sold any to anybody. I gave some away, as I stated the other day.

Q. Have you any recollection of calling the attention of Dr. Rogers to a bill introduced in Congress in regard to laying underground wires to the Smithsonian Institute and other places?

Mr. RANNEY. He testified as to that.

The WITNESS. Yes.

Q. Have you testified as to that?—A. Yes; I explained how that was. There was a resolution introduced in the Senate in regard to that matter by Senator Mahone, and I did call his attention to that about as the chairman stated it.

Q. Was Dr. Rogers present at the interview at the Ebbitt House when Van Benthuyzen and these other parties were here?—A. No, sir; at least I never saw him there.

Q. He says in his testimony:

"The general drift of the conversation was relative to that which I related yesterday—not, of course, going over the same ground, but merely adverting to it as a thing we well understood.

"Mr. RANNEY. What thing?

"The WITNESS. That the Government had promised us, or Mr. Garland had promised, that it should be brought, and that it would be undertaken by Mr. Goode."

Was there any conversation of that kind at the Ebbitt House interview?

Mr. RANNEY. He did not say that that was at the Ebbitt House interview.

The WITNESS. It was at his house.

Mr. RANNEY. He said he would not go because his father was not liked, or was not wanted; he was not there.

Mr. HILIARD. That was at his house.

The WITNESS. I can state what the conversation was at the Ebbitt House with the other gentlemen who were there, if it is desirable.

Mr. HANBACK. Mr. J. Harris Rogers testifies to that.

The CHAIRMAN. He testified to the fact, whether it was there or not; let me read the context:

"The colonel had sent out for my son to come in. I drove in with him in a buggy.

Upon meeting the colonel he was in very fine spirits about the prospects of this Government suit. I don't remember the words exactly, but I know the general tenor of his conversation was that the Pittsburgh people had had experts in many parts of Europe, and that they had accumulated about \$75,000 worth of testimony, which, in fact, he had referred to in the previous conversation, and that they wished to put that testimony against what they supposed to be some little influence which we might have. His way of expressing it 'some little influence,' impressed me, for I had an idea that although the \$75,000 was a very material thing to us in the depleted state of our treasury, yet I thought our influence ought to be worth a very great amount to that company, and that the colonel was very modest in saying 'some little influence which they supposed we might have.' The general drift of the conversation was relative to that which I related yesterday—"

That is not the conversation at Dr. Rogers's house.

"not, of course, going over the same ground, but merely adverting to it as a thing we well understood.

"Mr. RANNEY. What thing?

"The WITNESS. That the Government had promised us, or Mr. Garland had promised, that this suit should be brought, and that it would be undertaken by Mr. Goode."

Mr. RANNEY. Yes; that relates to what Goode had told him in a previous interview.

The CHAIRMAN. I do not so understand it.

Q. If you were at the Ebbitt House after Dr. Rogers and his son had come into town, had they any conversation with you at the Ebbitt House or elsewhere?—A. I don't think they had any interview with me at the Ebbitt House.

Mr. MOFFATT. My recollection is that that conversation occurred at Colonel Young's office, or where Colonel Young was, and that Harry Rogers testified that he learned that they did not want his father to come to the Ebbitt House, as they did not like him.

The CHAIRMAN. Yes; that is correct.

Mr. HANBACK. Neither Dr. Rogers nor his son went to the Ebbitt House, and they both so testified.

Q. Was there any conversation between yourself and Dr. Rogers or Harris Rogers with regard to bringing a Government suit?—A. Yes.

Q. And was it stated there that the Government had promised you, or that Mr. Garland had promised, that a suit should be brought, and that it would be undertaken by Mr. Goode?—A. No, sir.

Q. Was there anything said about Mr. Garland in that conversation?—A. Yes, sir; I started to state it the other evening, when Mr. Ranney stopped me; I will try to state it now, if the committee will allow.

Q. Proceed.—A. I came here on the 30th of July, as appears from the register of the Ebbitt House. I thought, as I stated the other day, that it was about the 27th of July to the 1st of August, but I find that it was the 30th of July. One of the objects that I had in coming here was to obtain some patents, or one patent especially, that Harry Rogers had applied for upon his receiver. I had grown a little doubtful whether the receiver we were then using was not an infringement of the Bell receiver, and we had filed a bill. Dr. Rogers said we had filed a bill, but he was mistaken in his date. It was filed on the 10th of July. I came here to get that receiver and some other things, and went to his house. I don't remember that I sent for him; I don't think I did. I went to his house and found him there, but the family had gone away. I remember that I could not get in the door, and he opened a window and let me in. I stated to him what I had come for, and told him and Harry Rogers in that conversation that Mr. Van Benthuyzen, president of the National Improved Company, and C. P. Huntington, a stockholder in it, with their lawyer, Mr. Von Brierson, of New York, were at the Ebbitt House, and that I had had a conversation with them about a consolidation of our two companies; that had first been talked of at Pittsburgh. I told them about the proposition to consolidate these two companies.

In that conversation, after going over all the conversation that had occurred at Pittsburgh, I stated to them that Mr. Van Benthuyzen had addressed a letter to the Attorney-General from New York, asking him to institute suit in the name of the Government, and that that letter grew out of my having said to Mr. Van Benthuyzen at Pittsburgh that a law had passed the preceding session of Congress authorizing the Attorney-General to bring suits to vacant patents, and making it his duty to do so in certain cases; that when I had stated that fact to him he had declared his intention of writing to the Attorney-General and had done so; that that letter was then in the Department of Justice or somewhere; I didn't know where it was.

By Mr. RANNEY:

Q. You say you told this to Rogers?—A. I told Rogers that. I am giving the conversation to you that you would not allow me to give the other evening.

Mr. RANNEY. I did not object to it.

The WITNESS. You stopped me.

Mr. RANNEY. You wanted to make an argument; I told you you might state facts.

The WITNESS. That was a fact I was stating—a conversation that occurred.

The CHAIRMAN. Proceed.

The WITNESS. I stated to them that this application had been made by Mr. Van Benthuyzen to bring suit. He then referred, as I recollect, to a letter which he himself had written to the Attorney-General on the 24th of May preceding that, about which he had written to me, asking him to bring suit. I said to him that Mr. Van Benthuyzen was insisting upon his rights, under that law, to have the Attorney-General bring suit, and that it was a delicate matter, and that our company could take no part in it. I stated most distinctly that our company could have nothing to do with it; that it was a matter that Mr. Van Benthuyzen himself must attend to. That is about the substance of the conversation which I had with him. In addition to that, when I said it was a delicate thing for Mr. Garland, I said, "If Mr. Van Benthuyzen insists upon it, and that is the law, and it is the Attorney-General's duty under that law, I do not see any escape from it, and I suppose he will have it to do." That is my exact language.

Q. What day was that conversation?—A. That was some time between the 30th day of July, 1885, and the 1st, 2d, or 3d of August, somewhere along there; it may have been on the 31st of July; I think probably it was, for that was the next day after I got to Washington. I went to see Dr. Rogers and his son immediately after I got here; that was the business I had; I wanted to get this patent receiver here, and went with Mr. Harry Rogers to Mr. Marble's office to get it.

By the CHAIRMAN:

Q. Did you say to Dr. Rogers that the Attorney-General had agreed to bring suit for any other company?—A. Oh, no; for no company. I told him that neither the Attorney-General nor any body else could do it, and ought not.

Q. Had the Attorney-General at that time made any agreement to bring suit?—A. At that time I don't know whether I had seen him or not; I did see him about that time; but whether I had seen him when that conversation occurred, or whether it was the next day or the same day, I do not now remember. But the Attorney-General never did promise me or anybody else that I know of to bring any suit.

Mr. RANNEY. (To the Chairman.) He testified to that when you were not present; but I do not object to your calling his attention to it again.

Q. Do you know when Mr. Garland left the city for Arkansas?—A. No, sir; I do not. I heard that he had left, and I will tell you all about it before I get through, if you want to hear it.

Q. Had you any conversation with him about his going to Arkansas?—A. I never spoke to him but once about it in my life, and that was on the 31st of July, or 1st of August, somewhere along there, as I detailed the other day.

Q. In that conversation, or in any other conversation, did he speak to you about leaving the city to go to Arkansas?—A. Never. He never mentioned it to me, and I did not know he had left the city until at Cincinnati, when on my way to Washington, I picked up a morning paper and saw that he had gone. I think possibly I heard from somebody that he was going away, but I never heard him say anything about it.

Q. Did you ever have any conversation with Mr. Goode, the Solicitor-General, in regard to the absence of the Attorney-General from the city?—A. I never spoke to Mr. Goode about it but once in my life, and that was after the Attorney-General had gone; and then I did not ask him if he had gone, for I already knew it.

Q. Do you know, or have you ever heard from any of these parties, that the Attorney-General was to leave the city, and leave this matter in the hands of Mr. Goode?—A. I have seen it published in the newspapers.

Q. Was there anything said about it between the parties?—A. None of the parties that I know of. I never had seen any such thing until I saw it published in the newspapers.

Q. Do you know who made application to the Solicitor General to institute the Government suit?—A. It was made first to the district attorney for the Western district of Tennessee, Judge W. H. McCorry, as will appear from the record of the proceedings before the Interior Department, which I see Mr. Ranney has in his hand.

Mr. HALL. Do you want to see it?

The WITNESS. Yes, if I may be allowed to see it; I wish to direct the attention of the committee to that part of it. The first application was made by Mr. Van Benthuyzen, who wrote a letter from New York on the 14th of July.

Mr. RANNEY. It was the 12th of July.

The WITNESS. I thought it was the 14th; I am mistaken; I see it in the record, but I never saw it until I saw it there. That is the first I heard about bringing suit, except the letter which Dr. Rogers told me he had written to the Attorney-General on the 24th of May previous. The next application that was made was made by Mr. W.

H. McCorry, the United States district attorney for the Western district of Tennessee, upon the petition of J. R. Beckwith, W. Van Benthuyzen, George Gantt, and C. P. Huntington.

Q. Had you anything to do with having that application made?

A. No, sir; I did not write it and did not sign it. I knew it was being made, but I took no part in it.

Q. When was that done?

A. The date is shown in this Interior Department record here. August 26, 1885, it seems the memorial was addressed to him. I knew that was being done.

Q. That was addressed to the district attorney?—A. Yes, sir; that was addressed to the district attorney, Mr. McCorry. It came about in this way: When we were at the Attorney-General's office, the only time I was ever there, and the only time I ever spoke to Mr. Garland about it, Mr. Van Benthuyzen was insisting upon his having a right to have suit brought by the Government under the law that he supposed had been passed.

Q. When was that?—A. That was about the 1st of August or 31st of July, I don't remember exactly. Mr. Van Brierson, of New York, was present, and he maintained, I remember, that no suit could be brought unless it was brought at the instance of the district attorney in the district where the suit was to be instituted, and he advised Mr. Van Benthuyzen, in my presence, that he would have to get his district attorney to make application to the Attorney-General. I was present at that conversation, and that is the way it came about.

Q. Did you have any part in setting on foot that application?—A. I did not open my mouth when they were talking to the Attorney-General, except merely to introduce these gentlemen, and I did not say a word in addition to that.

Q. I mean afterwards, when the application was made to the district attorney at Memphis. Had you any part in having it made?—A. I was there at the time, and I knew it was being made; but I did not want that sort of a suit. Let me tell the whole story. I did not want the sort of suit that was afterwards brought. I did not read this memorial to Judge McCorry; I never saw it until afterwards; but I did see Judge McCorry, and I had a conversation with him, in which I wanted him simply to ask the Government for permission to bring suit at our relation in the name of the Government. Mr. McCorry said, "I will do nothing of the sort." He said, "You gentlemen might take a notion to do exactly what you charge Bell with doing—you might get up a collusive suit, and I could not consent to that; but the Government will bring suit—if it does at all—in its own name, and will retain control of it."

Q. Can you give any reason why Memphis was selected as the place to bring suit?—A. Yes, sir. Mr. Van Benthuyzen was going to New Orleans to have suit brought there. He stated to me in conversation that Judge Billings was up in Connecticut or New Hampshire or somewhere at that time, and that Judge Pardee, I think, was in Texas, and that the term of office of the district attorney had nearly expired, or at least it was supposed that he would be superseded in a few days, and so he finally concluded not to bring suit through him, but through Judge McCorry.

By Mr. RANNEY:

Q. The district attorney at New Orleans was a Republican, was he not?—A. I do not know whether he was or not; it is very probable he was. But it would have made no difference. The gentleman who drew this memorial was a New Orleans lawyer who had been United States district attorney there for eight years under General Grant; he was a strong Republican, and a very able lawyer. Mr. J. R. Beckwith is the man who wrote that petition, and it was on his advice, as well as upon the opinion of Mr. Van Benthuyzen, that it was decided that suit had better not be brought at New Orleans.

By the CHAIRMAN:

Q. So far as you know, was there any design to make this application during the absence of the Attorney-General?—A. No, sir; there was not. I knew that it was the intention to have it presented to him; I knew that as a fact.

Q. To the Attorney-General?—A. Yes; and I will tell you why it was not, if you want me to.

Q. You may.—A. When Judge McCorry sent this petition on to Washington, I came on here shortly afterwards or about the same time with Mr. C. P. Huntington. Mr. Huntington was coming here to look after that matter; that was his business here. I had in my pocket at that time a letter which I had written at the request of Mr. Van Benthuyzen, addressed to the President of the United States. It was his purpose, when we left Memphis, to refer it to Mr. Garland directly, we supposing that he was here, and we knew that Mr. Garland, from his former declarations, would not take any part in it. Mr. Van Benthuyzen had declared his intention, if the Attorney-General refused, to appeal to the President, and I had in my pocket a letter written to the President.

By Mr. RANNEY:

Q. Have you that letter here?—A. Oh, no; it was never sent. I may have it among my papers.

By Mr. MOFFATT:

Q. I thought you said you had it in your pocket. What letter did you refer to?—A. The letter to the President of the United States from Mr. Van Benthuyzen, written upon the assumption that Mr. Garland would refuse to have anything to do with it, and he intended to appeal to the President, as he told Mr. Garland.

By the CHAIRMAN:

Q. You say you thought the Attorney-General was then in Washington?—A. Yes, sir; we all thought so, but when I got to Cincinnati, I picked up a morning paper, and saw that he was not there, and I said to Mr. Huntington, "You are having your trip for nothing; he is not at Washington." Mr. Huntington said he would come on here anyhow.

Q. Were you coming on to take part in the application?—A. No, sir; I was coming to attend to some other business, but, if necessary, I should have done it. I had written that letter at the request of Mr. Van Benthuyzen.

By Mr. MILLARD:

Q. What became of that letter?—A. I do not know.

Q. I understood you to say you had it in your possession?—A. I had written it before I left home, in my office, upon the assumption that the Attorney-General would not act, and Mr. Van Benthuyzen intended to appeal to the President and have all the papers referred to him; that was the purpose.

By the CHAIRMAN:

Q. Did you meet Mr. Van Benthuyzen by arrangement to come to Washington?—A. No, sir; he came to Memphis. When we got down there they were discussing the whole matter, whether they would go to New Orleans or proceed somewhere else, and he telegraphed his attorney, Mr. Beckwith, or wrote him, one, to come to Memphis, and they held a consultation there in my office—no, in Mr. Gantt's office—as to whether or not they would go to New Orleans. Mr. Van Benthuyzen was strongly inclined to go there. He said he wanted to stay at home, where he could look after the matter himself. Mr. Beckwith came up and stated these facts that I have stated to the committee, and advised that he commence right there. He then telegraphed or wrote for a large number of models which he had which had been used in the Pittsburgh suit, models of the Reis telephone, the Pickering telephone, the Van der Weyde telephone, and the Bell telephone of 1876, and put them there, strung them up in the building, and they were a whole week experimenting with them, and they sent for Mr. McCorry to come down and witness those experiments, as he states in his letter, and he was there for several days witnessing them, and I was there frequently.

By Mr. MILLARD:

Q. Who penned this letter to the President?—A. I wrote it myself.

Q. From Memphis?—A. Yes, sir; I wrote it and Mr. Van Benthuyzen was to sign it. I wrote it at his request.

Q. At Mr. Van Benthuyzen's request, at Memphis?—A. Yes, sir; his name is attached to it, not mine.

By Mr. EDEN:

Q. Did you ever deliver that letter?—A. Oh, no, sir; because it was not necessary. Mr. Van Benthuyzen went to Waukesha Springs, and Mr. Huntington came on here. He was largely interested in the Van Benthuyzen Company.

By the CHAIRMAN:

Q. Had you prior to that time had any conversation with Solicitor-General Goode in regard to this matter?—A. I never mentioned it to him.

Q. When you came and found the Attorney-General absent, what steps did you take?—A. Nothing, except to call at the office of the Solicitor-General and ask him if those papers had reached him, and he said they had, I think; probably they reached him while I was there. I staid about five minutes and then left. That was the only conversation I had with him about it until afterwards. I have talked with him within the last two or three weeks.

By Mr. OATES:

Q. I would like to ask a question right there in that connection. Didn't you and Mr. Van Benthuyzen go up and see Mr. Goode and ask him if he had received the papers?—A. Yes, sir.

Q. Did not Senator Harris go along with you?—A. Yes, sir; and we were present about five minutes.

Q. What was Mr. Goode's response?—A. I asked him if he had those papers, and I think he sent out and got them while we were there. Perhaps he said he did not have them, and I walked out and returned the next morning.

Q. You returned the next morning?—A. Yes, sir; I believe I returned the next morning, and asked him if those papers had come and he said they had. Senator Harris was not there then. He said the papers had come, but I do not know whether he showed them to me or not. I did not talk with him five minutes. I intended to have said, when I went there, my purpose was—

Q. You need not tell what you intended to say.—A. I think I had better state why I went there.

The CHAIRMAN. That is material, I think.

The WITNESS. I intended to say that if this suit was brought at all, to have it brought, not by the Government, but at our relation, so that we could control it. That was my idea all the time.

Q. Do you remember what Mr. Goode said to you when you went back the second time?—A. He just said they had come; that is about all.

By Mr. MOFFATT:

Q. Can you give us the date of that?—A. That was about—

Q. You cannot give it exactly?—A. No, sir; cannot. I was just thinking. It was some time late in August or in September; I don't remember which.

By the CHAIRMAN:

Q. In either of these conversations with the Solicitor-General did he agree to order the bringing of a suit?—A. When I called on him the second time he was writing a letter to Mr. McCorry then about the suit.

By Mr. RANNEY:

Q. Do you know the date of that?—A. No, I do not remember the exact date. The letter itself will show. I think it was about the 1st of September. I have a memorandum book, may be, that I can tell the exact date from. [After an examination of the book.] No, I cannot find it.

By the CHAIRMAN:

Q. Did you know that the Solicitor-General intended to write that letter?—A. No, sir; I did not know anything about it until I saw him writing it.

Q. Had he said anything to you previous to that by which you understood he was going to order the bringing of the suit?—A. No, sir; except that the papers had not come. I did not stay two minutes in his room. I intended to have talked to him when I went the second time, and ask him to bring the suit in the way I desired; but I thought perhaps it would not be the proper thing, and I did not do so.

Q. You found him ordering the suit brought?—A. He was writing, and he told me he was writing a letter to Mr. McCorry. I did not see the letter, but I saw the papers, some papers lying on the table which I discovered were the papers which had been sent up.

By Mr. OATES:

Q. He was writing to the district attorney?—A. Yes, sir; to Mr. McCorry. Previous to this time I had looked up the authorities on the subject, and found they supported my view of it, and that these suits had been ordered when they were asked to be ordered by the Attorney-General. Seventeen of them had been gotten up since 1874 by Attorney-General Brewster and others. I had looked up the authorities.

By Mr. HANBACK:

Q. Suits where the United States was the sole party and not on the relation?—A. Yes, sir; my recollection about it is that in every case where suits were brought they were brought in the district where they were asked to be brought and special counsel appointed, as the authorities will show.

By the CHAIRMAN:

Q. Was anything said at that time as to the practice of referring applications of that kind to the Interior Department?

The WITNESS. By Mr. Goode?

The CHAIRMAN. By Mr. Goode, Mr. Huntington, or yourself?

A. Oh, no, sir; there was never such a thing done before. The authorities do not show that such a thing was ever done. I see it has been stated so since, but it is not true; at least, I cannot find any authority.

Q. As the result of your investigation, you say, then, it has not been the practice to do so?—A. I never saw but one or two cases. I have collated them in my brief, and if the committee will look at that they will see the course pursued, and that they were invariably brought in the district where they were asked to be brought, and

special counsel appointed, just as in this case. I do not consider it an unusual practice, but a very proper one, and I would have asked for it except for the delicacy of Mr. Garland's situation. I felt that I had a perfect right to do it.

The CHAIRMAN. Mr. Ranney, you may proceed with Colonel Young's examination.

By Mr. RANNEY:

Q. Then you went to New York and entered into that contract? Have you examined those patents?

The WITNESS. Do you mean the first contract?

Mr. RANNEY. Yes; the written contract.

A. No; I do not think I had. I had seen the telephone operating. Do you mean the printed patent from the Patent Office?

Q. No; I mean the instrument.—A. Oh, yes; we examined the models of the electric light, the telegraphic instrument, the telephone instrument, and the telephone that talked through the gas-pipe—I do not know what they call it—and perhaps one or two others. Those are the ones he called my attention to particularly.

Q. Did Senator Harris examine them?—A. He was there when these instruments were being made. Harry Rogers had a telephone with one end of the line at the Sixth street depot perhaps, and one end at his laboratory, and we talked over that frequently.

Q. Was Mr. Garland there?—A. I have no recollection of seeing him at Dr. Rogers's house, though perhaps I may have done so.

Q. Did he know anything about it before the contract was signed?—A. I presume he did. I never spoke to him about it, but I heard how he came into it, as stated by other parties.

Q. You had nothing personally to do with that?—A. No, sir; but I heard how it was done.

Q. From whom did you hear it?—A. From Senator Harris and Mr. Atkins; I had a conversation with them about it.

Q. Had Mr. Atkins looked into it?—A. Yes, sir; I saw him there too. He was there several times when I was there, but not often as Senator Harris.

Q. When was the first proposition made to give these men \$100,000?—A. I never heard the proposition made as was testified to here. It may have been made, but I never heard of it.

Q. You were not cognizant of the fact, then?—A. No, sir; I didn't know anything about it. There was no particular sum offered to me.

Q. When you formed that contract you contemplated forming under an act of incorporation, organizing under the New York laws?—A. I cannot say that we determined to organize under the New York laws. I had not examined them. I thought we would organize under the laws of some State the most favorable for the purpose. I had not examined the laws of any State at that time.

Q. The contract specifies New York?—A. Yes, or some other State.

Q. Did you take any steps for incorporation in New York?—A. No, sir. I did examine the law there; I had forgotten that. General McMahon was stopping at the hotel where we were; he is a lawyer residing there, and I talked to him about the incorporation laws of New York, and he brought a book to my room and I examined it.

Q. But you did not take any further steps than that?—A. No, sir; nothing further.

Q. Will you produce again that large book of certificates you had here the other day?—A. Yes, sir; here it is [producing a book].

Q. Where was that book gotten out?—A. It seems to have been done in New York.

Q. At the bottom of it does it not say "Organized under the laws of the State of New York"?—A. Yes, sir.

Q. Who had it printed?—A. Dr. Rogers. I never saw it until he gave it to me.

Q. When did it come into your possession?—A. I think it was about October or November, 1883, or perhaps January, 1884.

Q. Then some of you did proceed so far as to get a certificate book, designed to be used in the issuing of certificates in a corporation organized under the laws of the State of New York?—A. No, sir; except this. That is all I know anything about.

Q. Well, so far as to do that?—A. Dr. Rogers got that.

Q. That is the certificate book of a corporation purporting to be organized under the laws of the State of New York?—A. Yes, sir; but I had nothing whatever to do with it.

Q. Just look at this, and see if it is the same as those in the certificate book? [Handing a certificate to the witness.]—A. No, sir; it does not correspond with these at all. I never saw it before.

Q. You say that is a certificate purporting to be a certificate of stock issued in a corporation organized under the laws of the State of New York?—A. It seems so; but I never saw it before.

Q. Were there two certificate books?—A. No; not that I know of

Mr. RANNEY. I simply want this certificate marked by the stenographer for identification.

The CHAIRMAN. You do not want it put into the record?

Mr. RANNEY. No; it need not go into the record, but simply be marked for identification.

Q. Will you look and see if you have a book of certificates of that kind?—A. I will, but I know I have not. These are all the books I have.

Q. Is there not one in your box?—A. No, sir.

Q. Won't you look and see?—A. (after an examination). If it is in there I never saw it. Here is a Pan-Electric Telephone Company certificate book, very much like it.

Q. Is not that the same?—A. Oh, no, sir; this is the Pan-Electric Company, and that is the Pan-Electric Telephone Company.

Q. The one I handed you for identification is what?—A. That seems to be the Pan-Electric Company.

Q. That was a certificate issued by the Pan-Electric Company of New York?—A. Yes, sir; these are all the books I have [pointing to a box of books]. I will look at my room; it is possible the book may have been handed in by Dr. Rogers, but I have no idea it was.

Q. Can you give any reason why a certificate book like that gotten up for a corporation should be obtained in the State of New York if you never proceeded so far as to take steps to organize it?—A. If I did not get it, I could not; I could not give any reason for it. There is no authority for it that I know of.

Q. When did this certificate book come into your possession?—A. Either in November or December, 1883, or January, 1884; about that time; I think it probable it was in January, 1884, but I could not state. I never used it, never took any certificates out, and never had any occasion to look at it.

Q. You just conferred with an attorney to see whether you could or would organize in New York, did you not?—A. Well, hardly that. I talked with General McMahon about it. I knew nothing about the incorporation laws of New York.

Q. What was the difficulty about it?—A. I don't remember now what the difficulty was. It occurs to me, however, that we concluded that the incorporation laws of New York were hardly broad enough in their terms to get such a charter as was contemplated. That is my recollection.

Q. Was not the trouble this: that if you organized under the laws of New York, you had to pay in some of the capital stock?—A. That may have been.

Q. And you could not put patent rights in in payment of the capital stock?—A. I do not remember; that may have been one of the reasons. I know that was one of the reasons why I did not get it in the District of Columbia, because we had to pay some in. We talked about that.

Q. At any rate you concluded it was not best to organize in the State of New York?—A. I cannot say that I reached that conclusion. We determined to look into the matter, and I think Dr. Rogers went into New Jersey to examine the laws there.

Q. I will come to New Jersey in a moment. You concluded not to do it in New York?—A. No, sir; I cannot say that we concluded not to do it. I do not think we came to any definite conclusion about it at that time. We talked about it frequently.

Q. Who had charge of the organization of the company in New Jersey?—A. I don't know that anybody had charge of it specially. I think Dr. Rogers went over there and made some inquiry about it, and I think I got a letter from him.

Q. Didn't you all sign a certificate of organization for New Jersey?—A. I do not remember; perhaps we did.

Q. Do you remember whether you signed one?—A. No, I do not; but we may have done so. We did a great many foolish things, I see now, but I do not remember that we did that particular thing.

Q. Just look at that paper (handing a paper to witness).—A. Well, I see this paper is signed by J. Harris Rogers, J. E. Johnston, A. H. Garland, and J. C. Brown, and those signatures seem to be genuine.

Q. They are acknowledged, are they not?—A. I see the acknowledgment of General Brown—yes, it seems to be.

Q. Do you know why you did not go on in New Jersey with it?—A. I have no recollection of ever seeing this paper before.

Q. You see that that is a certificate of organization under the general law. Please hand it to the reporter, and let him mark it for identification. (The paper referred to was marked Exhibit B to Mr. Young's testimony.)

The WITNESS. I see my name is not signed to that paper, and I don't recollect ever seeing it. Oh, I do recollect that Dr. Rogers wrote me a letter about getting a charter in New Jersey, an organization, and we suggested some difficulty. What it was I do not remember. I think it is possible that the letter may be among those I handed in the other day. I say if I ever saw the paper before, I do not remember it. I pre-

sume I would have signed it if it had been handed to me. It is dated the 26th of September. I was not here then, and that was one reason I did not sign.

Q. Here is another paper. Will you see if that is not the same, with an alteration in pencil?—A. I could not tell without comparing the two together. This looks something like the other.

Q. In whose handwriting are those alterations in pencil, and in whose handwriting is the signature?—A. There is no signature to this one.

Q. Yes, there is; look at the end of it.—A. Oh, the signature is "Augustus H. Garland."

Q. Look and see if it is not the same paper that was prepared for the corporation in New Jersey, with an alteration making it suitable to be presented and filed in Tennessee.—A. If you will hand me that paper back I will look at it and see if it is the same, or if some gentleman will read it I will assist in making the comparison.

By Mr. OATES:

Q. That signature has been erased, has it not?—A. The signature is marked out, but it looks to me like the signature of Mr. Garland.

By Mr. RANNEY:

Q. Look at the body of the instrument and see whether the changes in pencil from what was originally in ink are not in Mr. Garland's handwriting.—A. It looks like his; I couldn't swear positively.

Q. What is your best judgment about it?—A. It looks like his handwriting.

Q. It is your best judgment that it is his handwriting, is it not?—A. If I were to see it anywhere else I don't know that I would say it is, for I am not very familiar with his handwriting; but looking at the signature here and having a general knowledge of his handwriting, I should say that was his handwriting. Of course I do not speak positively. I don't believe I ever got but one or two letters from Senator Garland in my life, and they were mere notes.

Q. It seems, then, that you, without consultation, concluded not to organize a corporation in New York, and then the proposition was to go into New Jersey, and that was abandoned?—A. Well, it don't seem so to me, because I didn't know anything about it; but those papers would seem to indicate that some steps were taken in that direction by somebody.

Q. You knew the talk was, after abandoning New York, to go into New Jersey, did you?—A. Oh, yes; we talked about New Jersey and New York and Maryland and Connecticut. I think I remember now that Senator Harris asked Senator Eaton, or wrote to him, about the laws of Connecticut.

Q. I see in the paper for New Jersey that the capital stock was put at two millions, and when you went into Tennessee it was five millions.—A. I didn't notice that.

Q. Look and see if it is not so.—A. I never saw this paper before and don't know what it is. [Examining paper.] Yes; this is two millions. I see it is interlined in pencil above, and it looks as if it was intended for a 5, though it is not written out.

Q. In the original certificate for New Jersey it is two millions, is it not?—A. Yes; and that seems to have been written over, too. The "2" seems to have been written over some word; what the word was I can't say.

Q. In the paper I handed you, which is the completed, signed paper, you will see the amount of capital stock is two millions.—A. I had not observed that.

Q. And the other paper purports to be a copy of that, with these alterations?—A. I presume it is a copy; I don't know.

Q. Was not the difficulty in New Jersey that you could not form a corporation there unless you paid the capital stock in?—A. I don't remember whether it was or not. If that had been the law I should have esteemed it a difficulty; but I don't know whether it was or not.

Q. You would have ascertained it, would you not?—A. I think I should have done so, and I don't think I would have gone there.

Q. Was not the printing of that book of certificates paid for by your company?—A. Yes, sir.

Q. For the New York corporation?—A. Yes, sir. Dr. Rogers sent the bill. I happen to remember that, because he sent it for too much at first, and afterwards he sent a note to me saying he had charged more than he had paid for it.

Q. You know Dr. Rogers got those certificates printed, and your company paid for the printing?—A. Oh, yes; he had the book printed over there.

Q. You would not have paid for it if it had not been done by your authority or by authority of the company?—A. Oh, yes; we paid for a great many things Dr. Rogers did without our authority directly. We recognized his right to do those things.

Q. You did not repudiate it?—A. Oh, no.

Q. As not done under authority of the company?—A. No; I don't know as there has been any repudiation about it. I paid very little attention to the book, because I didn't intend to use it, as far as I was concerned, until the validity of these patents was established by judicial decision.

Q. Do you know what the expense of printing that book of certificates was?—A. I don't remember; the accounts are in this book (indicating book). Dr. Rogers arranged it, and wrote to me when he wanted the money; and afterwards wrote to me that he had sent in too large an account, I know, and gave me what he said was the true sum. A gentleman in New York had misled him about it in some way or other.

Q. The next State you went into was Tennessee?—A. That was the only one I had anything to do with, because this conversation—

Q. Did you attend to the organization of a company there?—A. The only attention I gave to it that I remember is that the articles of incorporation were prepared here and sent to me at my home (I was at home), and I took them to the register's office and had them registered, as the law requires, and then sent them to the secretary of state and had them registered there.

Q. Who prepared them here?—A. I do not know. I understood Senator Garland did; but I do not know.

Q. That was your understanding?—A. I have no doubt he did.

Q. Did you receive them from him?—A. I don't recollect; I don't think I did. I think Dr. Rogers sent them to me, may be; but I have no doubt Senator Garland prepared them.

Q. You attended to the details of the organization in Tennessee?—A. That far I did.

Q. Who looked up the law of Tennessee to see whether that was better for you than the other State laws?—A. I presume I did it myself; I don't remember, though. Senator Garland is a very industrious law student, and it is likely he did it himself.

Q. You don't remember who did it?—A. I don't remember; probably both did it.

Q. If I recollect aright, I have seen in some of the letters something about you thinking it would not be advisable to organize under the laws of Tennessee, as in that event there might be some question about financial standing.—A. That was an objection I had, and I preferred some other State.

Q. Why did you make the objection?—A. On account—

Q. Where did you make the objection?—A. I suppose I wrote that letter from home; I don't know where. The letter is there.

Q. Then you must have been conferred with about organizing in Tennessee?—A. Oh, of course I was. You did not allow me to answer your former question as to why I thought the State was financially objectionable. That involves a little political history, which I will give the committee if the committee think it is necessary. I had just been a candidate for Congress, and I had a difference with a large portion of my fellow-citizens in regard to the State debt—part of the Democratic party. I had taken a pretty active interest in discussing the matter on the stump, and the course things had taken down there did not impress me with the idea that a charter obtained in Tennessee would have very much financial standing abroad, on account of the position of the State with regard to its debt.

Q. You did not want to organize there because you thought it would not give you a good financial standing before the country?—A. I thought it would perhaps present a better appearance to the world, as we intended to conduct it in a perfectly legitimate manner, if we got the charter somewhere else for this company. That was my judgment.

Q. In organizing that company in Tennessee was there any subscription for the stock?—A. None whatever.

Q. There never was any subscription made?—A. No, sir. I will say further in answer to that question that at that time I was not the law adviser of the company, and did not charge myself with the duty of advising them; but afterward I got to looking at the law on the subject, and I discovered that we perhaps had not proceeded exactly in accordance with the law, and I intended—

Q. I would much prefer to have you confine yourself to answering my question, and afterwards, if you want to explain, you will be given an opportunity to do so.—A. What is the question?

Q. My question was whether there was any subscription?—A. I said there was not, and then I went on to explain.

Q. The capital stock was put in as \$5,000,000?—A. I insist on explaining how that was, and I think I have a right to do it.

Q. You may. You have answered as to the fact. Now explain.—A. I was not the law officer of the company; the law adviser; and if I had been, I was not very well informed about the law in respect to the formation of joint stock companies, because I had had nothing to do with things of that sort except as a lawyer, and those questions had not been presented very often in our courts; but upon examining the law afterwards I discovered that perhaps we were not proceeding exactly in conformity with the law, and I told my associates about it and that when we came to issue this stock we must conform to the requirements of the law in that respect; and I intended to have that done by the subscription of stock.

Q. You say there was no subscription of stock.—A. None whatever; everything that was done appears on those books.

Q. Was anything paid in as capital stock?—A. Nothing at all, except the money that I have already specified.

Q. There was not, in fact, a single dollar of capital stock put into that company when you organized under the law of Tennessee?—A. No, sir; and our law does not require it.

Q. Did those who signed the contract in New York convey to that company the patent right?

The WITNESS. Do you refer to the Pan-Electric Company?

Mr. RANNEY. The Pan-Electric Telephone Company in Tennessee.

A. Yes, sir. Here is the assignment. [Producing paper.]

Q. Did you and your associates—I mean by your associates those who signed the contract in New York—convey to them all the patent rights which you contracted for with Mr. Rogers?—A. All we had.

Q. You made an actual conveyance?—A. Yes, sir.

Q. Have you that paper?—A. Yes, sir; I think it is among the papers here. I have brought all the papers I have. I suppose it is here. I have the original. This is it. [Exhibiting paper marked Exhibit D.]

Q. From your recollection, you and your associates, you say, conveyed everything you had?—A. I know we did, unless something was omitted accidentally. Here is the paper.

Mr. RANNEY. The paper will speak for itself.

Q. As you understood it, you conveyed the whole thing?—A. We intended to convey it all, and I presume all the patents are in there. I have not compared it to see.

By the CHAIRMAN:

Q. Do you mean to say that you conveyed all the rights to all the patents that J. Harris Rogers transferred to the original company?—A. Certainly.

Q. Were there not a number of other inventions having no relation to telephones?—A. Yes, sir; a great many of them. I presume they were all put in this paper.

Q. If you conveyed all these rights to the telephone company, what was the telegraph company based upon?—A. I will look and see. The telegraph company was based upon one instrument alone. Let me look at this paper a moment and see. [Examining paper.] I did not write the paper I have before me.

By Mr. MILLARD:

Q. In whose handwriting is it?—A. I don't know the handwriting. It seems to be the handwriting of some clerk.

By Mr. RANNEY:

Q. Who signed the paper?—A. J. Harris Rogers, Isham G. Harris, Joseph E. Johnston, and all the original incorporators.

Q. It embraces them all?—A. All the incorporators.

Q. It has been stated that there was a telegraph company organized in New York?—A. It was not organized at all, except here; it was incorporated in New York, and we had the first meeting here. When we organized the Pan-Electric Telephone Company we just selected the same officers, at the suggestion of somebody, for the Pan-Electric Telegraph Company, and that was all that was done.

Q. I understood you that there was no corporation organized in New York?—A. It was not organized in New York; it was organized here; it was incorporated in New York, but it was organized here in Washington; we had the meeting here in Washington and organized it here.

By the CHAIRMAN:

Q. After looking at that paper, do you say all these inventions were transferred to the telephone company?—A. When I come to look at it I see only the telephonic inventions are embraced. I never looked at this paper carefully. I did not write it. The patents are put down here by numbers, and I would have to make a comparison in order to be certain about it. I desire the committee to understand that I do not recognize any right on the part of Congress to make any inquiry into these matters, and I do not think they are embraced in the scope of the resolution; but still I am ready to answer any question that may be asked. This is a private matter that Congress has no right to inquire into; the courts are the place to settle any matter of this sort; but I have no objection to giving any information I have in my possession. This paper seems to embrace the telephonic patents, but I cannot say exactly without comparing it with the other papers, because the patents are mentioned here by numbers.

Mr. RANNEY. The papers will show for themselves.

The WITNESS. I can make the comparison when I go to my room.

Q. The Tennessee company was organized on the basis of a capital stock of five millions, as you now think, embracing all the patents, subject to verification, with no capital stock subscribed for, and nothing paid in as capital stock?—A. That was in accordance with the Tennessee law.

Q. And you then proceeded to allot to those parties on your book their respective interests represented by the number of shares of stock on that basis?—A. Yes, sir.

Q. And you gave them certificates accordingly?—A. No; I did not give them certificates. I gave them papers, as I started to explain the other day. I never intended at first that—I did not contemplate the enlargement of this thing—any more people should become interested in it until we got it under way. A thing I omitted to state I will state right now, lest I may be misunderstood. Dr. Rogers at that time had no interest in it. He was merely acting as the attorney for his son. After this organization, and after the stock had been allotted to the original parties to this agreement, Dr. Rogers became interested to the amount of \$500,000, transferred to him by his son, who, up to that time, was the only one known upon the books. Then one or both of them transferred to Colonel Looney about \$883,000—one-sixth of the \$5,000,000. I supposed it would stop there. I supposed the organization would not be enlarged until after we had put the thing in operation and were satisfied it was all right; but, as I told you before, the moment that Colonel Looney got this transfer from Dr. Rogers, he prepared a paper, about like this, and brought it to me: "R. F. Looney is entitled to \$833,000 of stock in the Pan-Electric Telephone Company whenever it is the policy of the board of directors to issue it." That was about the substance of it. I refused to sign it. I told him I did not want any of those things to go out, and that I would enter the transaction on the books without signing the paper.

Q. What did you give Senator Harris?—A. Let me answer the other question first. I declined to sign it and said "I will just enter this as a memorandum on the book to show you are entitled to so much." He insisted that he wanted some evidence of ownership; and finally, to oblige him, I signed that paper and handed it to him. Then I intended, before it went any further, to examine the law carefully and conform to a leading decision that had been made in New York on that subject, which I had read, and to give to Dr. Rogers or to Harry Rogers \$2,000,000 worth of this stock for the patents, and to allot the balance of the stock by subscription, as was indicated in the decision which I had read. I don't remember now the exact points. At any rate, within a day or two, before I could do anything of that sort, these orders commenced to come in to me from Looney and from Dr. Rogers. I have handed the orders to the committee. They just came pouring in on me every day and almost every hour, wherever I could be caught, on the street, or in the house, or in the lobbies, and it kept up until, as I said the other day, I saw it would ruin the whole concern, and I determined I would have no more to do with it, and I called this meeting at the Ebbitt House.

Q. I believe you honored the orders you produced the other day, and issued certificates for them?—A. My clerk at first would write a paper showing that John Smith was entitled to so much stock in the Pan-Electric Telephone Company when the board of directors saw proper to issue it, and to be charged to the account of Dr. Rogers or Harry Rogers. I directed my clerk to do so.

Q. You gave the form of paper the other day?—A. That form was a printed one that was brought to me. I never had one printed at all. I have given you the form I used.

Q. The form of paper which you read the other day, I suppose, is in the record?—A. Yes, sir.

Q. And you gave papers of that sort to Dr. Rogers, or others, for all those orders?—A. I did not give them to him, but to the parties to whom he gave the orders; every one of them.

Q. All of them?—A. All of them, until I got tired of it, and stopped.

Q. I want to know what you gave Senator Harris to show for his interest?—A. I did not give him anything. He never asked for anything.

Q. You gave him no paper?—A. Nothing at all at that time.

Q. Did you ever give him any paper?—A. After we had this meeting at the Ebbitt House I was directed by the stockholders to get up this certificate, and when I got it up I sent them to everybody that had any interest in the company, as will appear by the stub-book.

Q. Then you gave certificates to Senator Garland and Mr. Atkins and Senator Harris?—A. Yes, sir; of the same sort; all but General Johnston; he would not take his; it is in the book now.

Q. He has never taken his?—A. No; he wouldn't have it.

Q. Did you give Mr. Atkins his?—A. I sent it to him by mail.

Q. Did you give Mr. Money his?—A. Yes, sir; I think I sent it to him by mail also.

Q. All those transactions are detailed in the stock-book, on the stubs, are they?—A. Yes, sir; they are on the stubs of that book.

Q. And you have given to the committee a list of all the stock you issued?—A. Yes, sir.

Q. So that all those parties but General Johnston hold, so far as you know, the certificates, or did have them?—A. All, except Mr. Fletcher, of Pennsylvania. He never sent to me, and I didn't know where his post-office address was. It is in the book yet.

Q. What was done with the stock in that Tennessee company that your associates did not take? They had \$500,000 reserved. What became of that stock reserved originally for Mr. Hewitt?

The WITNESS. Do you mean under the original contract at New York?

Mr. RANNEY. Under the original contract there was a certain number of tenths allotted, and then there was a certain other fraction originally designed for Mr. Hewitt, which he did not take.

A. It was not designed especially for him.

Q. When you made the division of the stock in Tennessee, what became of the interest originally designed for Mr. Hewitt?—A. I didn't make any division in Tennessee.

Q. I refer to the allotment on your books.—A. I didn't make any allotment there. I simply allotted it to the original incorporators here in Washington. Tennessee had nothing to do with it.

Q. That is what I want to get at. On your stock-book I see you have carried to the credit of the individuals a certain amount of stock?—A. Yes, sir.

Q. What I want to know is whether that stock that you carried to the credit of each of the individuals on that book embraced the whole of the \$5,000,000?—A. You mean to inquire about the reserved \$500,000 in the original contract, what became of that?

Q. I do; yes.—A. That is charged upon the book, as you see, to the common stock of the company now.

Q. Belonging to the company?—A. Belonging to the company.

Q. In other words, then, your company in Tennessee took to itself stock in its own company to the amount of the reserve?—A. We had no company in Tennessee. Do you mean the local company?

Q. Yes.—A. That was here in Washington. That belongs to the company. It is common stock of the company.

Q. I designate it as the Tennessee company, because it was organized under the laws of Tennessee.—A. I thought may be you were confounding it with the local company of Tennessee.

Q. Not at all. The company I have been speaking of is the one to which I refer. I have not come to the local companies yet.—A. That stock still belongs to the company—so much of it as has not been disposed of. Some of it has been disposed of.

Q. You allotted their shares to the respective associates?—A. Yes, sir.

Q. And then the amount reserved was allotted to the company itself and held as the stock of the company?—A. Yes, sir; it belongs to the company yet; all that has not been disposed of; some of it has been disposed of.

Q. In other words, your company, which was organized with a capital stock of \$5,000,000, allotted to itself a certain portion of its stock, owned by itself, and which nobody had paid for?—A. Yes, sir; they had paid for it with these patents. That was the only pay there was.

Q. Had the company paid for that stock; and if so, how much did it amount to in all?—A. I could tell you by looking at the books. It amounted probably to nearly \$700,000.

Q. In the original allotment of the Pan-Electric Telephone Company, organized in Tennessee, how much was allotted to the company?—A. Five hundred thousand dollars under that agreement; but I was going to explain, if you would allow me, how it didn't happen to be that much.

Q. You may do so.—A. That contract provides that Dr. Rogers was to have the right to dispose of \$170,000 of stock to persons that he had previously made contracts with. An order came to issue that stock—

Q. And that was taken out of it?—A. No; just hear me a moment and I will explain it. When we came to issue that stock it was a question, under the terms of that agreement, whether or not it should come out of Dr. Rogers's \$2,000,000 of stock or whether it should come out of this \$500,000 of reserved stock. Dr. Rogers was not present at the meeting, and Senator Harris said: "It appears from the terms of this agreement that it should come out of Dr. Rogers's stock; but we will give him the benefit of the doubt, and we will take it out of the common stock," which was done. I intended, and I thought I had given out \$170,000 in accordance with that agreement; but when I came to look at the books the other day I found I was mistaken, and Dr. Rogers was entitled to \$30,000 more of that stock than I had given him. I didn't know it until I looked at the books the other day.

Q. You said you found that organization was illegal?—A. You misunderstood me. I did not say anything of the sort.

Q. What did you say?—A. I said we had organized the company, as I understood it, exactly in conformity with the laws of Tennessee, where it was incorporated; but after that time I began to have some doubt whether or not we could allot the stock to each stockholder without subscribing for it, and without receiving some value for it. There was a decision in New York on that subject, which you are familiar with, I suppose. So I intended to allot to Harris Rogers \$2,000,000 for his patents, valuing his patents at that amount.

Q. What you mean is, you found it was illegal to allot to the company?—A. No; I did not find it was illegal. I say I had doubts about it. I do not say yet it was illegal. I think, in all probability, it was entirely correct, and that I can sustain it in any court; but still it is a question.

Q. You say, as a lawyer, that the laws of Tennessee at that time authorized the formation of a corporation with a capital stock of \$5,000,000 without the capital stock being paid in?—A. Yes, sir; I say it as a lawyer and as an individual. If we are to discuss the law points I want the authorities here, and I think I can maintain my position. I have been in the habit of doing it on the authorities.

Mr. HALL. I object to the range the testimony is taking. I do not think it is at all proper to go into these matters.

The WITNESS. If my capacity as a lawyer is to be called into question I am willing to discuss the subject with Mr. Ranney. I may be at fault; lawyers sometimes are.

Q. You believe it was lawful?—A. Yes, sir; I think so; that is my opinion.

Q. To organize a corporation without any subscription to the stock and without paying any money in?—A. Yes, sir; I think under the laws of our State we had a perfect right to organize it just as we did; and I am not clear that we had not the right to do it under the general law. There are some statutory enactments in different States which require a different procedure; but I am not quite sure I could not maintain the perfect legality of this transaction in any court. That is merely my legal opinion.

By Mr. HALL:

Q. Was there not something paid in?—A. I will explain what was paid in. We paid in so much money to develop these patents.

By the CHAIRMAN:

Q. And you paid in the inventions?—A. Yes, sir.

By Mr. HALL:

Q. Were not the patents transferred as a consideration for this stock?—A. Yes, sir.

Q. Those patents belonged to individuals before that?—A. Yes, sir.

By Mr. RANNEY:

Q. You treated the capital stock as paid by the transfer of the patent rights?—A. Yes, sir; they belonged to the association until they were transferred to the company.

Q. That is to say, the patent-rights which you had bought in New York, or taken an interest in under that contract, and which you reckoned as worth \$1,000,000 as between yourselves, you put into the corporation at \$5,000,000?—A. Yes, sir; and I think we had a right to put it in at \$100,000,000 if we had wanted to.

Q. That is the law of Tennessee?—A. I think it is the law of New York or Massachusetts, or anywhere else. I think it is the law everywhere that a company may be capitalized as high as you please, unless there is some limitation placed upon it by statutory enactment.

Mr. MILLARD. That is not the law of New York.

Mr. RANNEY. Nor of Massachusetts, nor of New Jersey.

The WITNESS (Mr. Young). I have not examined the law; there may be some statutory limitation upon the amount.

Mr. HALL. There should be no controversy here about what the law is as to these matters.

Mr. RANNEY. If your opinion about the law of Tennessee is not better than your opinion about the law of Massachusetts, I might be inclined to doubt it.

The WITNESS. Lawyers will differ, you know. Perhaps I might have the same opinion about you; lawyers will differ; I find you at fault very frequently. If you want to discuss the law, I will discuss it with you.

The CHAIRMAN. I suppose there would be no limitation unless there was a statutory limitation.

The WITNESS. That is my view.

The CHAIRMAN. But there would be a restriction, perhaps, in requiring a certain amount of money to be paid in on each share.

The WITNESS. I presume so.

The CHAIRMAN. That is the way it is in Pennsylvania.

Mr. RANNEY. I don't care for any discussion on the law.

The WITNESS. I have no disposition to discuss it unless you wish to.

Mr. RANNEY. I have all the answer I desire on that subject and have passed from it.

The WITNESS. The courts are the proper judges of that matter.

Q. I want to know if your associates and yourself—I mean by your associates Senator Harris, Senator Garland, Mr. Atkins, and General Johnston—who formed that association in New York were men of capital and means?—A. Well, I never made any inquiry about their private means. If you want to know the extent of mine I will give you the information.

Q. I want to know whether you were capitalists, having money to put into the enterprise?—A. I am not a capitalist, but I could have put in all the money that would have been necessary. I will give the gentleman—

The CHAIRMAN. I don't think we should go into that.

The WITNESS. I suppose, Mr. Ranney, that I—

Mr. HALL. You need not answer as to that matter. You have some rights here.

The WITNESS. Mr. Ranney has asked a thousand other questions just as bad. I will give a schedule of my property, if it is wanted.

Several MEMBERS. Oh, no.

Mr. RANNEY. Dr. Rogers says he took these gentlemen in, not as capitalists, but for their position and well-known integrity and reputation, and I want to know whether that is so or not.

The WITNESS. You had better ask him. If you want to impeach a witness that is not the way to do it.

Mr. RANNEY. I am not impeaching any witness.

The WITNESS. I do not know whether that was the object of Dr. Rogers or not, and so I cannot say.

Q. I want to know what the fact is. Were they men of large means; capitalists?—

A. What would you call men of means? How much money would it require?

Mr. OATES. I object.

The WITNESS. I perceive the gentleman's object, and I am willing to meet it.

Mr. OATES. I object to the question as highly irrelevant.

The WITNESS. We are not quite as rich as the Bell Telephone Company.

Mr. MILLARD. It may be highly material to know whether these gentlemen were taken in for their influence or for their money.

Mr. OATES. If the gentleman will look at the resolution he will see that we are directed to inquire in reference to the consideration for this stock. That is proper. But as to what these gentlemen are worth—

Mr. RANNEY. An important element is whether this stock was given to these gentlemen because of their official position or because of their capital.

The WITNESS. Dr. Rogers has stated it was not, and I have stated it was not—

The CHAIRMAN. Allow the committee to determine this question.

The WITNESS. To be sure.

Mr. OATES. I submit it is immaterial to inquire what these gentlemen are worth. It is material to inquire of the witness what was paid for the stock. That inquiry has been made, and it has been answered time and again that no money was paid for it. What the gentlemen were worth and what they owned is a highly immaterial question, I submit. It is proper to show whether the stock was given them because of their official influence, or for any other consideration; but it is not proper to show what these gentlemen were worth, or to go into their private affairs.

Mr. EDEN. The resolution says, "What money, service, or influence."

Mr. OATES. What they paid for the stock or what they gave for it.

Mr. RANNEY. The question is whether Dr. Rogers gave this stock to these individuals because of their position or influence, or whether he gave it to them because of the money which they would put into it.

Mr. HALL. If he gave it to them it probably was not for their money, because that would have been a pretty dear gift.

Mr. RANNEY. I ask for a yea and nay vote on the question.

Mr. OATES. On the question of bringing out what these gentlemen were worth?

Mr. RANNEY. On the question which I put. My question is: Were these men men of capital or means to any extent?

Mr. OATES. I object to the question. I do not think we should inquire what they were worth or what property they owned. I make the objection simply on the ground that the inquiry is not material.

The CHAIRMAN. The chair thinks the objection is well taken.

Mr. RANNEY. I would like to have a yea and nay vote on it.

Mr. MOFFATT. I wish to say in explanation of the vote which I shall give in favor

of asking the question, that I do so on the ground that the answer will show whether or not these people were interested as capitalists or for some other reason.

Mr. RANNEY. It is for that purpose I ask the question, and not with a view of prying into the private affairs of any man.

Mr. EDEN. The inquiry is not exactly as to their means, but whether or not they were capitalists.

Mr. RANNEY. Simply whether they were capitalists.

Mr. HALL. I have no objection to asking what the consideration was.

Mr. RANNEY. I would like a yea and nay vote on the question.

The CHAIRMAN. The chair will state that the propriety of a question of this kind rests with the gentleman who puts it; but we all recognize as practicing lawyers that questions of this kind are not to be put so as to expose the private means or condition of men unless it becomes necessary in the course of the investigation. The chair does not think this inquiry is necessary in this investigation, because, whatever may be the means of these gentlemen, it is nowhere provided, and it is not alleged by anybody, that they were to contribute their means to this company or that they were to pay anything for the stock they received. It seems to me to be an immaterial matter.

The WITNESS. I want it to go on the record, Mr. Chairman, that I am willing to answer the question.

Mr. MILLARD. I want to say before voting, that I do not understand the inquiry of Mr. Ranney to be with a view of trying an issue as to the amount of their property and the amount of money they are worth. It is upon the point as to what Dr. Rogers expected would be contributed by these men; whether they were to contribute money, or whether they were to contribute their influence.

Mr. OATES. That is not the question put.

Mr. MILLARD. I conceive it to be, and upon that ground I will vote as I do.

The CHAIRMAN. Those who favor the allowance of this question will vote aye and those who oppose it will vote no.

Thereupon the roll was called, and the vote was as follows:

Ayes—Messrs. Ranney, Millard, Hanback, and Moffatt. Noes—The Chairman and Messrs. Oates, Eden, Hale, and Hall (Mr. Eden casting the vote of Mr. Hale).

So the question was not allowed.

The WITNESS. Mr. Chairman, I would like to make a statement.

The CHAIRMAN. You may do so, if it is relevant to the inquiry.

The WITNESS. I think it is.

Mr. RANNEY. I shall object to your making any statement on the point which the committee has ruled out, unless I can have the privilege of pursuing my inquiry.

The WITNESS. I simply want it to go on the record in justice to myself. I have heard this whole thing discussed before—

The CHAIRMAN. It is immaterial.

Mr. RANNEY. If you go into it, I shall want to go into the whole of it.

Mr. HALL. I understand it is entered of record that the witness is willing to answer. That is proper.

Q. In the arrangement entered into in New York, I perceive that all your associates were to do was to contribute certain sums called for to the extent of \$150 each.—A. That was the limitation fixed in that paper.

Q. None of you undertook to pay or agreed to pay any money for the interest in these patents which you obtained, except that you were liable to be assessed to the amount of \$150 each, and no more.—A. And such further sum as the executive committee might fix, as you will see by looking at the paper. They were to be assessed more if the executive committee decided upon it. They could not be assessed more without consent.

Q. There could be no further assessment without whose consent?—A. Without the consent of the executive committee.

Mr. OATES. I object to this examination on the ground that the paper speaks for itself.

Q. By the figures which you gave I see you assessed these men to that extent?—A. We assessed them for over \$400.

Q. But that they all received back, and something more?—A. Oh, yes; we thought we had a right to do that.

Q. When you bought these patents they were already in operation, were they?—A. I can't say that they were in operation.

Q. The telephone patents were in operation?—A. No; not in operation. There were two telephones put up and we had talked through the two telephones at a short distance; probably a mile or two.

Q. Did you pay anything for going on and developing the patents?—A. General Johnston and Harry Rogers continued their experiments and tests, however. I was not here, but it was reported to me from time to time. I was here when we got the use of a wire from here to New York, and talked over that. Then they went to Rich-

mond and made arrangements to get a wire from Richmond to Washington, and talked over that. We made various tests of the telephonic instruments and a good many of the telegraphic instruments. Those I did not witness very many of; but we got an expert, Mr. Maynard, I think, to make some examinations and tests. General Johnston can tell you more about it than I can. I was not present.

Q. How much money was paid out in perfecting the inventions, if any?—A. We paid out about \$400 apiece, the original five of us, and Harry Rogers and Dr. Rogers paid in proportion to the stock they owned.

Q. As a matter of fact this interest in these patent rights was a gift to you and your associates, if that is all you paid for it?—A. No, sir; it was not a gift and nothing like a gift.

Q. Was it a purchase?—A. That contract shows exactly that it was a contract; and you will permit me to say that every company ever organized for the development of a patent was organized the same way. You cannot find one that was not.

Q. There is a difference between developing a patent and developing a corporation, is there not?—A. Well, there may be some difference. It depends upon what the corporation is for. A corporation don't need any developing that I know of, except—

Q. That written contract expresses the whole of it, does it?—A. That expresses it all.

Q. Then we will not dwell on it.—A. Just as you like.

Q. Were you a member of this Washington company?—A. I see my name as one of the directors and incorporators; I did not know it until afterwards; I see I was.

Q. This company in Washington embraced the District of Columbia, Maryland, and Delaware?—A. And Virginia and West Virginia; four States and the Territory.

Q. You sold that corporation the right to use those patents in the States you have named?—A. Yes, sir.

Q. What did you say you got for it?—A. Our contract with them shows that they were to put up exchanges in those different States and localities and organize a joint stock company, and we were to have one-quarter of the stock.

Q. That was all they were to pay you?—A. Yes, sir.

Q. One-quarter of the stock on the basis of a capital of how much?—A. Five million dollars originally; it was reduced to \$2,500,000.

Q. And you got your certificate for that?—A. Yes, sir.

Q. That company was organized here?—A. Yes, sir.

Q. Did you attend the meetings of the directors?—A. I do not know as I did. I believe I was at one of them. I was not here much.

Q. Did you have any capital stock of your own in that company?—A. No, sir; except what was allotted to me as director. I had \$50,000 as a director, I believe.

Q. In order to be a director you had to be a stockholder?—A. Yes, sir.

Q. You, as a stockholder, had \$50,000 of it?—A. Yes, sir.

Q. Where did you get that?—A. From the company.

Q. What company?—A. The Washington company.

Q. Was it a gift to you?—A. Yes, sir; it was given to me for my services as director under their by-laws.

Q. You paid nothing for it. Then you had your interest in that company as a member of the Pan-Electric Company of Tennessee?—A. Yes, sir.

Q. Have you the books of that company?—A. Oh, no; I never had them.

Q. Can you tell who the stockholders are?—A. Oh, no; I can't tell anything about it. The secretary is right there behind you. I expect he can tell.

Q. Did you ever sell any of your stock?—A. No, sir; I never sold a dollar's worth of the stock to anybody.

Q. Did you ever transfer your stock in the Tennessee Telephone Company—not the subordinate company, but the original Pan-Electric Telephone Company?

The WITNESS. No; individually?

Mr. RANNEY. Yes.

A. Never a dollar, except—

Q. Did you ever pledge it?—A. Never a dollar of it; it was not necessary. I could have put up the whole thing with my own means.

Q. You gave away some of it?—A. Yes, sir; I stated how that was. I gave some of it to two little girls that were named after me. Right there I wish to correct a mistake; I see the official report of my testimony is incorrect. It is stated that I gave some of the stock to a friend of mine who was in distress; that is a mistake; he is about as far from being in distress, financially, as any man I know of. I didn't state it that way. He was an old friend of mine, and I talked with him, a long time ago, incidentally, about our company, plans, &c., and he proposed to go into it and to pay for the stock what I had to pay for it, and I told him he could do so.

Q. Who are you speaking of?—A. Mr. Julius Taylor. The stock appears in the name of his wife. I want it to appear that he is not impecunious and not in distress.

Q. What stock was that?—A. Stock in the Pan-Electric Telephone Company.

Q. You spoke the other day about the amount of stock you took from the subordinate companies. Were there not notes besides that?—A. Well, there were notes given in payment for what they were to pay us. They did not pay us the full amount in cash. We got some notes.

Q. Do you know how much you got in notes?—A. I don't remember. I could tell by looking. The notes are down at my room. I think the amount is \$4,000 from the Texas Company, and probably \$2,000 or \$3,000 or \$1,000 from the Alabama Company. I don't remember without examining the notes.

Q. You got notes from the Texas Company?—A. Yes, sir; we got \$4,000 in notes from them.

Q. The certificates which you issued afterawhile have this restriction about testing the patents?—A. Yes, sir.

Q. How soon did the idea arise to make the issuance subject to that?

The WITNESS. With me?

Mr. RANNEY. The idea that you would make your certificates subject to the test of the patents as to their validity?—A. That arose with me the moment I found anybody was disposing of the stock.

Q. Do you mean that you and your associates conferred together, and that you would not consent to a form of certificate of stock unless it contained that provision?—

A. Yes, sir; at a meeting of the board, and Dr. Rogers was there, and Colonel Looney.

Q. Why was that?—A. I have stated that the reason was that we did not want to have this stock go out until we had established the validity of our patents by a judicial decision, so that we might impose on nobody and nobody might lose by investment in it.

Q. You were aware that those companies to whom you sold and which were organized were putting out certificates in the usual way, were you not?—A. I was not, and don't know yet that they did it at all, except what they gave us.

Q. Did you suppose the certificates they gave you were any different from those they were giving other parties?—A. I didn't suppose anything about it, because I didn't know they were giving them to other parties. I never had any information that they were.

Q. Did you ever inquire?—A. No, sir.

Q. Did you ever take any steps to see that the companies to whom you sold, and that were organized, did not put out certificates in the ordinary form?—A. We had no authority over those companies at all.

Q. Did you ever take any steps to ascertain whether that was done?—A. No, sir.

Q. Did you make any such condition in your transfers to them?—A. That they weren't to transfer the stock?

Q. Yes.—A. No, sir. We made the condition in the transfer that they were not to issue bonds beyond a certain amount, but we had no sort of control over the issuance of stock.

Q. Can you see any difference in the propriety of the two things? Was there any greater propriety in subordinate companies with the capital of \$5,000,000, more or less, putting out stock on the public in the ordinary form than that the original Pan-Electric Company should do it?—A. Do you want my opinion on that as a matter of propriety, or is that an inquiry directed to a matter of fact?

Q. Do you see any difference between the two?—A. I do.

Q. You can state it.—A. I had no right to control the movements of other people. I did have a right—

Mr. HALL. I think this inquiry ought to be limited.

The WITNESS. We have gone all through it before. I do see a difference. I had no right—

Mr. HALL. I object to the line of inquiry. I do not want to be captious about it, but it seems to me it ought to be confined to facts. We can form our own conclusions.

Mr. RANNEY. He testified to it before. Why didn't you object when the chairman put the question?

Mr. HALL. He did not put any such question.

The CHAIRMAN. I put a question very similar. That was my purpose.

Mr. HANBACK. The witness was questioned on that subject and answered.

Mr. HALL. The question now is as to his distinction between one method of procedure and another method of procedure.

The WITNESS. I have explained that very question very often to the Bell attorneys.

Mr. RANNEY. I insist upon my question.

The CHAIRMAN. I think the question is proper. It is about the same question that I asked this morning. It is the same in substance.

Mr. RANNEY. Mr. Hall thinks it is competent for you and not for me.

Mr. HALL. Oh, no.

The CHAIRMAN. Mr. Hall was not here this morning when I put the question.

Mr. HALL. I object to the question in order to save time. Whether the chairman

put such a question as that or not I think the question is immaterial, and can only tend to prolong the examination.

Mr. RANNEY. Let us go on.

Mr. HALL. Very well; only I insist that I shall have the same right to ask immaterial questions hereafter.

Mr. RANNEY. Certainly.

The WITNESS. The question is not put in the exact form I have been in the habit of answering heretofore. I would like to hear it read. [Question read by reporter.] That question proceeds upon the hypothesis that they did do it. I do not know that they did do it. If you want the question answered upon a hypothetical case, I will give you my opinion about that. I do not know that they issued any stock at all except what they gave us. If you want me to answer the question on the theory that they did, I will do it. Do you desire it?

Mr. RANNEY. Answer the question as you please. I do not want to dictate your answer.

The WITNESS. You have been dictating all the while, and I supposed you wanted to this time. If you assume they did issue stock (which I do not admit, because I do not know), my opinion about the propriety of the matter is this: They were local corporations. People were presumed to know who they were, what their responsibility was, and how far they would be able to meet their obligations. I had no right to control them, and I made no effort to control them. I do not know that they ever did issue any stock. I had a right, however, to control myself and to use my exertions in a proper way to control the corporation of which I was a member; and I did not think it was proper for the corporation of which I was a member, either upon the ground of correct business transactions, or upon the ground of public morality, to issue stock and allow it to fall into the hands of anybody who might chance to purchase it without their having an opportunity of knowing exactly its value and what they were doing.

Q. You say you were a director in the Washington company?—A. Yes, sir.

Q. With a capital of \$5,000,000?—A. Yes, sir.

Q. That you were paid \$50,000 for being a director in that company?—A. Yes, sir.

Q. And that you were a director in that company and do not know to this day whether they ever issued any stock or not?—A. I do not. I only attended one meeting of the board that I remember, and I don't think that question was discussed at all; but if it had been discussed I should have said they would have had a right to issue their stock if they wanted to. That was a corporation I had no right to control except to the extent of one vote; and I think if it had been suggested to me I should have voted against it.

Q. I simply ask you whether you say now you do not know whether or not they ever did issue any stock?—A. Of course I do. I do not know whether they did or not. I never looked at the books. I think I only attended one meeting, and I was made a director, I think, without being consulted. I don't remember that I was consulted.

Q. Were you present when they voted to reduce the capital stock from \$5,000,000 to \$2,500,000?—A. I think I was. I don't know exactly what action was taken. I know I suggested, when it came to my knowledge it had been capitalized to that amount, that that was too much, and General Johnston agreed with me. I don't know really as the change has been made on the books. My understanding was that it had been reduced. I see the secretary is here. He can tell.

Q. Did you not, before that was done, ascertain how much stock was outstanding?—A. No, sir; I made no examination of the books at all. I was only here, I think, at one meeting. At that time I was confined to my room, and I went away immediately afterwards on account of my health, and didn't come back here again for months.

Q. Do you know anybody who holds stock in that company except yourself?—A. I haven't examined the books to see. General Bradley T. Johnston is the president, and I presume he holds stock. Dr. Henkle I see present. He was a stockholder, as I heard him say. I think Major Gardner is a stockholder, and I have heard of a number of others, some Baltimore merchants, whose names I do not recall just now. A Mr. Ray, a merchant here in the city, is a stockholder and a director.

Q. Did you ever sell any of the stock in that company?—A. No, sir; not a dollar's worth of any sort.

Q. Have you here the certificate of your \$50,000 worth?—A. No, sir; I have not a certificate of that many shares. The book will show how much I have. I gave \$10,000 of this stock to Mr. Money, and I gave my clerk \$1,000—

Q. I am referring to the Washington company.—A. Oh, I misunderstood you. I don't believe I ever did have a certificate for that stock. I know I never got one. It was never issued to me.

Q. Do you know who holds any of the stock in the Alabama Company?—A. No, sir; I do not, except ourselves. I understand Mr. Upshaw does, and young Mr. Looney,

and Mr. Enoch Insley, a gentleman of large wealth in our State. I understand he is a stockholder. I believe he told me so.

Q. Do you know any members of Congress who hold any?—A. Oh, no; I never heard of any.

Q. Did you keep the books of the Pan-Electric Telephone Company, the parent company?—A. My clerks did. I sort of supervised it. I am not a very accomplished book-keeper.

Q. Is this record book in your handwriting or in whose?—A. In the handwriting of different clerks of mine. I don't think a single one of the entries is in my handwriting.

Q. Who were your clerks?—A. I have had a half a dozen. A young man named Hirshfield and a young man named Tucker wrote most of them, I see.

Q. When were the entries made?—A. At the time they purport to have been written up. The minutes of one meeting are not on that book, I see; the last one we had.

Q. Why was that?—A. I wrote them off in rough, and this investigation was talked of, and I have made no entry on the books since. That was the last meeting that was had.

Q. How many meetings have the directors of the Pan-Electric Company had since the first day of last June?—A. I do not think we have had any except one. The books will show. There was no occasion for it that I know of. I was not here. I don't know whether they had any or not. I do not see a record of any.

Q. You say there has been one?—A. There was one about three or four weeks ago—that celebrated knocking out scene that you were all so anxious to hear about the other day. That was the only one we had. It is not on these books.

Q. Do you know who attended that meeting?—A. Yes, sir; Senator Harris and myself, Mr. Atkins, Colonel Looney, Dr. Rogers, and Harry Rogers. Nobody else was there.

Q. Was General Johnston there?—A. Oh, yes; he was there.

Q. Look at your record-book and tell me the date of the last meeting that is recorded.—A. (Examining book.) The last meeting recorded is Monday, May 4, 1885.

Q. Do you mean to say there has never been any meeting of the directors or any official action since then?—A. No. There have been frequent meetings of different members of the board of directors, but no regular meeting of the board of directors except the one I spoke of, and that could hardly be called a regular meeting of the board. This meeting was held just before I left the city, in the spring of 1884. My health was very bad. I got badly hurt, and I was not able to sit up when that meeting was held.

Q. You said 1884; was that 1884 or 1885?—A. 1885. I went away and did not come back again for many months.

Q. Who acted as secretary in your absence?—A. Nobody that I know of.

Q. There was no assistant secretary?—A. No, sir.

Q. Have you mentioned all the clerks you had?—A. Oh, no; in 1883-'84 I had a young man named Eli A. Hirshfield; he has been in my office for many years. When I came on here I appointed him clerk to my committee; he did some writing for me; then later I had William C. Ingraham; I see this is in his handwriting.

Q. Did you ever have a clerk by the name of Nathaniel Hill?—A. No, sir; he was never my clerk; Colonel Hill was about my room very frequently, but he was never an employé of the company; he was about my room very often, and did writing for me very frequently; he assisted in making some of these divisions.

Q. These records were made up in the regular way?—A. Oh, yes.

Q. They are not in your handwriting, but those of your clerk's?—A. I could not write at the time; my arm was paralyzed.

Q. Did you know of the resolution offered in the House by Mr. Robinson in regard to the appointment of Mr. Rogers as electrician?—A. Yes, sir; I know all about it.

Q. After it was introduced by him it was referred to your committee, or the committee on which you were?—A. Yes, sir; I think it was.

Q. Do you remember what that resolution was?—A. No; I do not. I think it was to declare him appointed electrician, and his brother along with him. I know that was talked about. I talked with Dr. Rogers about it.

Q. Did you have anything to do with recommending him?—A. I think I recommended him. I would have done it if I had been asked to do it. I will state all about what I did have to do with it.

Q. You may answer it in your own way.—A. When I was at Hot Springs in 1883, after I had been re-elected to Congress in 1882, I received a letter from Dr. Rogers in reference to having his son appointed the electrician of the House. I don't remember all that was in the letter, but some reference was made in that letter to the probability of General Atkins being elected Clerk, and wanting me to write to Atkins, or to speak to Atkins, to see about his son's being appointed electrician. I wrote back to him in substance, as I remember, that it would not be a delicate thing to say to Mr. Atkins, and I declined to mention it to him at all, and never did mention it to

him. He may have written me more than one letter. He seemed anxious that his son should be appointed. I have seen a letter published that I had forgotten writing, but I presume I did write it. It is about what I would have written—that I being a member of Congress, and Senator Harris being a Senator, it would not look very well, and it would hardly be the proper thing to do for us to try to secure his appointment as electrician; and I see I remarked in that letter that it would look something like the Credit Mobilier.

When I came on here I had several conversations with Dr. Rogers, and he was anxious that his elder son, Harry, should be appointed electrician of the House, and also that his youngest son, Mr. James C. Rogers, should be appointed as his assistant. We had a number of conversations about it, as detailed by Mr. Rogers the other day in his testimony; and a conversation occurred something like what he stated, as I remember, at one of our meetings. He said he would like to be appointed. It was not put on the ground at all that he could be of any special service to our company, but that he had been removed under the former administration, and that, as a Democrat, he wanted to get back. He remarked at that meeting that he cared nothing about the salary, that that didn't make any difference, but that he wanted to get back; and Senator Garland said something like what was testified to—"Well, if you don't want the salary, we will take it;" something like that. That was all that was ever said at any meeting of the board of directors that I have any recollection about. I know Dr. Rogers spoke to me several times afterwards about it.

Mr. OATES:

Q. Is the letter to which you referred the letter of November 4, 1883?—A. Let me look at it. (Examining letter.) Yes; I presume I wrote that letter. That is about what I should have written; but that is not what I was alluding to. The first one I wrote, as I recollect, was while I was at the Hot Springs, and I wrote from there. This letter appears to have been sent from Memphis. I spent most of that summer at the Hot Springs, and my recollection is I received one letter while I was there.

Mr. RANNEY. I think the letter of August 21, 1883, is the one to which you refer.

The WITNESS. Yes, sir; that is from Hot Springs.

Mr. RANNEY. Now, I will put in that letter here. I want the whole letter put in. The original is here, I understand.

The letter is as follows:

HOT SPRINGS, ARK., August 21, 1883.

MY DEAR DOCTOR: Your letter of the 16th instant, forwarded from Memphis, reached me here this morning, where I have been for a week past. Senator Harris is in Texas, where I understand he will remain for some time. I cannot therefore know the contents of your letter to him only as I gather it from what you write me.

I agree with you perfectly in the conclusion that we should be "up and going." The present disturbed condition of the telegraphic world presents a peculiarly favorable opportunity for us to put our system before the public, but we should be careful to do it in such a way as would start it on a solid basis, so [far] as commending it to public confidence is concerned. It seems to me that we might make most favorable terms with the "American Postal Telegraph Company," for these reasons:

If Harry's repeating system is what we think it is, and can be put into practical operation, the American Postal Telegraph Company could, by cheapening the cost of telegraphy so much as that would enable them to do, compete upon more equal terms with the Western Union than if the Government (as it certainly will) should establish a postal telegraphic system of its own. It would be in a better condition to sell to the Government its plant, improvements, &c., than any other company, or if it should not sell to the Government and conclude to keep its lines operating, no other company could successfully compete with it. I think I see what Gould proposes to do. He sees that the days of the Western Union are numbered; that it must go. Hence his indifference to the strike which at one time reached such formidable proportions. He is therefore switching off on the telephone, and is every day engaged actively through his agents in buying out all the different exchanges in the country and putting them under one management. One of his agents bought all in this State a few days [ago]; and, by the way, they have gotten hold of some invention by which they can talk over long lines, and are now putting Little Rock in communication with nearly every town and village in the State. I talked from here to Little Rock yesterday. What is this? Perhaps they are infringing Harry's patent.

But to resume on Gould: He sees plainly enough that the next Congress will establish a postal telegraph, and he is arranging to sell the plant of the Western Union to the Government for that purpose, and to accomplish this object he will put in the field the largest lobby army he has ever had in Washington, and *the company we may be associated with will be the only one that will have the ghost of a chance to compete with him.* So it seems to me that if these views were presented to the American Postal Company they would at once see the importance of joining forces with us. I impressed all this

on Colonel Looney before he left, and supposed he would have laid it before the company at once.

I hope Colonel Looney will be able to raise the necessary amount of money as easily as he thinks he can, but I am afraid he will find it a more difficult undertaking than he at present imagines. While he is possessed of great energy, fine business capacity, and most engaging manners, yet you know he is a most sanguine man, and is so happily constituted that everything to him has the tint and perfume of the rose—every cloud has a silver lining. Hence he sometimes gets in the clouds. I on the contrary see things “as through a glass darkly” (*vide* Saint Paul, I believe), and walk more in the shadow than the sunshine. Hence I take a more conservative and realistic view of things.

In respect to the interest in the matter which he should have, that is a matter, so far as I am concerned, which you are at perfect liberty to determine as you see proper. I am indebted to your generosity for what interest I have in it, and am willing that you should manage the entire matter just as you please, and my personal feeling would lead me to extreme liberality with Colonel Looney. But to present the question in a practical business point of view, is not the amount suggested in my letter to General Johnston a most liberal donation as a *retainer*? If Colonel Looney should succeed so well as he anticipates, it could be increased to an amount commensurate with the service he may render to the association. But suppose he should fail, would we not need all our available resources to enlist the services and influence of some one else? Would it not be safer as well as juster for his interest to be *contingent*? These suggestions present themselves to me as reasonable precautions, such as ordinary business prudence would dictate.

What is Colonel L.’s programme? How does he expect to raise the money? I think your suggestion practical to start some one of our contemplated enterprises and sell enough of the stock to put the others afloat. The telephone is the quickest and easiest method of doing it. If Harry can by any possibility invent any kind of a telephone system that will not be a palpable infringement of any existing patent, we can start it on a small scale and dictate terms to Gould. For such a purpose I could in this town before sundown to-day get subscribed half a million of dollars. Everybody is looking to the telephone as the coming means of rapid communication. I am of opinion that we had better incorporate as soon as possible, and if you deem it necessary for that purpose I will come to Washington City by 1st September. We will have to go [to] New Jersey, Connecticut, or Maryland. I know of no other State where the laws on that subject are broad enough to cover all we want.

Has Colonel L. seen Ewing? I think it important for him to do so. Tell Harry to put his telephone wits to work. That is the broadest thoroughfare to fortune. Let me hear from you. Will be here for some time longer.

Your friend,

CASEY YOUNG.

The WITNESS. I suppose I wrote it. I don’t know. To which one of these letters is my attention directed now? When I was asked the question I remembered writing one from Hot Springs, but I had forgotten writing one from Memphis. I see it here.

Mr. OATES. That is not the one you referred to in which you said it would be something like the Credit Mobilier?

The WITNESS. No; I thought I wrote it from Hot Springs, but it seems that I wrote it from Memphis.

By Mr. RANNEY:

Q. Take, first, the one written from Hot Springs. I have put that in first. The date is August 21, 1883, and it is No. 13 of the letters. At the same time I want to put in the letter of November 4, 1883, No. 15, and also No. 18, dated January 24, 1884. I first call your attention to the following paragraph from letter No. 13:

“But to resume on Gould: He sees plainly enough that the next Congress will establish a postal telegraph, and he is arranging to sell the plant of the Western Union to the Government for that purpose, and to accomplish this object he will put in the field the largest lobby army he has ever had in Washington, and the company we may be associated with will be the only one that will have the ghost of a chance to compete with him. So it seems to me that if these views were presented to the American Postal Company they would at once see the importance of joining forces with us. I impressed all this on Colonel Looney before he left, and supposed he would have laid it before the company at once.”

A. Now wait a moment until I find the letter that was in reply to. I received one or two letters from Dr. Rogers about the American Postal Telegraph Company. At that time I didn’t know exactly what sort of concern it was. Here is one of the letters. I will read it if the committee please.

Q. Is that the one this is a reply to?—A. Not this particular one perhaps, but I received several, and this is the only one I find.

Q. I prefer to take this up in topics. If there is any letter that bears on the letter in question, you may read it.—A. I have a letter here before me similar to others he wrote, and I can recall their contents by reference to that letter. He had written me two or three times about a proposed contract with the American Postal Telegraph Company.

The CHAIRMAN. I see this letter of August 21 was in reply to one of August 16.

The WITNESS. I do not find that letter of August 16, unless it may be among the letters I handed in. If among the letters I handed in there is one of August 16, that would be the letter.

The CHAIRMAN. I think those letters were returned to you.

The WITNESS. No; I left them all here with the committee, every one I received. I received several letters from Dr. Rogers in reference to a contract that the American Postal Telegraph Company had proposed. There is the contract which they proposed [indicating paper]. Just about that time there had been a strike of the telegraph operators all over the country, and there was a good deal of popular prejudice against the Gould system of telegraphs, railroads, &c. It was regarded as one of the heartless monopolies that people are always warring against. He had written me several letters about that, and this letter was in reply to a letter in reference to the contract which is set out here. I did not know then exactly what it was, but he had told me that he had some sort of charter over in New York for a postal telegraph company. I did not know how it was organized or who its president or secretary were at that time. I learned afterwards.

This letter was written in reference to that. There were frequent newspaper paragraphs going over the country, that in consequence of these strikes Gould wanted to give up his telegraphic property, and that the Postal Telegraph Company would take the place of it. He had told me frequently about the great value of this telegraphic instrument of his. I did not understand it very well, but he represented it to be one of very great value, and I presume from this letter I thought—I don't remember what I thought at the time—that if some competing company had control of that instrument perhaps it would be a public benefit and at the same time a matter of profit to those who might own it, to compete with the Western Union Telegraph Company. That was my idea at the time. I see this paragraph is italicized. I don't know whether the italics are mine or not. Possibly they are; but I wrote it in view of this contract lying here, and the frequent letters I had received from him about a consolidation with that company. That is all I recollect about the matter.

By the CHAIRMAN:

Q. Have you the original letter?—A. I have here a letter which embraces the contract.

Q. The original letter of August 16?—A. I have not unless it is among the letters I handed in the other day.

By Mr. RANNEY:

Q. Now, I want to read to you the two preceding paragraphs:

"I agree with you perfectly in the conclusion that we should be up and doing. The present disturbed condition of the telegraphic world presents a peculiarly favorable opportunity for us to put our system before the public, but we should be careful to do it in such a way as would start it on a solid basis so far as commending it to the public confidence is concerned. It seems to me that we might make most favorable terms with the American Postal Telegraph Company, for these reasons:

"If Harry's repeating system is what we think it is, and can be put into practical operation, the American Postal Telegraph Company could, by cheapening the cost of telegraphy so much as that would enable them to do, compete upon more equal terms with the Western Union than if the Government, as it certainly will, should establish a postal telegraphic system of its own. It would be in a better condition to sell to the Government its plant, improvements, &c., than any other company, or if it should not sell to the Government, and conclude to keep its lines operating, no other company could successfully compete with it. I think I see what Gould proposes to do. He sees that the days of the Western Union are numbered; that it must go. Hence his indifference to the strike which at one time reached such formidable proportions. He is therefore switching off on the telephone, and is every day engaged actively, through his agents, in buying out all the different exchanges in the country, and putting them under one management. One of his agents bought all in this State a few days ago; and, by the way, they have gotten hold of some invention by which they can talk over long lines, and are now putting Little Rock in communication with nearly every town and village in the State. I talked from here to Little Rock yesterday. What is this? Perhaps they are infringing Harry's patent."

Then follows the paragraph which I read. I want to call your attention to this

letter, and deal fairly with you. Does not that look like having something to do with Congress in this matter?—A. No; it does not to me. I don't know how it looks to you. I will explain as far as I remember why that letter was written. At that time it was supposed that an American Postal Telegraph Company of some sort would be organized. Dr. Rogers had written to me that they had offered certain terms, which I thought we ought not to accept. I thought they ought to offer more than is set out in this paper, and I presume I called his attention to the advantages that would result to that company in competing with Gould or anybody else, providing they had the instruments of Harry Rogers, which he conceived to be so valuable. I didn't know its value then, but from his representations to me I thought it would control all telegraphic operations, and that the American Postal Telegraph Company or any other company who had that instrument would be able to compete successfully with Gould; and if the Government did buy any system of telegraph, or establish a postal telegraph system, which I supposed at that time in all probability they would do, it would enable the American Postal Telegraph Company to sell their plant or to sell their instruments to the Government at a greater advantage, if they had ours, than they would otherwise have; not that we wanted to sell ours to them, but if they had our patents, which he wrote to me they wanted, it would make their company much more valuable.

Q. You were contemplating at that time that the Government would establish a postal telegraph?—A. I thought it very probable they would.

Q. And you were contemplating competition with them?—A. No, sir; I was not on our part. It was the American Postal Telegraph Company.

Q. Did you not speak of uniting with them?—A. Let me see what the letter does say. This letter was written several years ago, and I don't remember all the ideas I had at that time. The letter says: "But to resume on Gould; he sees plainly enough that the next Congress will establish a postal telegraph."

Q. Read the whole paragraph.—A. Let me explain as I go along, my dear friend; I have a right to do that. I had seen in the papers that it was in contemplation at the next session of Congress to pass a postal telegraph bill. That was discussed in the papers all over the country, and seemed to be a favorite idea. Everybody seemed to think that project would be brought before Congress and would pass.

"He sees plainly enough that the next Congress will establish a postal telegraph, and he is arranging to sell the plant of the Western Union to the Government for that purpose"—

I heard that from some source; perhaps from the newspapers. I don't know—"and to accomplish this object he will put in the field the largest lobby army he has ever had in Washington, and the company we may be associated with"—

That is, the American Postal Telegraph Company—

"will be the only one that will have the ghost of a chance to compete with him."

I don't know what my idea was. I think I had reference to selling this instrument to them, because I didn't suppose we could compete successfully with him. I was writing to him that this company ought to offer us better terms than are embraced in this contract.

"So it seems to me that if these views were presented to the American Postal Company, they would at once see the importance of joining forces with us. I impressed all this on Colonel Looney before he left, and supposed he would have laid it before the company at once."

Q. Joining forces with them on the lobby?—A. No, not on the lobby. I had no idea of joining forces to lobby any bill through Congress. My idea was to sell our instruments to this company.

By Mr. HANBACK:

Q. To Gould?—A. To the American Postal Telegraph Company.

By Mr. RANNEY:

Q. I want to be perfectly fair with you. You say, "He is arranging to sell the plant of the Western Union to the Government for that purpose, and to accomplish this object he will put in the field the largest lobby he has ever had in Washington, and the company we may be associated with will be the only one that will have the ghost of a chance to compete with him." So it seems to me that if these views were presented to the American Postal Company they would at once see the importance of joining forces with us. I impressed all this on Colonel Looney before he left, and supposed he would have laid it before the company at once." What did you mean by that other than joining forces with the lobby on Congress?—A. Perhaps I might have selected better language to express my idea.

Q. Does that permit of any other interpretation?—A. That is a matter of judgment between you and me. You are not the only judge. I am giving you my views of it; I have no doubt you will put your interpretation on it. As well as I can remember now, that had reference alone to the sale of this instrument to that company. I see

I said "join forces with us." I had no idea of becoming their partners. My only idea was to sell this instrument to them. I had no idea of our becoming a part of that institution, as I remember it now.

By Mr. HALL:

Q. You mean you were simply presenting this as a sort of scarecrow to induce them to do it?—A. No, sir; I was presenting it to them as an advantage that would result to them in buying the instrument.

By Mr. EDEN:

Q. Did you have any interest in the American Postal Telegraph Company?—A. No, sir; none whatever. Here is the letter about the contract they sent us, and it was all in reference to that I was writing. Perhaps I had better read that now. Shall I read this letter?

The CHAIRMAN. If you please.

The witness read as follows:

GRAND CENTRAL HOTEL,
New York, April 17, 1883.

Executive Committee of the Pan-Electric Association:

GENTLEMEN: I am authorized by the American Postal Telegraph Company, of this city, to negotiate for your rapid system on sheet or tape metal. The American Postal Telegraph is a chartered institution, out of debt, owning several valuable inventions, and stocked under the telegraphic laws of the State of New York at \$5,000,000, and having \$1,000,000 stock as working capital.

It proposes simply, as the name implies, to unite the present mail or postal facilities with telegraphy, especially on very long lines, in such a way as to deliver telegraphic letters, through post-offices, in advance of the mails; but contemplates no legislation by the Government to absorb the telegraphs.

It owns several inventions, but its main one is a copper wire composed of sheet copper and asbestos, which it is claimed has a resistance of less than 6 ohms to the mile.

They are willing to give you, and so authorize me to offer, for the embossed system \$800,000 in free stock and \$200,000 in the company's working stock, making \$1,000,000, and also in addition \$1,000 in cash; and further to stipulate, if you so desire, that three members of your association shall, in order to watch your interests, become members of their board of directors.

I think that such an arrangement might be of great advantage to the Pan-Electric Company for if we are to carry out the programme of the pamphlet, it will take a vast sum of money, and perhaps the best way of raising it would be in selling a portion of the American Postal Telegraph stock thus acquired, in which case the Pan-Electric Company would have a voice in its deliberations, would still retain (in its stock) one-fifth interest in the inventions sold, and one-fifth interest in all the inventions now belonging to the American Postal Telegraph Company. Of course, all the other inventions of the Pan-Electric Company would remain untouched and might be developed by sales of stock as suggested.

This stock has been engraved without regard to cost for the New York Stock Exchange, not only according to the requirements of steel plates costing several hundred dollars, but the devices alone which adorn it cost, I am told, over \$1,000. The directors are all men of well established and unblemished reputation, some of them strong financial men.

But more than this I cannot say, for the simple reason that I have an interest in the American Postal Telegraph Company as well as in the Pan-Electric Company, so that neither I nor Harris could even advise, but we will acquiesce in whatever you may determine on.

I wrote to Colonel Young, and herewith inclose his consent to a sale of this one thing or others if desirable.

I understand that General Johnston was written to in relation to this subject, who answered promising further correspondence.

The American Postal Telegraph Company awaits your reply.

They expect an immediate answer or will feel at liberty to withdraw the proposition

Respectfully,

J. W. ROGERS.

The WITNESS. This circular was sent to all of them, and hence it was sent to me. That is the one I received.

By the CHAIRMAN:

Q. What is the date of it?—A. April 17, 1883. All this correspondence after this time had reference to this letter and this proposed contract. I do not know that this

company ever had any bill before Congress, and I do not think it ever did have. When I came on here and found there was a bill before Congress by some other gentlemen, I was opposed to it, as some members of the committee will be able to testify. I was opposed to all that sort of legislation, and always have been. When I wrote this letter I never had it in my mind to secure any legislation by Congress for our benefit directly or indirectly.

Mr. RANNEY. Are you through now?

The WITNESS. Yes, with that part of it.

Mr. RANNEY. (Continuing to read.) "And the company we may be associated with will be the only one that will have the ghost of a chance to compete with him"—that is, Gould, who was going to have a lobby here. Have you any other answer to make or any further answer to make?

The WITNESS. No, sir.

Q. It was to compete with him in the lobby; to compete with Gould in the lobby he would have in Washington?—A. I did not propose to compete with him in his lobby. Perhaps that sentence, hurriedly written under the circumstances, might give such an inference as that; but I never dreamed of attempting any legislation in Congress, and never talked to my associates about it. In fact, I was opposed to the bill.

Q. The rest of the letter refers chiefly to Colonel Looney and the giving him a general donation as a retainer?—A. Yes, sir; he was a liberal man; a man of large ideas, like Dr. Rogers, but I did not participate in all their ideas about its value. Colonel Looney wanted to identify himself with it, and wanted to go to Mexico and Canada, and have these things patented there, and some correspondence arose between himself and other members of the company and Dr. Rogers in reference to it, and I suggested, I think, to pay him \$50,000. That was before he became interested in the stock by his trade with Dr. Rogers. He had no stock in the company at that time.

Q. I will call your attention to the last paragraph of this letter, which says: "I think your suggestion practical, to start some one of our contemplated enterprises and sell enough of the stock to put the others afloat. The telephone is the quickest and easiest method of doing it." Did you not at that time contemplate selling the stock to put it afloat?—A. Yes, sir; I presume I did when I wrote that letter, but my views changed afterwards when I saw Dr. Rogers was not selling the stock to put the money in the treasury and develop the enterprise, but for his own individual benefit.

Q. I now come to the letter of November 4, 1883, printed on page 5 of this pamphlet. That seems to be in reply to a letter of Dr. Rogers to you. Will you be kind enough to produce that letter?—A. I handed in all the letters I have got from him.

Q. I should like very much the letter to which that is a reply. This is number 15, which is in reply to a letter from Dr. Rogers.—A. I don't know where they are. I left them all here last Saturday with the committee.

Q. We cannot examine you intelligently without them.—A. It is not my fault. I left with the committee all I had.

Mr. RANNEY. My request was to have all those letters printed.

Mr. OATES. Your motion to print was to print these thirty-seven letters in this pamphlet.

Mr. RANNEY. Very well; as we have not those letters and probably shall not find them, I will call your attention to your letter [reading]:

"I think your suggestion a good one, but there might possibly arise this objection to it: somebody might say that too many officers of the Government, Senators, Congressmen, clerks, electricians, &c., were interested in the Pan-Electric; that we were getting up a ring to run things—a kind of Credit Mobilier. There may be nothing in this, but I make the suggestion that you may consider it. If this is not in the way, I think your suggestion a most important one, and that it will bring about the most valuable results. I do not think there would be any difficulty in bringing it about. There is little doubt in my mind that General Atkins will be elected clerk, and he has the appointment, though it would not be proper to speak to him about it now. Indeed, I do not think it would be well to discuss the matter at all until after the organization of the House. Then, if we think it desirable, we will, I think, have no difficulty about it."

That letter of Dr. Rogers related to the appointment of your son Harry as electrician of the House, did it not?—A. Oh, evidently that is what the letter was about.

Q. You were to be a member of the coming House?—A. Yes, sir.

Q. And were here?—A. Yes; I was here when Congress met.

Q. Did you speak to any one about Mr. Rogers being appointed electrician of the House?—A. I did.

Q. To how many?—A. I spoke to Dr. Rogers himself and to Harry; I spoke to Mr. Clark, the architect, and to one or two members of my committee.

Q. About getting it?—A. Yes. Now I will tell all I said.

Q. One moment. Did you recommend him?—A. No, sir; I did not. I will tell you what I did do—you may call it a recommendation.

Q. State it in your own way.—A. I did this. I do not remember if that was in the letter which Dr. Rogers wrote to me, but it was evidently in reference to having his son appointed electrician of the Capitol, and desiring Mr. Atkins to have the appointment made.

Q. I don't want you to go into the details unless you produce the letter.—A. Do you want me to say yes or no to that question?

Q. I want you to explain what you did on the subject.—A. Yes; and that is all I wish to explain. I ask the committee if a witness circumstanced as I am, with letters shown me written a year ago, has not a right to explain all the circumstances connected with them? There is no court in Christendom that would refuse that opportunity to a witness.

Mr. RANNEY. I do not object to that.

The WITNESS. I started to tell the circumstances and you stopped me.

Mr. RANNEY. You referred to a letter.

The WITNESS. I have to refer to it to tell what I did. I cannot make a connected story unless I tell all I did about it.

Q. Have you that original letter of Dr. Rogers's?—A. I have told you half a dozen times that I have not, unless it is in that bundle of letters I handed the committee the other day.

Q. You saw that letter of November 4th published in the newspapers?—A. Yes, sir.

Q. And you saw that it was used as bearing on this question we are now investigating?—A. Yes; like a hundred others.

Q. Didn't you have curiosity enough to inquire what it related to?—A. Not the slightest. I found my reputation was above anything of that sort, and that I had the power to make a vindication without it.

Mr. RANNEY. We shall save time to let the witness go ahead.

The CHAIRMAN. Here are the letters which Colonel Young left with the committee the other day.

The WITNESS. Yes; they are the letters. Those are all I have, except one or two I have in my pocket. I had no fears about those letters then, and I have no fears about them now.

Mr. RANNEY. Nobody intimated that you had. Please answer what you did do about getting him that position.

The WITNESS. I am going to do it. This letter was written in reply to a letter evidently written by Dr. Rogers to me, asking the appointment of his son as electrician of the Capitol. He wanted my influence with General Atkins to induce him to make the appointment. I suppose I wrote this one in reply to that letter. I don't know what that letter contains; I simply remember his writing me a letter, and pointing out the advantages of it, I think, suggesting the amount of money he had saved to the Government, and I have no doubt he mentioned it would be an advantage to our company if he was the electrician of the Capitol so as to develop it.

When I came on, Dr. Rogers applied to me to have his son appointed and I applied to Mr. Clark. He put it on the ground that his son had been discharged by a Republican administration, and that as a matter of right he ought to be put back, and wanted a resolution introduced into the House declaring him the electrician. I declined to do it. I said it was a delicate matter for us to have him appointed electrician of the Capitol, because it might give rise to the suspicion that we were doing it to benefit our interests. He stated that his son had made all these improvements and saved the Government money, and I had a number of conversations with him, and he got provoked with me because I did not push the matter. I went to Mr. Clark and asked him about the man in the place; asked him if he was fit for it, if he was a good electrician, and he said he was. I asked him if he was better than Harry Rogers, and he said he was not; that Mr. Rogers was a good one and the best one he ever had, but that he could not recommend his appointment, because he got a little dissipated. That was all I said to Mr. Clark, and I reported the conversation to Dr. Rogers, and he wanted a resolution introduced into the House, which I declined to do, and Mr. Robinson introduced it.

In the mean time I had told all these things to the doctor, stating the delicacy of the position I occupied. He stated his son was competent, and ought to go in because he had been turned out by a Republican administration, and had saved the Government this money, and ought to be appointed. I said to him, "If your son is competent, I have no right to stand in his way, and if you can have a resolution introduced in the House and referred to my committee I will have a competitive examination made, and if he is the most competent man I will throw no obstacle in the way." I suppose I wrote him this note to come to my room. The resolution was referred to the subcommittee. I had nothing to do with it except to state that I believed that he was competent. In the mean time I did get a letter from Dr. Rogers, who was in New York, in which he says that he did not want his son sneaking in on

his merits, but wanted him to be put in on his rights. I showed that to Mr. Reese, and said, "I will have nothing more to do with the matter;" and that is all I ever did. But I would have recommended him, because I thought he was competent, and I would do it now. I had no improper motive in view.

Q. Did you see the resolution before it was introduced?—A. No, sir; I think not.

Mr. RANNEY. I will read what I find here: On January 24, 1884, the date it was introduced, Mr. Robinson introduced a resolution which purports to read thus, as copied in the newspapers: "*Resolved*, That J. Harris Rogers and James C. Rogers, late electrician and assistant electrician of the House of Representatives, be reinstated in their respective positions, and that they be permitted to introduce, at their own expense, a system of electric lighting and telephonic exchanges to all parts of the House, to be paid for hereafter, or not paid for at all, as the House of Representatives may determine after a fair test and use of the same; and, further, that said electrical department shall hereafter be placed exclusively under the Speaker of the House."

Now, that was referred to the same committee, I understand, to your committee, and you wrote this letter to the doctor:

"DEAR DOCTOR: The resolution has just been sent to our committee. We do not meet again until Tuesday, and in the mean time we have a good deal of work to do. Come to my room at 7 o'clock to-night. I want to see you about it.

"Yours, truly,

"CASEY YOUNG."

Did Dr. Rogers come to your room?—A. I do not remember. I presume I wrote that note, but I have forgotten it. I would have written it under the circumstances, and would do it again if necessary.

Q. I think you had better simply answer the questions.—A. I am trying to do that.

Q. I only want facts.—A. I don't remember whether he came to my room or not.

Q. In your letter of November 4 you say:

"I do not think it would be well to discuss the matter at all until after the organization of the House. Then, if we think it desirable, we will, I think, have no difficulty about it."

Q. You did not see any objection to getting him in, did you?—A. I did, from the fact that I wrote to him; I did not think it was proper to ask Mr. Atkins, because, as I said in the preceding part of the letter, it would not look well, it would look like a Credit Mobilier. I think it occurred to me that it would not be, perhaps, a very proper thing, and when I came on here I intended, if there was anything improper in it, not to do it, and I concluded then, and I would conclude now, that I would have no right to keep him out of a place that he was fitted to fill if no improper action in the matter could be imputed, and no improper motive because he was a member of our company.

Q. You also say, "I think your suggestion a good one, but there might possibly arise this objection to it: Somebody might say that too many officers of the Government, Senators, Congressmen, clerks, electricians, &c., were interested in the Pan-Electric; that we were getting up a ring to run things—a kind of Credit Mobilier. There may be nothing in this, but I make the suggestion that you may consider it. If this is not in the way I think your suggestion a most important one, and that it will bring about the most valuable results. I do not think there would be any difficulty in bringing it about."—A. Yes; that may have been in reference to his appointment. I cannot remember now. He may have set out a good many advantages about it.

Q. Did not Dr. Rogers write to you that his son was a Democrat, and he claimed it on the ground that he was a Democrat—did he not say that?—A. Yes, sir.

Q. When you saw Dr. Rogers and his son, did you not say you were sorry that he did that, because you had been talking with the Republican members of the House and they were well inclined, and if he had not put it on the ground of politics, he might have succeeded?—A. Yes, sir; I did. I was a civil service reformer then. I have reformed on that subject since. I thought at that time it was an unwise thing to introduce a resolution into the House to remove one man and put in another man simply because he differed with him in politics. Dr. Rogers also brought a lot of poetry, and I did not think that was the proper thing to present.

Q. Have you got that poetry?—A. No, sir; I did not keep any of his poetry.

Q. My question is this— A. I understand your question perfectly.

Q. Whether he did not claim it on the ground that he was a Democrat and you were sorry he did it, because you had been talking with the Republicans and they were inclined to do it?—A. Yes, sir; I said that.

Q. You did say that?—A. Yes, sir; but I want to explain why I said it. I had talked to Mr. Reese about it. I think I told him all about my connection with him. I talked also with Mr. Milliken, a friend of mine on the committee, and told him that this young man was competent, and perhaps more competent than the other one, and if the resolution was introduced in our committee and he proved to be more competent upon competitive examination than the other man, I would like to have him vote

for him. Dr. Rogers declined to submit to that test, and I declined to submit the resolution because the man was a Democrat and the other not; I did not think it was a wise thing, and did not think it would pass the House.

Q. You did not report anything, you say?—A. No, sir; I did not.

Q. Did your committee?—A. No, sir; when I got this letter from Dr. Rogers saying that he did not want him to get in on his merits, I handed it to Mr. Reese, of Georgia, and the matter dropped.

Q. Did you have anything to do with getting a letter from Attorney-General Garland to Mr. Cox and Mr. Hewitt commending him?—A. No, sir; I did not.

Q. Do you know anything of letters being written?—A. I heard Harry Rogers's statement that Mr. Garland did not know what he was giving them for.

Q. You did what you could to elect Mr. Atkins Clerk?—A. Yes, sir; I voted for him.

Q. Didn't you make yourself busy about it?—A. Yes; I generally make myself busy about anything I want to do. I did all I could to elect him.

Q. Mr. Atkins was at that time the owner of one-tenth interest in all these patent rights?—A. Yes, sir.

Q. And the Clerk would have an important influence?—A. You know what his influence would be in the House. I do not know that he would have any telephonic influence. I never heard that he would.

Q. There is one other clause of this letter of August 21st where you use this language: "I am indebted to your generosity for what interest I have in it, and am willing that you should manage the entire matter just as you please." That is true?—A. Yes, sir.

Q. It is true that you were indebted to Dr. Rogers?—A. Yes, sir; and I will explain how I wrote that letter.

Q. You may do so.—A. Yes; I have a right to do it. Dr. Rogers had been an old friend, and I always have regarded him as an extremely liberal man. If he had a million dollars now I expect he would give it away.

Q. He was not a man of large wealth or much property, was he?—A. No; and I do not think he ever will be. He would give it all away. He has been a man of ample means.

Q. His liberality consisted in giving you this interest in these patent rights?—A. No, sir; that is your construction of it.

Q. But what would you say?—A. You asked the question why I wrote that letter, and I asked the privilege of explaining why I wrote it.

Q. Now, the question I put to you is———A. But you don't wait until I answer one question before you put another. Let me answer one at a time.

Q. Take your own way.—A. As I said, Dr. Rogers had been an old friend of mine, and was a very liberal man. I regarded this arrangement that he had made about the stock as a liberal one. I did not invite it; it was his own proposition. I found afterwards that he was dissatisfied, and did not like the way it was being managed. I was entirely willing to get out of it and let him have his own way. I wrote to him "if you are not satisfied with this thing, so far as I am concerned, you can take all my interest in it and do what you please with it, and just let it go." That is the reason I wrote that letter.

Q. I don't ask you so much why you wrote it as I do if there is anything in that letter that is not true?—A. No, sir; there is nothing untrue in it. I do not write anything that is not true. I was indebted to his liberality for being in it at all. If he had not invited me in, I should not have been there.

Q. Didn't he assist you in gaining your election that fall?—A. Yes, sir; I will come to that. Where is that letter; just read that. Now I will tell you how that came about.

Q. First get the letter and read it?—A. I am trying to find it.

Mr. RANNEY. It is on page 12, No. 172.

The WITNESS. The whole of the letter is not here. There is no date given to it. Of course the gentlemen who published it want to represent me fairly, and just give a little of it, and give no date.

Mr. RANNEY. I will read it:

"* * * Not yet all in, but enough is known to assure me that I am returned by a majority of about 1,500. Your efforts in my behalf were not thrown away upon your old friends in Fayette County, and I shall always remember it with gratitude and friendship. Until I see you, believe me,

"Very truly, your friend,

"CASEY YOUNG."

The WITNESS. Yes; I wrote that letter.

Q. He was pretty anxious to get you into Congress, wasn't he?—A. I presume he was at that time.

Q. And you at that time had received this liberality; he had shown this liberality

in this interest that he had given you?—A. That is what you assume, and that is what was intended to be assumed when this letter was published, but it is not true.

Q. Your contract in New York was before that time?—A. Oh, no, sir; you will find you are mistaken; there is a slight mistake.

Q. Please state when that letter was written?—A. It was written in 1877, and under these circumstances: I want to show you how the whole business has been brought up here, and show what a fraud it is. This letter was published as though it related to the Pan-Electric Telephone matter.

Q. I want the original letter.—A. Let me tell my story. I want to explain how I came to write that letter in 1876 or 1877. Previous to that time, his son had been appointed electrician of the Capitol, and a younger son appointed as assistant to him. I was down at home, and while I was there Dr. Rogers's brother, who was one of the closest friends I had, asked me what was the matter between me and Dr. Rogers—if there had been any falling out. I said no, there was nothing, and he said he had seen a letter somewhere about a coolness between us. When I came back here to Washington I asked the doctor about it, and he told me frankly that he had written some letters to some of his friends down there about me, and I told him he had done me a great injustice, and then he wrote a great number of letters and sent them to his friends—I think it was in 1877—and when the election came on his friends took a great interest in my election, and then I sat down and wrote him this letter, No. 172, in which I say "your efforts in my behalf were not thrown away upon your old friends in Fayette County, and I shall always remember it with gratitude and friendship."

Q. How do you fix the date?—A. Only from my recollection of this little quarrel, and his writing those letters to his friends.

Q. Is it not true that in your election in the fall of 1883 Dr. Rogers was active in your behalf?—A. I do not know it; but I have no doubt he was.

Q. Did he not take the stump for you?—A. No, I do not think he was there. He would have done it if he had been there, and I think he would do it next time, too. I expect he wrote some letters for me; all his relatives are my friends, anyhow.

Dr. ROGERS. If the committee will allow me, I can give you the date by another record I have. When I wrote these letters Col. Joseph W. Mosby, a prominent politician, wrote back to me that he could not vote for him, and he gave his reasons.

Mr. RANNEY. When was that?

Dr. ROGERS. It was away back beyond, as Colonel Young has stated.

Mr. HALL. This was before there was any talk of any invention?

Dr. ROGERS. Oh, yes, sir.

Q. You corresponded after this contract in New York, between that time and the time this matter arose with Senator Harris, did you not?—A. Not very much. I was here all the time after I came back in the fall.

Q. Did you have letters from him?—A. Yes, sir.

Q. Did you have one from Senator Garland?—A. I never got a letter from him in my life that I remember, except a long time ago I got a letter about a matter concerning which we had quarreled fifteen years ago.

Q. Did you have any from Mr. Atkins?—A. I do not think I ever got but one letter from Mr. Atkins.

Q. Where are those you did receive?—A. Some from Senator Harris should be in that book I handed in.

Q. Have you kept the correspondence with your associates whatever it was?—A. Some I have, and some I have not. Sometimes I would get a letter when I was off traveling and tear it up. I did not get many letters.

Q. You had some letters?—A. Well, Dr. Rogers and Mr. Looney were old friends of mine, and I was more intimate and corresponded more with them than any body else.

Q. Have you letters from any other of your associates?—A. Yes, sir; from General Johnston and Senator Harris.

Q. Did you keep all you received?—A. No, sir. I have some at my room. I will look and see. I never got many from either of them.

Mr. OATES. I move that the committee now adjourn until to-morrow at 12 o'clock.

The motion was agreed to, and the committee adjourned.

WASHINGTON, D. C., *Thursday, March 25, 1886.*

The committee met at 12.25 p. m.

HON. CASEY YOUNG came before the committee and his examination was resumed:

By Mr. RANNEY:

Question. Referring to the efforts to get Mr. Rogers appointed electrician, I wish to inquire on what committee you were.

The WITNESS. I would like to make a request of the chairman before the examination is proceeded with in regard to a matter connected with the examination. On yesterday I was asked to explain certain letters that I had written to Dr. Rogers. I did not read the letters. I saw them published in the papers, but I did not read them; I glanced over them. I did not suppose Dr. Rogers would publish my private letters at all; but when he did publish them I did not suppose he would publish anything I didn't write, and I do not know that he did. But I see a great number of letters here that have been submitted to the committee, written by me, that I think it would be fair to allow me to examine, to see whether or not they do not refresh my memory in respect to the letters about which I have been examined. I see some letters have been published in the papers that seem to relate to the same subject that the letter relates to that was read yesterday, in which the italicized sentence occurs in respect to our association with the American Postal Telegraph Company. I have seen several letters published in the papers that referred to that subject. I take it other letters were written by me in reference to the subject that would, perhaps, enable me to refresh my memory, so as to connect this correspondence and see the circumstances under which I wrote. I think it would be fair to allow me to examine the letters. I have never seen any of them since I wrote them, and have no recollection in the world of them. Some of them evidently refer to the same subject.

The CHAIRMAN. I presume there will be no objection.

The WITNESS. If it pleases Mr. Ranney I would prefer that the examination about the letters be deferred until I can have an opportunity of examining the letters, and thus be enabled to explain them more intelligently and satisfactorily, to myself, at least. A good many of them no doubt relate to the same subject; I see some of them do, and it would enable me to connect the correspondence so as to do justice to myself. If there is no objection to that course I would like to have an opportunity to look over the letters and see how far they refresh my memory in regard to those letters I have been examined about, or will be examined about.

The CHAIRMAN. How long will it probably require?

The WITNESS. If the committee will allow me to have them this evening I can examine them to-night.

Mr. RANNEY. The letters I have been examining you about are those which the clerk of this committee has had printed from the originals, and not from newspaper publications.

The WITNESS. I suppose that is so; but I notice from the list of letters a great many of them were not considered relevant by the subcommittee who examined them, and I would like to see whether or not they have any relation to the correspondence about which I am being examined, in order that I may explain the whole line of correspondence. I think that would be a just thing to me.

Mr. RANNEY. I am examining you now on specific letters, as to the genuineness of which there is no controversy; and I am examining you from the printed copy of the original in each case. The originals are here.

The WITNESS. I think the copy is correct, but I simply want to see the whole correspondence, to see whether or not there is such a connection between them as will enable me to explain them properly. I have no objection to Mr. Ranney going on and examining me about the letters, provided I have the opportunity hereafter to look at them and make any explanation that will be proper.

The CHAIRMAN. There will be no objection to that.

Mr. RANNEY. No.

The WITNESS. I wish to state one thing further. I did not expect, of course, to discuss legal matters here yesterday, and I had not refreshed my mind about them. I found among my papers a fragment of a letter which I wrote to General Bradley Johnson, giving my legal opinion in reference to the organization of this company and issuance of the stock. I would like to put that in evidence.

Mr. RANNEY. I think not in the course of my cross-examination.

The CHAIRMAN. We will give you an opportunity to put it in after Mr. Ranney has finished.

Mr. RANNEY. I prefer to have my examination go on consecutively.

The WITNESS. Very well; you can strike out all I said; I don't care, though; let it stay in.

Q. The question which I put before you began with your explanation was as to what was the committee on which you were acting at the time it was sought to get

Mr. Rogers appointed electrician of the House?—A. I was a member of the Committee on Public Buildings and Grounds, and I was chairman of the Committee on Expenditures in the Interior Department. I believe those were the only committees I was on.

Q. And one of those committees had charge of the appointment of the electrician, had it?—A. No, sir; it did not have charge of it. Under a law of Congress which I wrote myself some years ago it was put exclusively under the charge, I think, of the Speaker and the Architect of the Capitol. The committee had no control of it whatever.

Q. How happened the resolution introduced by Mr. Robinson to be referred to your committee?—A. I don't know but that I suggested it, as I stated yesterday.

Q. Is that your best recollection?—A. No; I cannot say it is. I do not remember how that came about. I think it is probable that I suggested it to him for the purpose of having a competitive examination. That course had been pursued in 1874 and 1875, and our committee had something to do with it.

Q. To whom did you make the suggestion?—A. I made it to Dr. Rogers, if I made it to anybody.

Q. That the resolution should be referred to your committee?—A. If I made it to anybody. I have no recollection that I made it to anybody, but if I did, I presume I made it to him. I never spoke to Mr. Robinson about it that I know of. I stated yesterday that I declined to introduce that resolution. I did not do it alone upon the ground that I thought it would be an indelicate matter for me to do it, but because I did not believe such a resolution could be passed through the House. That was another reason.

Q. But you say that, according to your best recollection, it was upon your suggestion that when it was introduced it should go to your committee?—A. No; it is not according to my best recollection. I have no recollection about it. I just suggest that as a probability.

Q. On what do you found it as a probability?—A. I found it upon this fact: That in 1875, when I was a member of that committee, they had charge of the lighting and heating and electrical apparatus of the House, and that question was referred to us by the clerk and we did examine it, and it occurs to me now that there was some competitive examination between the different applicants. I know we had a letter from Professor Henry as to the competency of Harry Rogers, and I think it was in reply to a letter I myself wrote on that subject; but I don't remember how that was. If I made that suggestion at all, it grew out of that fact; I don't know that I did make it.

Q. It seems the application to have Mr. Rogers appointed was first made to Mr. Clark.—A. I think I spoke to Mr. Clark about it first; I am not quite sure whether I did or not.

Q. What was his relation to the House?—A. He was and is the Architect of the Capitol.

Q. The appointment was vested in him, was it?—A. In him and the Speaker. I think the law puts it in the hands of the two; that is my recollection of the law; I wrote it.

Q. And you found Mr. Clark would not appoint him?—A. Well, I don't know that he said he would not appoint him. He stated what I told you yesterday—that his habits were dissipated.

Q. And he was disinclined to appoint him?—A. He was disinclined to appoint him.

Q. And thereupon the suggestion was made that somebody should introduce the resolution?—A. I think Dr. Rogers suggested the introduction of the resolution himself, though I don't know but what I said something about the proper reference of it; but I didn't think any such resolution would pass the House.

Q. Did you get anybody to go and see Mr. Clark besides yourself?—A. No, sir; nobody but myself that I know of; I don't remember anybody else, and I never saw him but once, I think.

Mr. RANNEY. I will put in here the letter of Mr. Garland to Messrs. S. S. Cox and A. S. Hewitt, found on the bottom of the nineteenth page of the appendix, and dated January 18, 1884. It is as follows:

DEAR SIRS AND FRIENDS: Permit me to introduce to you Messrs. J. W. Rogers and Son, accomplished and scientific gentlemen of this city, who desire to speak to you on some business. Please show them all proper attention, and command me when you will.

Your friend,

A. H. GARLAND.

The CHAIRMAN. I do not wish to make any objection, but I would like to inquire of the gentleman from Massachusetts why he introduces this letter in the testimony of Colonel Young.

Mr. RANNEY. Because it is a convenient place, and I want to examine him about it.

The CHAIRMAN. I have no objection.

Q. Did you know of the presentation of that letter?—A. No, sir; I knew nothing about it, and never heard of it until I saw it published.

Q. Did you know of the existence of it?—A. I think the first time I ever heard of it was when I saw it published in the papers.

Q. Did you know of anybody else except yourself seeing Mr. Clark about getting Mr. Rogers appointed?—A. Not to my knowledge; I never heard of anybody else speaking to him.

Q. Did you see the resolution that Mr. Robinson presented before he presented it?—A. I don't recollect whether I did or not. I think I did. I think substantially the same resolution was handed to me.

Q. By whom?—A. I think Dr. Rogers.

Q. Do you know who wrote it?—A. No, I do not; I don't remember.

Q. When and where was it handed to you?—A. Oh, I don't remember now. I talked to Dr. Rogers about it frequently.

Q. In your committee-room?—A. No, I don't know that he was ever in my committee-room at all during the whole session. He may have been.

Q. After it had been referred to your committee and you had written the letter, which I put in evidence yesterday, to Mr. Rogers, asking him to call at your room at 7 o'clock at night, did he call?—A. I really don't remember whether he did or not. He may have done so. I know what I wanted to see him about. I don't know whether he called or not. I think it is likely he did.

Q. Have you any recollection so that you can state whether he did call or not?—A. Oh, no; I cannot state certainly whether he did or not.

Q. You don't know whether he called or not and you don't know what occurred between you?—A. I know what I wrote the note for.

Q. I have not asked you that.—A. I am trying to answer your question. I have no recollection of whether he called at my room or not.

Mr. RANNEY. We will get along better if you will confine yourself to answering my questions.

The WITNESS. I think we will get along better if you will ask proper questions.

Mr. RANNEY. I will be the judge of that.

The WITNESS. And I will be the judge of the propriety of my answers.

Mr. RANNEY. We will see about that.

The WITNESS. We will try it, anyhow.

Q. The question I put was this: Whether you remember as to his having called or not.—A. I answered you distinctly that I did not.

Q. And then I said, or was about to say, if you did not remember whether he called or not, you would hardly be able to remember what was said.—A. Oh, I suppose not. I saw him somewhere about it, but I don't remember whether it was at my room or not. I talked with him about it frequently.

Q. Do you remember having an interview with him after writing that letter in reference to the subject on which you wrote it?—A. Yes, sir; I had several.

Q. Where was the first one?—A. I couldn't tell where any of them occurred; perhaps it may have been in the lobby of the House, or it may have been in my room, or on the street; I don't remember; I talked with him several times.

Q. Did you tell him what conclusion had been reached on behalf of your committee?—A. The committee never reached any conclusion at all, that I know of.

Q. On the resolution of Mr. Robinson?—A. There was never any report made that I know of.

Q. You dropped the subject?—A. Yes, sir; as I told you yesterday, I showed Mr. Reese a letter which Dr. Rogers had written to me, that he didn't approve of the course which I proposed, and I dropped it right there.

Q. In your letter of November 4, 1883, to which I again refer, you said something about so many officers of the Government, Senators, Congressmen, clerks, and electricians being interested in the Pan-Electric Company. How many officers of the Government were then interested?—A. Senator Harris—

Q. He was not an officer of the Government, was he?—A. He was a Senator.

Q. How many officers of the Government, not Senators or Congressmen, were interested in it?—A. None whatever that I know of. I had reference to those when I said officers of the Government. That was my idea, and those were the ones I referred to.

Q. Then, there were no officers of the Government connected with the company except Senators and Congressmen?—A. None that I know of or ever heard of. I gave a full list of everybody the other day that was ever interested in the company, so far as I know. I never heard of any others.

Q. Was not Marcus J. Wright then connected with the Government?—A. He was a clerk in the War Department, but he was not interested in the company at that time that I knew of.

Q. He did have an interest in the company at some time?—A. Yes, sir; I think he did have an interest at that time, but I don't think I knew it. I think he was one

of the persons whom Dr. Rogers was to give, or did give, a part of this \$170,000 of reserved stock. He told me so afterwards.

Q. Then your recollection is now that you did not at that time know of any other officers of the Government?—A. I know I did not know of any.

Q. How many Senators were there?—A. Two Senators; Senator Harris and Senator Garland.

Q. How many other Congressmen were there besides yourself?—A. I am the only one that ever did have any interest in it.

Q. And you thought two Senators and one Congressman might be considered too many?—A. No; I don't know that I considered them too many. That letter was in answer to a letter in which it was proposed to make the electrician of the Capitol out of one of our company, and I did not consider it an exactly proper proceeding, thinking perhaps it might provoke some little comment. I did not think there was anything improper about it, otherwise than that it might be improperly criticised.

Q. In the letter of General Wright, dated February 14, 1883, on page 7, I find this paragraph: "I was very glad to receive your note, and am greatly obliged for the stock in the Electric Company."—A. That note was not to me. I don't know anything about it.

Q. It seems he got his stock in 1883.—A. I presume he owned it at that time, but I don't know that I knew it.

Q. You do not know whether he owned it or not?—A. I am quite certain he did. I think perhaps Dr. Rogers had told me; but that was the only way I knew it.

Q. Before leaving that line of inquiry, I want to know one thing more. Was not this Washington Telephone Company incorporated under the laws of Tennessee?—A. I really don't know whether it was or not; it is probable it was. The secretary is right behind you, and he can tell. I don't know.

Q. Was this Washington company, which embraced the District of Columbia, Maryland, Virginia, West Virginia, and Delaware, and which had the right to put stock— A. Not stock; these patent rights.

Q. I mean, which was granted the right to use these patents in those States. Was that company organized under the law of the State of Tennessee?—A. I do not know. I am not certain. It is probable it was.

Q. Did you not have anything to do with it?—A. I have no recollection of having anything to do with it. It is possible I did. I don't remember. The incorporation papers will show.

Q. Do you know why a local company like that was should be organized away down in Tennessee when Tennessee had nothing to do with it?—A. If I had organized it I could give you a reason, but as I did not I cannot.

Q. Although you were a director in the company you do not seem to know much about it?—A. I did not know I was a director until after I saw the articles of incorporation.

Q. You knew it when they gave you \$50,000 in stock to pay for it?—A. Oh, yes, I knew it. I never got the stock. They told me that \$50,000 had been set apart to me for my services as director. I never saw it and never got it, but I understand I am entitled to that much.

Q. You received \$50,000 of the stock in consideration of your being a director?—A. I did not receive any. I am told I am entitled to it on the books, but I never received it.

Q. Did you not try to earn the stock by discharging your duty as a director?—A. I discharged my duty as a director the only time I ever was at a meeting. I don't remember that I ever attended but one.

Q. You were interrogated yesterday in relation to the Pan-Electric Company in New York, and certain certificates purporting to be issued by such a company. You were going to look to see whether the interest in all the patents which you obtained by the contract executed in New York was transferred to the telephone company or organized under the laws of Tennessee. Please state the result of your examination.—A. The telephone patents were transferred, as far as I have been able to examine. I have not got all the patents in my room. Those patents are referred to by numbers, and I cannot tell what they are without seeing the patents themselves. I only had a few of them at my room, as I found when I came to look, and all of those related to telephony in some way.

Q. You transferred to that company all the telephonic patents?—A. As far as I have been able to examine, I discover that to be so.

Q. What has become of the electric patents?

The WITNESS. Whose patents do you refer to?

Mr. RANNEY. Those not embraced in what you designate as telephonic patents.

A. We have them yet.

Q. Have you ever transferred them to any company?—A. No.

Q. You still retain the interest which you got in them by the original contract made in New York?—A. The only assignment that we ever made that I know any-

thing about was made to the Pan-Electric Telephone Company. No assignment has been made of the other patents, that I know of.

Q. Then the patents which constituted the consideration for the capital stock of the Pan-Electric Telephone Company only embraced a portion of the patents which you got under your contract in New York?—A. Only the telephonic patents, or the patents relating to telephony, I think.

Q. Is it not true that there was a Pan-Electric Company formed in the State of New York, and a certificate filed with the secretary of state?—A. Not that I know of.

Q. Have you no such a certificate among your papers?—A. No, sir; I have never seen any such certificate. I looked last night in my room to see if there was anything of that sort, and I have never seen any such book. There may have been, but I never saw it, and had no connection with it.

Q. Your original contract embraced a proposition to form a company which should control all of the patents, did it not?—A. There is the contract before you. You can read it.

Q. I supposed you were familiar with it, and so I asked you.—A. If you will hand it over here I will read the clause that has reference to the patents. It was the purpose at the time to obtain an incorporation somewhere that would embrace all of these inventions, and, as I stated before, we were not able to find any State where I thought the laws were broad enough to cover it. I find some letters that I wrote on that subject published in the papers.

Q. Coming to the year 1885, you knew that Dr. Rogers had filed with Mr. Garland an application desiring him, on behalf of the Government, to bring a suit to vacate the Bell patents, did you not?—A. I learned it from a letter Dr. Rogers wrote me.

Q. Have you found that letter?—A. No, sir; I have not. I have not looked among the papers I handed in yesterday, and don't know whether it is there or not. I have not had the papers in my possession.

Q. I wish you would produce that letter.—A. The committee has all the letters I have. I handed them to the committee. I don't remember any such letter among them, if there is such a one there. I should have forgotten that letter if I had not seen it published in the paper by Dr. Rogers that he had written such a letter.

Q. You know there was such a letter filed somewhere about May 24, 1885?—A. Yes, sir.

Q. And you heard it by letter?—A. I knew from Dr. Rogers; in no other way.

Q. How soon did you hear of it after he had sent it to the Attorney-General?—A. I presume I got this letter very soon afterwards. He testified to it. I don't remember.

Q. I suppose the original will be found with the Attorney-General. A copy was furnished here.—A. I cannot tell about that.

Q. You have not produced his letter?—A. I have no control over the Attorney-General's Department.

Q. I mean the letter of Dr. Rogers.—A. I have told you all I can tell you about that a half a dozen times.

Q. The letter is as follows:

“WASHINGTON, D. C., May 24, 1885.

“Hon. AUGUSTUS H. GARLAND,

“Attorney-General of the United States:

“DEAR SIR: I have the honor to represent to you that I am the owner and holder of \$500,000 in the Pan-Electric Telephone Company, which would to-day be worth more, in my judgment, than par value were it not for a fraud practiced upon the United States by one Alexander Bell in procuring a patent for the art of telephony, when in fact publication of said art had already been made in the United States, and when telephonic instruments invented by Philip Reis, in Germany, were in the Smithsonian Institute in this city, imported by Professor Henry from London, England, four years prior to said Bell's application. The said Bell also claims to be the discoverer of a continuous current of electricity as a necessity of telephony and the first inventor of its application in said art, and made other fraudulent claims, and imposed upon the United States authorities by fraudulent statements in this behalf. The said fraud is rendered more apparent by a volume on telephones deposited in the Medical Library of this city several years before the said Bell procured his patents, and by the very phraseology of his application, which shows that when writing it and describing undulatory currents, he had before him, or in his memory, the lectures of the aforesaid Reis, and practiced a deliberate and barefaced fraud upon the public.

“A company in Boston, Mass., styling itself the American Bell Telephone Company, purchased said patents and has greatly damaged the said Pan-Electric Company by lying circulars denouncing said company as guilty of infringing the said Bell patents.

“As a citizen of the United States, with interests aforesaid, I request you to instruct a United States district judge to take immediate action in the premises, being indi-

vidually too poor to fight this monopoly, and yet suffering by the indiscreet action of the United States authorities in granting the aforesaid preposterous patents. Find herewith two articles from the Post and Chronicle on the subject."

When he wrote you he sent you a copy of that letter, did he not?—A. I think he did. I don't remember whether he set out what he had written to the Attorney-General or not.

Q. He sent you a copy of what he wrote, did he not?—A. If he did I have no recollection of it. I don't think he did.

Q. Do you know what he did say to you in that letter?—A. I started to answer your question and you declined to hear me. I will state now, as near as I can remember, what he said.

By the CHAIRMAN:

Q. Have you the letter?—A. I have stated here so repeatedly that it is hardly necessary to ask me the question again. I have not got it.

Q. You said you had a great many more letters, as I understood?—A. They don't relate to that matter at all. I have private letters.

By Mr. RANNEY:

Q. Why is it you have not kept the letters of Dr. Rogers on an important matter like this?—A. I presume I have kept the most of them about the telephone company. I got a great many letters from him about other matters, having no relation to this business.

Q. You knew at that time that it was claimed that your patents were infringed, or that they infringed the Bell patents?—A. Oh, yes; but I did not consider the opinion of Dr. Rogers so valuable on the subject as that it was necessary to keep it. It was worth no more than my own. I knew the facts he stated.

Q. Why have you kept some of these letters and not the others?—A. I can give no other reason except that it was accidental. I have picked up all I could find. I am willing to have Dr. Rogers state what he wrote.

Q. Did you take any notice of that letter?—A. I think I answered it.

Q. Did you answer it by letter?—A. He says I did, and I take it for granted I did.

Q. Where is the answer you sent to him?—A. Ask Dr. Rogers. He can tell better than I can. I did not keep any copies of my letters.

Q. Do you know what you answered?—A. I have a general recollection of what I answered, which I can state. I answered about this: That I was aware before then——

Q. The letter which I have read is on page 9 of the printed copy, and is No. 155. I will put it in evidence now.—A. I have a general recollection of what my answer was, and will state it.

Q. I ask you as to the letter in reply to the letter written by Mr. Rogers informing you of his action, which you say was soon after that action was taken.—A. I will state my recollection of my answer to the letter of the 24th of May. My recollection is that I wrote about this: Dr. Rogers seemed to think that it was a new discovery that the Government possessed such power, or that the Attorney-General had power to order such a suit. I think I wrote back that there was nothing new; it had always been the law. He had written me that Attorney-General Brewster had ordered the suit. I wrote back to him not only that it had always been the law, but that I could not ask Senator Garland to bring such a suit, as it would be a little indelicate; that I could not make that application to him. That is my recollection, and that is what he testified I wrote, and I presume that is correct. It corresponds with my recollection.

Q. He did not ask you to make an application. He said he had made the application?—A. To be sure; and I think his letter asked me to write to Garland on the subject. I wrote back to him I could not do it; it would be an indelicate thing for Senator Garland to bring a suit for his own company, or something to that effect. He testified about what the letter was.

Q. Have you searched through your papers to ascertain whether you have that letter of his?—A. I have; yes, sir.

Q. Are you able to swear you have not got it?—A. I searched last night and was not able to find any more letters that referred to the telephone. I found several letters from Dr. Rogers about private matters; notes that he wrote me. When I received letters in Washington I generally kept them in the letter file, which I handed in, and all those letters came out of there. When I received letters at home I sometimes tore them up, and sometimes left them about my room; but I kept no letter file of the telephonic letters there. Sometimes I brought them back here.

Q. Were you in Washington or at your home when you received this letter of Dr. Rogers, or where were you?—A. I don't remember whether I was at home or whether

I was at the Hot Springs; I was at Hot Springs a good deal about that time. I don't remember whether I was at home on the 24th of May or whether I was at the Hot Springs.

Q. And yet you are able to say what you wrote him in reply?—A. I perhaps would not have been able to say exactly what I wrote him if I had not heard his testimony; I would have forgotten it.

Q. Then you have no memory on the subject at all?—A. Oh, yes; I have now. His testimony refreshed my memory, and I remember now the substance of what I wrote.

Q. Is not your memory refreshed as to where you were at the time?—A. Oh, no; I can't tell where I was. I was traveling about a good deal at that time. The probability is I was at home.

Q. How soon after May 24 did you see Dr. Rogers?—A. I saw him again some time, I think, about the 1st of July.

Q. Fix the date as nearly as you can.—A. Perhaps I can do it by a memorandum book.

Q. If your memorandum book will give you dates I would be glad to have you keep it at hand. I want to inquire of you as to several dates.—A. I have not a very distinct recollection as to the date of these various things. The only way I can fix it at all is by an account of my traveling expenses, which I have here. I will see whether I can determine that point. [Consults memorandum book.] I find from this memorandum book that on the 3d of July I was on my way to Washington. I can tell what day I got here, perhaps. I got here, it seems from this memorandum book, on the 4th of July. It seems that I arrived here on that day; I am not certain that is exactly accurate: it may not be the precise date, but it was about that time. This is simply a memorandum book that I kept. I find I came from the depot up to the Ebbitt House on the 4th of July.

Q. Then, you were here in June?—A. Oh, yes.

Q. Did you see Dr. Rogers at that time?—A. I presume I did.

Q. Where?—A. I couldn't tell; perhaps at his house or at my room. I saw him frequently. I was going to Philadelphia then.

Q. Can you not fix any time when and where you did see him at that time?—A. Oh, no.

Q. Can you state what occurred between you?—A. No, I don't remember anything that occurred between us.

Q. Do you remember whether you alluded at that time to the fact that he had made an application to the Attorney-General to bring a suit or have it brought?—A. No, sir; I have no recollection about it at all. I left here on the 7th of July and went to Philadelphia.

Q. You were here from the 4th to the 7th?—A. Yes, sir.

Q. In that interval will you swear whether you met Dr. Rogers or Harry Rogers at all?—A. I presume I did. I generally met them when I was here.

Q. Do you recollect any conversation you had with them?—A. No, sir; I have no recollection of any conversation I had with them at that time, or even that I saw them, though I presume I did, because I saw them every time I came here.

Q. Did you see Senator Harris?—A. Yes, sir; he was here, because I have noticed a telegram I sent him from Baltimore on the subject.

Q. Did you see him and have an interview with him?—A. I presume I did. I don't remember any distinct interview. Yes, I do remember I had a conversation with him before I started to Philadelphia. I went over there on business of the company, to see about an account being taken as to the damages in that suit that had been dismissed as to us and retained as to the local company. I went there to have a conference with Mr. Coulston on the subject.

Q. Did you have a conference with Senator Harris?—A. Yes, sir.

Q. Where was it?—A. It might have been in my room, or his; I don't remember where.

Q. Who was present?—A. I don't remember. General Johnston may have been there. I don't know but Dr. Rogers may have been there, too. I don't remember. I only remember the conversation from the fact that he instructed me to go to Philadelphia and look after that suit, and also to go to Baltimore.

Q. Was Mr. Garland there?—A. Oh, no.

Q. Was he not then the attorney of your company?—A. Yes, sir; he had been elected the attorney at first, and never resigned. I never heard anything from him.

Q. Did not that business relate to the Pan-Electric Telephone Company?—A. Yes, sir.

Q. Did not this business as to which you were going to Philadelphia relate to it also?—A. No; that referred more particularly to the local company. The bill had been dismissed as to our company, but we were under obligations to take care of the costs over there.

Q. Will you say you did or did not have an interview with Mr. Garland during those three days you were here?—A. I say most distinctly, I did not. I never spoke a word to Garland about the Pan-Electric Telephone Company after he was Attorney-General but once.

Q. Will you say you did or did not have an interview with Doctor Rogers about it?—A. Oh, I couldn't say that. It is possible I may have had. I don't remember.

Q. You do not say you did not have further conversation with Senator Harris about it?—A. Oh, no; I think I did. I know I had a conversation with Senator Harris.

Q. How long were you in Philadelphia?—A. Only a few hours, and I then returned from there to Baltimore.

Q. Will you say to this committee that this application of Dr. Rogers to the Attorney-General was made on the 24th of May?—A. No, sir; I will not, for I do not know it.

Q. I have not finished my question. It appears to have been made on the 24th of May. You were here between the 4th and the 7th of July of the same year. You had previously been written to and informed of the fact that the application had been made to the Attorney-General. Will you say you made no reference whatever to that subject in your interviews with Dr. Rogers during those three days you were here between the 4th and the 7th of July?—A. No, sir; I will not. I have no recollection of it.

Q. You will not swear you did or did not?—A. No, sir.

Q. Will you swear you made no reference to it to Senator Harris?—A. No, sir; I will not. Possibly I did. I don't know.

Q. So that you are unable to say, as I understand you, whether you did or did not make any reference to it to Senator Harris or Dr. Rogers?—A. Yes; I am unable to say whether I conversed with them about it at that time.

Q. And yet you say with great positiveness you did not speak to Mr. Garland about it?—A. Yes, sir.

Q. You are confident as to one of the parties, but you have no recollection as to the other two?—A. I never saw Mr. Garland. I went to their rooms frequently, but I never went to the Department of Justice.

Q. After you went to Philadelphia, when were you in Washington again?—A. I came back to Washington on the 30th of July. I do not find that in this book, but I find it on the register at the Ebbitt House. The date in this book is the 27th of July. I have made a mistake there somehow.

Q. Was that the next time you were in Washington?—A. Yes, sir.

Q. Are you sure of that?—A. Oh, I know it.

Q. You were not in Washington between July 7 and the 20th of July?—A. I see from this book that I got here on the 4th and left on the 7th, and I know I was not here again until then.

Q. You left here on the 7th of July?—A. Yes, sir.

Q. Then you were here between the 4th and 7th of July?—A. Yes, sir; so it appears from this book. I would not remember the different dates unless I had something to refer to.

Q. When you were in Washington, at what hotel did you stop?—A. I stopped at the Ebbitt House if I stopped at any hotel at all. I don't remember whether at that time I stopped at a hotel or in private rooms. I stopped sometimes at 1227 G street. Previously to that time my rooms were at 604 Thirteenth street. I gave them up in April or May when I went away. I left here I think probably about the 30th of April, 1885, and gave up those rooms, and when I returned I found they had been occupied by other parties, and I think I stopped at the Ebbitt House.

Q. Do you now mean to say you went from here on the 7th of July to Philadelphia?—A. Yes, sir; that is what this memorandum-book shows.

Q. How long did you stay there?—A. I staid two or three hours.

Q. Where did you go then?—A. To Baltimore.

Q. How long did you stay there?—A. I staid there one day and one night.

Q. Then where did you go?—A. I went to Pittsburgh.

Q. What day did you go to Pittsburgh?—A. I got there somewhere about the 9th, I think. I got there the next morning.

Q. At whose request did you go to Pittsburgh?—A. I went there partly upon my own motion. I saw in a newspaper when I was in Baltimore, at Barnum's Hotel, that on the next day a suit was to be tried in Pittsburgh in reference to the telephone, and probably giving the style of the suit; I don't remember. I telegraphed, as I now recollect, to Senator Harris about the fact, and suggested that I go to Pittsburgh. He telegraphed me back, or wrote me—telegraphed, I think—to go, and I went to Pittsburgh.

Q. Have you that letter?—A. I don't think it was a letter at all; I think it was a telegram. Possibly I have it.

Q. How long did you stay in Pittsburgh?—A. I see an entry of the payment of my

bill at the Seventh Avenue Hotel in Pittsburgh on the 11th of July, and I presume I left on that day.

Q. And you went from there right to Washington?—A. No, sir; I went from there right to my home at Memphis. Here is my bill of fare, from Pittsburgh to Memphis, in this memorandum-book.

Q. You had an interview at Pittsburgh with Mr. Van Benthuyzen?—A. Yes, sir; and Mr. Huntington, Mr. Bakewell, and several other gentlemen.

Q. Did you have an interview with them in relation to the Government suit at that time, or in regard to vacating the patents?—A. I had no conversation with Mr. Bakewell on that subject. I had a conversation with Mr. Van Benthuyzen and Mr. Huntington. I introduced the conversation myself. We were discussing the suit there, and I was looking over their pleas, the bill, the answer, and some of the proofs; and I remarked to him that I didn't think he could gain the case on that record; I thought it was a defective record and he couldn't sustain himself; and I introduced the conversation about the Government suit by saying that there was a law passed at the last session of Congress or by the last Congress authorizing the Attorney-General to institute a suit in name of the Government to vacate a patent under certain conditions. That was the first that was ever said about it by me to anybody, unless it was some conversation I may have had with Dr. Rogers.

Q. That was at Pittsburgh?—A. At the Seventh Avenue Hotel in Pittsburgh.

Q. You went over the matter with Van Benthuyzen?—A. That was about the conversation that occurred. Of course there was a good deal more than that, for I was discussing their record.

Q. You say you told them they could not succeed in their suit there, and then you told them about this law?—A. I gave it as my opinion that on the record—

Q. You suggested this course?—A. No; I did not suggest this course.

Q. What did you say about it?—A. I will tell you what I said. I said to Mr. Van Benthuyzen that a law had been passed at the previous session of Congress that authorized the Attorney-General to institute suit to vacate a patent. We were discussing the ground that he put it upon. He charged some irregularities in the issuance of the patent, and I think also charged fraud; and I think I said that could not be inquire into in a private suit. That was my view of the law.

Q. You separated at Pittsburgh?—A. Yes, sir; I went home.

Q. You went to Memphis and they went to New York?—A. I think they went to New York from there. I heard Mr. Van Benthuyzen was at Waukesha Springs, but I understood he did go to New York first.

Q. When did you next hear of them?—A. I next met Mr. Van Benthuyzen, I think, in the city of Washington, between the 30th of July and the 2d of August. I think, perhaps, he was here when I came. I got here on the 30th of July.

Q. Where did you meet him then?—A. At the Ebbitt House.

Q. Who were present?—A. At various times a number of persons were present. I don't remember who was present when I first met him. I think I met him at the breakfast table, perhaps, the first time I met him; but in the conference that occurred there, there were present at various times—

Q. I mean at this conference you had there; not a casual meeting.—A. Which conference?

Q. When you had the conference with him?—A. In Washington?

Q. Yes.—A. We had a number of conversations. There were present, as I remember, at one time and another perhaps all at the same time, Mr. Von Briesen, of New York, a lawyer, Mr. C. P. Huntington, Mr. Van Benthuyzen, Colonel Gantt, and perhaps others. I don't remember.

Q. Try to remember all.—A. I have told you all I can remember.

Q. Where was that conference?—A. Oh, we had frequent conversations there; sometimes in Mr. Van Benthuyzen's room and sometimes in mine; mostly in his room—he had a large room—he had parlors engaged there, and most of the time we met in his room.

Q. Can you tell what occurred there?—A. Oh, yes.

Q. Will you be kind enough to do so?—A. Yes; our first conversation related to a consolidation of our two companies, which we had talked about at Pittsburgh previously to that time. We had a good deal of conversation about the terms of the consolidation. I do not remember all the details. I will give you all, as near as I can remember. We discussed the application to the Attorney-General to have the suit brought. I advised Mr. Van Benthuyzen and the other gentlemen present that it was my judgment that we did not want such a suit as we would probably have to bring under the bill I then supposed had become a law; that that was my view of the matter; that we ought to get permission from the Government, if we got it at all, to bring a bill at our relation in the name of the Government, to vacate the patent, and allow us to control the suit ourselves. He said he had come to see the Attorney-General on that subject, and asked me to go with him. I declined to go, but on reflection I thought perhaps our company might be brought into it in some way; that it might

be represented to Mr. Garland in an improper light; and I concluded I would go. I did go over with them and introduced them to Mr. Garland. They had been there once before to see him. Upon reflection, just as they were starting, I concluded I would go, for the reason I thought something might be said about our company; that it might be represented that we desired the suit brought.

Q. I will come to that after awhile. I want all the interview first.—A. I am giving you that, but it seems you don't want to hear it.

Q. You are mistaken. You are now passing to Mr. Garland's office.—A. No; I am not passing to Mr. Garland's office. I am telling you what occurred right in the hotel.

Q. Go on.—A. That conversation occurred in the hotel. When they started, I concluded I would go with them, and I did go to the Attorney-General's office and introduce them to him.

Q. I have not got through with the interview at the hotel yet. Have you stated all the interview before you went?—A. That is the substance of it. There was a great deal said. I couldn't remember it all.

Q. Before what occurred in Mr. Garland's office, you were together at the hotel. Did you meet there by accident?—A. No, sir. I corresponded with Mr. Van Benthuyssen and promised to meet him there at that time.

Q. Then this interview and conference was the result of previous arrangement?—A. Yes, sir.

Q. And you say it was with reference to a combination you were going to make between the National Improved Company and the Pan-Electric Company?—A. A consolidation; yes; that was one of the objects.

Q. You have heretofore said you did make the combination, and made a written contract, which you said was on the way. Will you produce it?—A. I telegraphed Mr. Van Benthuyssen to send me that contract, and he wrote a letter to his partner, who is here, by which it seems there has been a misunderstanding. He did not find the right contract; he had not found it, but would come in a few days and bring it or would send it, so he wrote. I haven't heard from him since, and that was four days ago.

Q. And you have not got it?—A. No, sir.

Q. I thought you said it was on the way?—A. I got a telegram saying my telegram was too late, but he would send it the next morning; and I assumed from that it was on the way.

Q. Then you have not got it?—A. No; but I will get it; don't be uneasy about it; I will have it.

Q. On what day was that contract signed?—A. I can't tell you that. I don't remember the date.

Q. Your conference was on the 30th of July?—A. The paper was signed some time before we left Washington.

Q. The conference was on the 30th?—A. No; I got here on the 30th.

Q. On what day was that conference?—A. It must have been the next day. It lasted two or three days; several days.

Q. Can't you fix the date?—A. We conferred every day from the 31st of July until the time they left here. I don't remember what day that was. I believe it was about the 6th or 7th of August. We had conferences every day. We were all stopping at the same hotel.

Q. Were you having conferences every day about this matter from the 30th of July to the 7th of August?—A. Oh, we talked about it every day; about the prospects of the two companies, and how we would conduct our business and all about it. I cannot recall everything that was said, but we discussed it.

Q. How soon did the conferences ripen into a contract that was put in writing?—A. In two or three days. It was nothing of a contract, except that we were to pay the expenses of two suits—

Q. I don't ask you what was in it. I want to see that paper.—A. I tell you there was nothing in it except that, and I don't remember what date it was.

Q. We must have that contract if we can get it.—A. You will have it. You need not be uneasy about it. I want it as bad as you do.

Q. Did you not keep a copy of that contract?—A. I thought I had, but I couldn't find it.

Q. I see you have a book in which you copied all contracts?—A. That contract was not copied. All our contracts for the sale of territory were copied.

Q. You have a book which purports to be a book in which you entered contracts your company made with other companies.—A. It not only purports to be, but it is such a book. It contains contracts between the Pan-Electric Telephone Company and all companies we made contracts with in regard to the sale of territory.

Q. Why did you not copy this contract?—A. I did not consider it important enough to copy it. It was just an agreement made between myself and Mr. Van Benthuyssen. It was not signed by the company.

Q. Will you be kind enough to produce here the telegrams you have had in relation

to that contract being on its way?—A. I will if I have it among my telegrams. I think I have, and, if so, I will bring it up.

Q. You said you had a telegram that the contract was on its way?—A. I assumed from the answer I got that it was on the way. That was the telegram.

Q. Will you be kind enough to give us that telegram?—A. I have said if I could find it I would bring it up. I think I have it.

Q. How many telegrams have you sent about it since then?—A. Only one; I have not sent any since.

Q. From whom did you learn there was a mistake about the contract?—A. I learned it from Mr. Seixas, Mr. Van Benthuyzen's partner.

Q. Is he here?—A. Yes, sir.

Q. Was it verbal or written?—A. It was written.

Q. Did you make more than one written contract with the National Improved Telephone Company?—A. No, sir.

Q. If you never made but one, how could there be any mistake as to which one it was?—A. I cannot tell you that. Mr. Van Benthuyzen perhaps can state how he happened to make the mistake.

Q. How did you send for it; by letter or telegram?—A. I telegraphed to him to send it.

Q. Have you a copy of your telegram?—A. No, sir. It can be obtained at the office of the telegraph company.

Q. What contract did you describe in the telegram?—A. Oh, I just telegraphed, as I remember, "Send me the contract we made at Washington in reference to the expenses of the suits at New Orleans and Memphis." That is my recollection.

Q. You never made but one contract with him?—A. No, sir.

Q. And you say you got a telegram that the contract was on the way?—A. No; I did not say anything of that sort. I stated exactly what the telegram was. That it was on the way was my inference. He telegraphed he had got my telegram too late in the evening to hunt it up that evening, but he would send it the next morning.

Q. Did you not state to the committee at a previous hearing that the contract was on its way, and you would have it here the next morning?—A. I presume I did.

Q. And were you not asked at the hearing on Monday whether you had the contract?—A. Yes, sir.

Q. And did you not say it had not come, but it was on its way?—A. But I learned from Mr. Seixas afterwards how the matter stood; that there had been a mistake.

Q. When did you hear there had been a mistake?—A. I believe it was on Monday; I think so.

Q. That was the very day you said it would be here the next morning, was it not?—A. Yes, sir; and I supposed it would be here.

Q. But you had already been told there was a mistake about it?—A. Oh, no; I had not already been told. I think Mr. Seixas brought the letter to my room Monday night.

Q. Who is Mr. Seixas?—A. Mr. H. O. Seixas, the partner of Mr. Van Benthuyzen. He is here in the city.

Q. As you were to produce that contract the next morning, why did you not tell the committee it had not come?—A. Nobody asked anything about it.

Q. Had you told any member of the committee about it?—A. No; I don't think I had. Nobody inquired about it. I don't think I said anything about it.

Q. What steps have you since taken to get it?—A. Simply wrote to him. Mr. Seixas wrote to him, describing what was wanted, and asked him to send it. I did not write.

Q. If there was never but one contract between you and the National Improved Company, there could not have been any mistake as to which one was wanted?—A. That is a question for Mr. Van Benthuyzen to answer when he gets here. I don't know what mistake he made.

Q. Is he coming?—A. Oh, yes, he will be here; don't be uneasy about that; he is certain to come.

Q. I understand you to say that your company entered into a written contract with the National Improved Company and kept no copy of it yourself?—A. No; I do not say our company entered into the contract; I say nobody knew of the agreement between myself and Mr. Van Benthuyzen.

Q. It was a written contract?—A. It was a written agreement.

Q. Do you make a distinction between an agreement and a contract?—A. Oh, yes; the law makes one.

Q. Did you make an agreement with Mr. Van Benthuyzen in relation to the matter about which you have testified without keeping a copy of it yourself?—A. I think I did keep a copy; but I am not able to find it.

Q. Did you not sign the paper in duplicate?—A. Yes; I think we did; I think so.

Q. Where is that duplicate?—A. I have just stated to you that I have not been able to find it; I thought I had it.

Q. How much have you searched for it?—A. I have searched among all my papers.

Q. Where did you keep it?—A. I don't remember now what I did with it. I presume I put it among the other papers. I don't know. I may have put it in my trunk, which was at the hotel at the time. I may have put it in my trunk and taken it away with me.

Q. Was the agreement between you as an individual and Van Benthuyssen?—A. Yes, sir; I had no authority from the company, and I don't think I ever mentioned it to them.

Q. It was not between your company and Van Benthuyssen?—A. I don't think I ever mentioned it to the company. I presume the company will be bound by any action of that sort by me. I felt that I had a right to do it.

Q. It was an agreement between you as an individual and Van Benthuyssen as an individual, was it?—A. I think we signed it as officers of the companies. I think we did. I think he signed it as president, and I signed it as secretary; that is my recollection; and I believe I told my associates about it.

Q. Did you confer with Mr. Harris about it?—A. I don't think I did.

Q. Did you show it to him?—A. I don't know whether I did or not. I told him about it.

Q. Was he present at the first conference you had on that subject?—A. He was in the room once, as I remember, and only once.

Q. That conference was by previous arrangement, was it, between you and these other men, and was a secret?—A. Oh, no, sir; there was nothing secret about it.

Q. Did you assume to act for the company without the concurrence of the president—A. Oh, no.

Q. How was it?—A. I talked to them all. I talked to Dr. Rogers and Senator Harris, and all conferred about the consolidation. I talked with them about it.

Q. That contract is the paper to which Dr. Rogers referred, when he said you told him they had got \$75,000 worth of testimony, and you were going to put the little influence of your company against that.—A. He did not mention any contract that I know of. If he did, that was the one.

Q. That was the one you spoke about to him?—A. That was not the one. I was speaking then about the consolidation of the two companies. There was nothing in that contract about it.

Q. You need not state what was in that contract.—A. You asked me what I was talking to Dr. Rogers about. How will you have me answer?

Q. Was there more than one agreement?—A. There was an agreement about our consolidation, or rather we tried to make one, which we have not consummated. It is still open.

Q. There was but one agreement?—A. In reference to this matter.

Q. And you signed on behalf of the company. Do you state to this committee that you entered into a written agreement on behalf of your company and signed on behalf of your company without the sanction of the other directors or officers?—A. You heard what I stated. I stated I signed it without consulting anybody that I know of. I was in the habit of doing such things.

Q. I don't care for your habit.—A. I tell you I did sign that paper without reference to anybody. I talked with them all about it afterwards.

Q. Will you tell us on what date that paper was signed?—A. I cannot tell you that. I can tell you about the time. I cannot tell you the exact time.

Q. Fix the time as near as you can.—A. It was probably about the 2d or 3d or 5th of August; somewhere along there.

Q. That is not very definite.—A. I think it is about as definitely as a man can remember a transaction a year old that he attached no importance to. Do you think you can come any nearer? If you can you have got a better memory than I have.

Q. That agreement was the culmination of this conference?—A. Oh, no; there was no culmination about it.

Q. It was the only agreement you arrived at?—A. It was simply done while we were here. There was no culmination about it. That was not the thing we came for.

Q. Did you have the conference for any other purpose?—A. I have stated what the purpose of the conference was—to look after the consolidation of these two companies, and to look after this very Government suit we are talking about. Mr. Van Benthuyssen had written—

Q. You came here for a conference in reference to a consolidation, and to look after the Government suit?—A. Yes, sir; that Mr. Van Benthuyssen had written to me about, and that we had talked about before that.

Q. At whose instance did you come here?—A. At the instance of Mr. Van Benthuyssen, upon a letter which I received from him while he was at Waukesha Springs.

Q. I put it to you once more. Can you account for the loss of your duplicate of that agreement which you made with Van Benthuyssen?—A. I don't know it is lost; I don't think it is; I think I have got it at home.

Q. Did you look for it?—A. I did not look before I came on here.

Q. Why did you telegraph to another man to produce his copy of it when you did not know but that you had a copy of your own?—A. I knew I did not have it here, and I thought I could get it easier from him than to go back home for it.

Q. Have you not a clerk there to whom you could telegraph for it?—A. Oh, no; I am not able to support a clerk.

Q. Have you taken any steps to obtain it?—A. None whatever.

Q. Do you know it is there?—A. No.

Q. How happened you to have all the other papers of the company here and not that?—A. I have not got them all. There are a great many I haven't got. I have got all the papers that pertain to this matter, except probably a few scattered about home.

Q. During those days you were here, from the 30th of July to the 7th of August, you were having conferences all the time about this Government suit?—A. Oh, no; that is your assumption. That is not my evidence.

Q. You conferred whenever you met?—A. When we met we conferred first about the consolidation of our companies—very soon after I got here. Mr. Van Benthuyzen introduced that subject. It was a favorite one with him, and it was the main object that brought him here. I hardly think he would have come for anything else.

Q. Can you state the date of your call on Mr. Garland?—A. No; I cannot tell the exact day. It was probably the 31st of July. It may have been that day or the 1st of August.

Q. Can you not fix it any nearer than that?—A. One day is about as near as a man can fix anything that elapsed a year ago.

Q. Who of you called upon Mr. Garland?—A. Myself, Mr. Van Benthuyzen, Mr. C. P. Huntington, Mr. Von Briesen, and Col. George Gantt.

Q. These persons whom you have named were either connected with and interested in the National Improved Company or in your company?—A. Mr. Von Briesen was not that I know of, nor Col. Gantt. They were lawyers, and had no other interest in it.

Q. Did you communicate to Mr. Attorney-General Garland the fact of your having made an agreement with the National Improved Company?—A. I did not say a word to him, except to introduce them.

By the CHAIRMAN:

Q. Had you at that time made the agreement?—A. No; we had made no agreement then.

By Mr. RANNEY:

Q. You had made no agreement when you called upon him?—A. None.

Q. Do you know whether you had or not?—A. I know it was not made until just before we left here.

Q. Can you now fix the date when it was signed?—A. Oh, no.

Q. Can you fix the date when you called on Mr. Garland?—A. I can fix it on the 31st of July or the 1st of August; one of those two days. I think it was the 31st of July, but about that I cannot be certain.

Q. You called in reference to having a Government suit brought?—A. Yes; that was what we went there for.

Q. Did you know that Mr. Van Benthuyzen had made an application to the Attorney-General?—A. I did.

Q. When did you first know it?—A. I think I learned it from him in a letter he wrote me before I came on here. He told me in Pittsburgh he was going to do it.

Q. You got a letter from Van Benthuyzen informing you of it?—A. Yes, sir.

Q. And he told you at Pittsburgh, in the interview you had there, that he was going to do it?—A. Yes, sir.

Q. Where is that letter from him?—A. I haven't got it. I have looked for it, but did not find it.

Q. When did you look for it?—A. Since I have been here.

Q. Where did you look for it?—A. I looked among my papers.

Q. You did get a letter from him informing you that he had done it?—A. Yes, sir.

Q. Did you reply to it?—A. I think I did; I don't remember.

Q. Did you keep a copy of your reply?—A. I don't keep copies of my letters at all.

Q. Nor keep the original letters you receive?—A. Oh, sometimes I do and sometimes I don't. It appears I didn't keep this.

Q. Why did you not keep it?—A. I can't give you any reason why I have not kept all the letters I have received in the last two or three years.

Q. You seem to have produced a few letters from Dr. Rogers that were good for nothing, and all the letters of importance you don't seem to produce.—A. How do you know they are important? I don't regard them so.

Q. They were likely to be important.—A. Then you know more about it than I do. I did not regard it so, or I should have kept them. You are entitled to your opinion on that subject and I am entitled to mine. I don't agree with you.

Q. Do you know you have not got that letter?—A. I know I have not got it here.

Q. When did you first look for it?—A. I looked for it a week ago, perhaps.

Q. A week ago, perhaps?—A. Yes, sir; and last night, too.

Q. It could not have been a very anxious search if you put "perhaps" to it.—A. I didn't feel very great anxiety about it; not nearly so much as you manifest.

Mr. RANNEY. I wish to put in here a copy of the application made to the Attorney-General by Mr. Van Benthuyzen on July 12, 1885. It is on page 1 of the record from the Interior Department. It is dated New York Hotel, New York, July 12, 1885, addressed to the Hon. A. H. Garland, Attorney-General, Washington, D. C.:

NEW YORK HOTEL,
New York, July 12, 1885.

Hon. A. H. GARLAND,
Attorney-General, Washington, D. C.:

DEAR SIR:

I respectfully request that you will institute suit against the "Bell telephone patents," under a law passed last session of Congress, as I am informed making it incumbent upon you to proceed against patents issued fraudulently or having fraudulent claims, at the request of any citizen.

I charge that A. G. Bell is not the inventor of the telephone.

Speaking telephones were invented previously by Reiss, Van der Weyde, Pickering, Cross, and Edison, and I deny that "Bell" was the first inventor of any telephone, or that he invented any telephone; that "Bell" was not anticipated by "Reiss" and others, and that the Bell patents are valid in whole or in part. In Bell's application of February 25, 1875, he says: "For instance, with a series of transmitters organized as above I can place at the receiving end of the line a *telephone*."

Whose telephone???

I charge that the third claim of Bell's patent is false—"falsus in uno falsus in omnibus"—wherein he claims the combination of an "electro magnet having an inductive plate, &c.;" the said Bell having seen said combination and magneto telephone used in the Institute of Technology, in Boston, by Professors Pickering and Cross in their lectures delivered in 1873 to 1874. See "Cross" cross-examination in "Overland" case, taken recently and not yet examined by any court in any case.

I charge that the Bell patent of 1876 is not being used, and that it is without value, and that the transmission of speech at the present day by the Bell Company is by the use of what is known as the Blake transmitter, which is an infringement of the Edison patent, which latter patent, Mr. Edison claims, is an improvement on "Reiss."

I charge also that the "Blake" transmitter was largely used in this country three years before being patented, and therefore that said patent is void.

I charge that the claim in the Bell patent for "the method of and apparatus for transmitting vocal or other sounds telegraphically" is false.

That vocal and other sounds were transmitted telegraphically long before Bell was heard of, and I therefore respectfully request that the proper proceedings be had to relieve this people of the great wrong perpetrated in the issue of claims giving to said patents the exclusive right of transmitting articulate speech by electricity, and beg leave to ask that said proceedings shall be instituted in Memphis before Judge Hammond.

I shall furnish a large amount of valuable information with reference to said patents, when called upon to do so, without cost or expense of any character to the Government.

Your prompt attention and reply to this address to my attorneys in New York, Messrs. v. Briesen & Steele, 229 Broadway, will oblige,

Very respectfully, with assurance, &c.,

W. VAN BENTHUYSEN,
(Of New Orleans, La.),
National Improved Telephone Company.

I put in, in connection with it, the indorsements on it by the Department of the Interior: "Received July 15, 1885." Also this:

DEPARTMENT OF JUSTICE,
Washington, July 14, 1885.

SIR: I have the honor to send you for your consideration and for an expression of your views thereupon a letter of the 12th instant, from Mr. Van Benthuyzen, asking the institution of "suit against the Bell Telephone patents." Please return Mr. Van Benthuyzen's letter with your reply.

Very respectfully,

A. H. GARLAND,
Attorney-General.

To the SECRETARY OF THE INTERIOR.

There are some other indorsements, as follows:

"Department of Interior. Received July 15, 1885. 349,231. July 14, 1885. Office of Commissioner of Patents. Received July 16, 1885. The Attorney-General. Inclosed, for expression of views of this Department, a letter from W. Van Benthuyzen, of the National Improved Telephone Company, requesting that suit be brought for annulment of Bell telephone patents on account of fraud. Department of the Interior, July 15, 1885. Respectfully referred to the Commissioner of Patents for report. H. L. Muldrow, Acting Secretary. G. M. D. On request of writer, and on assurance that it is in accordance with the views of the Attorney-General, this paper is returned to such writer without report. Dated July 31, 1885. M. V. Montgomery, Commissioner of Patents."

Q. You and the men you have spoken of got here on July 30?—A. I don't know what time the men I am talking about arrived here. I arrived here then.

Q. And on July 31 you had a conference?—A. I think that was the day.

Q. Did you in that conference refer to the application Van Benthuyzen had made to the Attorney-General?—A. Yes, sir; we talked all about it. We consulted very fully.

Q. Did you talk about it on July 31?—A. Yes, sir; I think we did on that day, and probably on other days.

Q. Did you have anything to do with getting that application withdrawn from the office of the Secretary of the Interior?—A. Nothing whatever. I did not know it was done until long afterwards. I had nothing to do with it.

Q. You talked it over?—A. We did not talk about withdrawing it.

Q. You talked about it being on file?—A. Oh, yes, sir.

Q. What conclusion did you come to as to what had better be done with it?—A. I didn't come to any.

Q. What was the talk between you about withdrawing it?—A. Not a word was said that I know of. I never heard of it. I was giving my views about the sort of suit that ought to be brought.

Q. Was it communicated to you at any of those conferences that it had been withdrawn?—A. At none. I never heard a word said about it.

Q. You did not know of it from the time you came there until you left?—A. I never heard of it until long afterwards.

Q. On what day did you go to the Attorney-General?—A. I think we went to the Attorney-General on the 31st of July. Please write that down and hand it to the gentleman, Mr. Clerk. He don't seem to remember it. I have said it about twenty times.

Q. I thought you said in your answer that you could not fix the date. Now you do fix the date as the 31st of July.—A. I fix it as the 31st of July or the 1st of August; I don't mean to say which it was.

Q. Oh, I thought you wanted it written down.—A. You think a great many things that are not warranted by the facts.

Q. Fix the right date and I will try and remember it.—A. I have given it as near as I can remember it, but you don't seem to be able to.

Q. Will you now answer once for all?—A. I will answer as near as I can. It was either the 31st of July or the 1st of August.

Q. You can't tell which?—A. No; I cannot.

Q. I want to know which, so I can remember?—A. You can remember both of the dates, if you are capable of doing it.

Q. Was it before or after you had been up to the Capitol to see what had become of the Senate bill?—A. It was before.

Q. Which was first?—A. I have just answered you it was before.

Q. Did you go to the Attorney-General before going to the Capitol?—A. I went to the Attorney-General before going to the Capitol.

Q. What day was it you came to the Capitol?—A. I can't remember the date. It may have been some time afterwards. I don't remember.

Q. Try and fix the date the best you can, and I will try and remember it?—A. I can't really fix the date when I did go to the Capitol.

Q. Are you sure you went to the Attorney-General before you went to the Capitol?—A. I know it was before—

Q. How do you know that?—A. I am just going to state: Because they left the Attorney-General with the impression that the suit would be brought, if brought at all, under that bill, and I was opposed to any such suit; that is the way I remember it.

Q. I see Mr. Van Benthuyzen says that bill was stolen from the Senate.—A. You can question him about it when he comes; I don't know whether it was or not; I am going to try to find out before we get through with this investigation whether it was stolen or not; a good many things have been purloined, and perhaps that has.

Q. Do you say you left the Attorney-General with the impression that the suit would be brought under that bill?—A. No, sir; I left the Attorney-General with the impres-

sion that if the suit was brought at all it would be brought under that bill; that was what they were asking for.

Q. And that is why you know?—A. Yes; because when I went back to the hotel—

Q. After seeing the Attorney-General and getting the impression—A. Don't be in such a hurry; let me answer the question, and then you shall have full opportunity to talk all you want.

Q. I am going to let you do the talking.—A. I propose to do it if necessary. I went to the Attorney-General's office, opposed to the bringing of the suit under that bill. When I came back it was discussed again, and I still said to those gentlemen: "I don't think that is the sort of suit you want to bring, which will be brought under that bill if brought at all." They were not discussing the general authority of the Attorney-General to do it outside of that bill; I was. I told them he had the authority independent of that bill; that that bill did not give the sort of authority we wanted.

Q. In consequence of what was said at that interview about the bringing of the suit, you came to the Capitol to see whether the bill had been passed?—A. I couldn't say I did it in consequence of that. I came to the Capitol some time, I don't remember the exact date. I found out when I came to the Capitol that the bill had not become a law. The reason I came there was, it was intimated to me from some source or other—I have forgotten now by whom—that perhaps the bill had not passed. I always thought it had. I have forgotten who did speak about it first, or who suggested it to me. I do not know whether it may not have been Mr. Van Benthuyzen himself. I don't remember now.

Q. You have already stated that you came to the Capitol and there found the bill had not become a law?—A. Yes, sir.

Q. Had not the laws of the Forty-eighth Congress been published before the 31st of July?—A. I presume so. I don't know.

Q. Could you not have looked in the Attorney-General's office at the published statutes of that Congress, and see whether it has become a law?—A. I presume I could if I had tried to. I did not do it as a matter of fact.

Q. At that interview with the Attorney-General you went there with these gentlemen and discussed the matter of bringing the suit, did you not?—A. No, sir; we did not discuss it at all. The Attorney-General would not let us discuss it. He would not talk about it. He just said, "Gentlemen, I can't talk to you on that subject."

Q. What did he say would be done?—A. He said just what I am telling you.

Q. Was that all that was said by the Attorney-General?—A. As near as I can remember. The conversation was about this: I introduced the gentlemen. Mr. Von Briesen, of New York, opened the conversation to the Attorney-General by saying he had come to see him to get him to bring suit against the Bell Telephone Company to annul its patents. The Attorney-General said, "I am interested in a telephone company. I am its attorney. I cannot talk to you gentlemen on that subject." Mr. Von Briesen then pulled out an affidavit from his pocket, prepared before he went there, some time previous—I didn't see it prepared—by Mr. Wilbur, and proposed to read it to the Attorney-General. He said, "I want to read you this affidavit." The Attorney-General said, "I don't want to hear it. I can't talk to you on the subject." Mr. Van Benthuyzen then took up the conversation excitedly, and he said, "Mr. Attorney-General, we have got some rights here. We are entitled to have this suit brought, and I want it done." Mr. Garland said, "I can't do it." Mr. Van Benthuyzen said, "I will see it is done by somebody;" whereupon we left. We were not there five minutes.

Q. That was all that was said there?—A. That was the substance of it.

Q. Was a word said in that interview about the application that had been made previously by Mr. Van Benthuyzen?—A. Not a word that I now remember of. I don't think there was a word said about it, unless it may have been the Attorney-General said he had referred it to the Secretary of the Interior. I don't know that it was mentioned at all, but I learned from somebody that it had been referred there.

Q. How happened it that on that very day, July 31, the application of Van Benthuyzen is recorded as having been withdrawn in accordance with the views of the Attorney-General?—A. You have been a great stickler for my telling only what I know. I must decline now to tell you what I do not know.

Q. There was nothing said in that interview about Mr. Van Benthuyzen having leave to withdraw that application?—A. Not a word. For information on that subject I refer you to him when he comes.

Q. Was there any other interview with the Attorney-General that you know of, except the one when you were present?—A. Not that I know of. I heard afterwards that Mr. Van Benthuyzen went there, but I don't know anything about it.

Q. That was July 31, and that was the date when the application of Van Benthuyzen was withdrawn?—A. Oh, I went all through that record with the Bell lawyers and discussed the whole thing. It was discussed with the attorneys of the Bell Company.

Q. In that interview, when Mr. Garland declined having anything to do with it, did he give any reason why he had on July 14 referred that application for informa-

tion to the Department of the Interior, entertaining it to that extent?—A. I don't know as that was mentioned at all.

Q. Did he give any reason for it?—A. I don't know that it was mentioned at all. I have no recollection of its being mentioned. I learned from somebody it had been referred there, but whether from Van Benthuyzen or not I couldn't say.

Q. Had you or Van Benthuyzen, when the Attorney-General acted on his application, ever communicated the fact to him that you and Van Benthuyzen had had an interview at Pittsburgh?—A. I never mentioned it to him.

Q. Do you know whether he was aware that the National Improved Company and the Pan-Electric Company were acting in combination in any way?—A. I don't know that he knew it. I know that I did not tell him so.

Q. Did he not tell you he would not have acted on that application of Van Benthuyzen if he had known the National Improved Company was in any way connected with the Pan-Electric Company, in which he was interested?—A. Oh, no; you would be very happy if I would tell you he did. He never said anything about it.

The CHAIRMAN. Just answer the question.

The WITNESS. It is an improper question, Mr. Chairman.

Q. He did not say anything about it?—A. No, sir; and I shall not answer questions which are improper hereafter.

Mr. RANNEY. I don't see anything improper in it.

The WITNESS. I differ with you.

Q. Did he in that interview allude to the fact that he had already acted on Van Benthuyzen's application?—A. Not that I remember. I don't think a word was said about it at the time.

Q. That he had acted on it because he did not know there had been any combination between you and the National Improved Company?—A. I have told you there was nothing said about any combination.

Q. I am only trying to get an excuse for him. Do you not know that he acted on that application in ignorance of the fact of the combination?—A. You ask him about it; he can tell you. I don't know.

Q. You never communicated to him at all the fact that there was any combination?—A. Never; and to nobody else but my associates.

Q. I see this indorsement: "Finding that the law referred to in the writer's letter to Attorney-General Garland had not been enacted, and being informed that the bill had been stolen from the Senate after being adopted by the House of Representatives, and being advised by my attorney to pursue another course, consent to withdraw the letter was obtained, and the letter was withdrawn by A. von Briesen, esq., my attorney." Was von Briesen, the attorney, there at your conferences?—A. He was there; yes, sir. I will tell you the reason why he withdrew it, if you want to know.

Q. Answer my question. Was he there at those conferences?—A. Yes, sir; he was there; and I will tell you why that letter was written.

Q. While your conferences were going on, did you know of the fact that he went to the Department of the Interior and withdrew that letter?—A. No; I did not. I never heard of it.

Q. Did you have anything to do with getting the consent of the Attorney-General for its withdrawal?—A. Nothing whatever. I never spoke to him about it in my life.

Q. Did you hear anything said in that interview about the bill being stolen from the Senate?—A. No; I don't think I did. I heard it afterwards from somebody.

Q. Where?—A. I can't recollect where I heard about it. Perhaps Mr. Van Benthuyzen may have told me so, or I saw that indorsement. I don't know whether I ever heard of it until I saw that indorsement.

Q. You don't know what he means by the bill going from the House to the Senate and being stolen in the Senate?—A. Yes, I do; I think the language is pretty clear. He is a man who generally speaks in pretty plain terms. He says "stolen," and I reckon he means what he says.

Q. You never investigated it?—A. I did not, but I will, for your benefit, before this investigation is over.

Q. You say you came up to the Capitol to investigate the matter?—A. Not to investigate whether it was stolen.

Q. To see whether it had passed?—A. Yes, sir; and found it had not.

Q. Did you inquire to see whether it had been stolen?—A. Oh, no; and I have not yet. I will, though. I think very probably it was.

Q. Did you not know before you left Washington, that that proceeding, thus instituted on the letter of Van Benthuyzen, was stopped in the Department?—A. No. I knew I had advised it. I didn't know whether it had been done or not.

Q. You did advise it?—A. I did.

Q. Did you advise it before or after that written agreement was made?—A. I couldn't say. I advised it all the time I was there. I thought it was an improper proceeding.

Q. Let us pass on. It seems that on August 31 there was an application to the

Attorney-General by H. W. McCorry, United States attorney for Western Tennessee. It is dated Jackson, Tenn., August 31, 1885, and addressed to Hon. A. H. Garland, Attorney-General, Washington, D. C. When you got through here in August, on the 7th or 8th of the month, where did you go?—A. Home.

Q. To Memphis?—A. Yes, sir; I think so.

Q. Ascertain what time you arrived there, if you please.—A. [referring to memorandum]. I see I left here on the 7th of August, and I suppose I reached Memphis the next night, which would be the 8th.

Q. Between that and the 31st of August, 1885, how many times did you see District Attorney McCorry?—A. I saw him twice.

Q. Where?—A. I saw him at Memphis once and at Jackson once.

Q. Did you meet Van Benthuyzen there?—A. Yes, sir.

Q. And his attorney?—A. Yes, sir.

Q. When, and how soon?—A. Well, that was some time after I got home; I don't remember the date. It was during the early part of August. I think probably they came there very soon after I got home.

Q. Who came there?—A. Mr. Van Benthuyzen, Mr. Huntington, and Mr. J. R. Beckwith.

Q. Then, there was yourself, representing the Pan-Electric Company, and Mr. Beckwith and Mr. Van Benthuyzen, representing the National Improved Company?—A. Mr. Van Benthuyzen was the president, and Mr. Beckwith the attorney.

Q. Those were the two companies between whom this agreement that you referred to was made?—A. They were the ones.

Q. You say you met Mr. McCorry, the district attorney, there. How long had he been appointed?—A. Oh, a short time. I don't remember when he was appointed. He was appointed some time previous to that; I don't remember when.

Q. He was a new appointee?—A. He was appointed under Mr. Cleveland's administration.

Q. Perhaps you had something to do with his appointment?—A. No, sir; I did my best to prevent it, as the records of the Department of Justice will show. I did my best.

Q. You tried to get it for yourself?—A. No, sir; I did not want it myself. I tried to get a young man named Rea in Memphis appointed.

Q. Mr. McCorry got his information about these matters from you and your associates?—A. He didn't get it from me. I didn't talk with him about it.

Q. Mr. Van Benthuyzen and Mr. Beckwith talked with him?—A. Yes, sir; and General Wright and Colonel Gantt.

Q. Wright was your attorney?—A. Yes, sir; General Luke Wright—not the one we have been speaking of. It is a different man; no relation to the other.

Q. He is a Memphis man?—A. They are both Memphis men, but no relation to each other.

Q. They acted on behalf of the company?—A. Yes, sir; they were authorized by our company to act.

Q. I see that H. W. McCorry, in his application to the Attorney-General, says: "I ask that Hon. Casey Young, Col. George Gantt, and General Luke Wright, of Memphis, and Col. J. R. Beckwith, of New Orleans, be permitted to appear as associate counsel without expense to the Government, and that you will direct the commencement of proceedings?"—A. Yes, sir.

Q. You and Gantt and Wright were the attorneys of your company?—A. Yes, sir.

Q. And Beckwith was the attorney of the National Improved Company?—A. Yes, sir; I will tell you how that came to be done.

Q. And you all met at Memphis?—A. Hold on and let me answer the question. We had examined the previous cases that had been tried and found that it was universally—

Q. I do not ask you anything about that.—A. I know you do not, but I want to tell you about it. We found it had been the universal custom to appoint special attorneys.

Q. Answer my question and make any explanation you want afterwards.—A. All right; I am answering it.

Q. Turn to your record and give me the entry as to the amount of stock in your company that was voted to Messrs. Gant and Wright?—A. I think \$20,000.

Q. Turn to the record.—A. I will, if it is in the record. I don't know whether it is in the record. It was long before this occurred.

Q. No matter when it was. Turn to the record and read what it contains. That is all I ask you now.—A. Do you want me to read it or state it, or don't you want me to do either?

Q. I want you to read it.—A. I think that matter was left with me.

Q. I am now asking you for the record.—A. I am looking for it. I am not sure there was any record made of it.

Mr. RANNEY. Yes there was, for I saw it yesterday.

The WITNESS (after a further examination). I do not find any record of it.

Q. I read it there the other day. I can find it for you. It was voting \$20,000 of stock to each of them, to Luke E. Wright and to Mr. Gantt.—A. I know what it was. I want to find the date of it. [After a further search.] No, I do not find it.

Q. Will you turn to your stock ledger and find wherein \$20,000 of stock was allotted to Colonel Gantt?—A. That was not done. I stated the reason it was not done.

Q. I do not care for the reason.—A. Well, it is not there.

Q. I read that the other day on the ledger. I saw it unless I am grievously mistaken.—A. I do not see it in the index, and I am quite sure it was never in the stock-book at all. Here is the minute book, but I do not find it.

Q. You know the fact, do you not, that there was \$20,000 voted to these men?—A. I was authorized to give each of them \$20,000 of stock.

Q. I saw both of them the other day, but we haven't time to stop and look them up. I only wanted to fix the date. It is a fact that that was voted to them?—A. Yes, sir; and it must have been previous to the 20th of May.

Q. So that, in the request for a suit to be brought, Mr. McCorry asked to be appointed as counsel yourself, who owned your share, before developed, in this company, Colonel Gantt and Luke Wright, who had been employed by your company and voted \$20,000 of stock for their services, and Mr. Beckwith, of New Orleans—there was no payment to him. Mr. Van Benthuyzen, I suppose, took care of him?—A. Yes, sir; and we did it for the reason I state, that the precedents all authorized it.

Q. I am after the facts.—A. I will give you the facts.

Q. Did you make the request of Mr. McCorry that these men should be appointed?—A. No, sir; I declined to act in the matter.

Q. Why?—A. I thought possibly there might have been some little impropriety in it, and I declined to act, and did not sign the bill.

Q. You thought there was an impropriety in your acting?—A. I cannot say I thought so, but I preferred not to sign the bill, and did not do it.

Q. Where was there any more impropriety in your acting than there was in Colonel Gantt and Mr. Wright's acting, who were interested in the company?—A. The only difference I saw was that I was an officer of the company and they were its attorneys.

Q. They were interested in the stock?—A. Yes, sir; to the amount of their fees. I could have done it with perfect propriety, but I preferred not to do it.

Q. But you did appear before the Secretary of the Interior to get a hearing on that application?—A. I did make an argument before the Secretary of the Interior.

Q. You filed a brief?—A. Yes; I filed a brief.

Q. Had the impropriety ceased between the time this application was made and the time you were acting?—A. I was not then acting as an officer of the company, as I declared to the Secretary of the Interior. Our company is not known in that record.

Q. Who did you appear for?—A. I appeared for the citizens of Memphis, as stated in my brief.

Q. You appeared before the Secretary of the Interior under this application, acted as counsel, filed a brief, and argued the case?—A. Yes.

Q. Who retained you for that purpose?—A. Nobody.

Q. Who paid you?—A. Nobody; I never got a cent.

Q. Whom did you appear for?—A. For Colonel Gantt, Mr. Beckwith, Mr. Huntington, and Mr. Van Benthuyzen.

Q. You appeared as counsel for counsel?—A. No, sir; I appeared for one of the presidents and the stockholders.

Q. Of what?—A. Both of them of the National Improved Telephone Company. I would have appeared for our company if I had thought it was necessary.

Q. Do you mean that you went before the Secretary of the Interior and appeared for the National Improved Company?—A. No, sir; I did not say so.

Q. But you went there and appeared for Mr. Beckwith?—A. No, sir; I did not say so, either.

Q. You appeared for Colonel Gantt?—A. I appeared for Colonel Gantt, Mr. Beckwith, Mr. Van Benthuyzen, and Mr. Huntington.

Q. Did they retain you?—A. No, sir; nobody retained me.

Q. Did you go and argue it for the love of it?—A. No, sir; not altogether. I will give you the reasons that I had.

Q. Answer my question. Did you go because you were to receive pay as counsel?—A. Let me give the reasons.

Q. Well, give them in your own way.—A. I came on here after this application had been made. First, it was suspended by order of the president, and there was a good deal said in the newspapers about it, and I came in for a pretty large share of it from my friend over there [referring to Mr. Crawford, of the New York World]. I determined then that I would appear and present the law of the case. I had been charged with the responsibility of bringing it, and I intended to come here and argue it as a law-

yer. I did come on here. When I got here I found there was no lawyer here at all representing any of the original petitioners. Mr. Beckwith had been here, and I supposed he was going to attend to it, but he left on the very morning that the inquiry was commenced, and there was nobody here, except General Bradley T. Johnson, representing his own company, and Mr. Humphreys, representing the Globe Company, and I did not desire the matter should be presented in the light those gentlemen proposed to present it.

I went before the Secretary of the Interior the morning the inquiry was commenced, and when I was sitting there General Bradley T. Johnson opened the argument, presented his petition, and Mr. Humphreys, representing the Globe Telephone Company, presented a petition of his company, and somebody represented the petition of Cushing and others and a resolution of the Board of Trade of New York. Mr. Lamar asked who represented the Pan-Electric Company, and General Johnson said Mr. Young. I rose and said, "No, I am not here to represent the Pan-Electric Company. The Pan-Electric Company has no representative here. I am here to represent these petitioners, and I will speak for them." Then the hearing was adjourned.

Mr. Van Benthuyssen was here, and I discovered that all the Bell attorneys were here, and all these elaborate briefs were prepared, and I determined to make a brief on it, but I was not ambitious to oppose those gentlemen in a legal conflict, and so I said to Mr. Van Benthuyssen, "You had better telegraph to Mr. Beckwith to come back and meet these gentlemen in argument." I also myself telegraphed to Colonel Gantt, one of the most eminent lawyers of the South, who had been retained by us, asking him to come on, but he answered that he could not come at that time. I found that the investigation was going to be postponed for some days, and I telegraphed or wrote him, if he could, to come, and he did come, and Mr. Beckwith also returned. When they both got here I was willing to leave the matter in their hands, and I then declined to make any argument at all. Mr. Storrow made a very ingenuous argument on the law of the case—

Q. Is all that necessary?—A. I am giving my reasons, and I hope the committee will allow me to do it.

Q. You have traveled all over God's creation.—A. And perhaps I have told a great deal that you do not want to hear.

Q. I want anything that is relevant, but I want a direct answer.—A. Well, I have a right to state that. I met that argument of the lawyers in that case that you are stating. I found that Mr. Storrow made a very ingenuous argument, and I thought it ought to be answered, so I prepared a brief which I will take great pleasure in giving to you, as I see you have his to file with the committee. Now, that is the part I took in the matter. I wanted the suit brought, as it had been started, but I did not want it brought in the way it was, and made that argument for the purpose of having it brought in the proper way.

Q. Is what you have said true, that you acted as counsel there for Messrs. Gantt and Wright?—A. I state nothing but what is true.

Q. For whom did you act as attorney?—A. For Colonel Gantt, Mr. Van Benthuyssen, Mr. Huntington, and the other man who signed that petition. I would have acted for my company if it had been necessary.

Q. Colonel Gantt made an argument himself?—A. Yes, sir; and a very good one.

Q. Did you think you were acting for him when he made an argument of his own?—A. I appeared there for the petitioners in that petition, and he was one of them.

Q. Did not Colonel Gantt act for your Pan-Electric Company?—A. I telegraphed him to come and make the argument.

Q. He was an attorney of your company?—A. No, sir; I cannot say he was representing our company in that argument.

Q. Whom was he representing?—A. You will find it printed there. They asked him to make the argument, and I asked him to come here.

Q. Who employed you to make the argument?—A. Nobody; I employed myself. Not a member of my company said a word to me about it.

Q. Did you do it because of your interest in the Pan-Electric Company or your regard for the public good?—A. I made it because I was interested in the result of that suit, and I had a right to make it.

Q. Was it because of your interest in the Pan Electric Company or your regard for the public good?—A. I did it for both, unfortunately. I did not intend to benefit the public so much as to benefit my company, but the way it turned out, as I am afraid, it benefited the public more than the company.

Q. Your views of propriety satisfied you?—A. Yes, sir; my views of propriety satisfied me. I had a perfect right to appear there, and I have no apology to make to you or anybody else for having done it.

Q. Did you know before Mr. McCorry sent in that application that you and Colonel Gantt, Wright, and Beckwith were to be requested by him to act as counsel?—A. I do not know that I knew it, but I am satisfied that some of them asked him about it, and I would have asked him if I had thought of it.

Q. Hadn't you interest enough in it to ask him?—A. Oh, there were able attorneys enough there.

Q. Please turn to page 3 of the record of minutes that I referred to yesterday.—A. You seem to know a great deal about it. Shall I read what I find here?

Mr. RANNEY. Yes.

The witness read as follows:

"Mr. Looney further reported that he had conferred with Messrs. Gantt and Wright, leading attorneys of Memphis, in reference to obtaining their professional services in the defense of any suit which might be brought against the Memphis company, and that they were willing to engage in the matter for a small fee in money and a certain amount of the capital stock of the company, to be agreed upon hereafter between them and the company, Mr. Looney giving it as his opinion that the amount of stock should be \$20,000 for each of the gentlemen mentioned.

"On motion of Isham G. Harris, Mr. Looney was directed to send telephones to the Memphis Company as agreed by him—that is, twenty-five at a time, until suit is brought by the Bell Company or until it is otherwise ordered by the directors of this company, and Mr. Young was also directed to employ Gantt and Wright to assist in defending the litigation referred to, paying them not exceeding \$250 each in money and not exceeding \$10,000 in the capital stock of the company.

"On motion the meeting adjourned subject to the call of the president.

"J. E. JOHNSTON.

"CASEY YOUNG,
"Secretary."

By the CHAIRMAN:

Q. What is the date of that?—A. That is dated Monday, January, 12, 1885.

By Mr. RANNEY:

Q. On one of those old books I saw that stock allotted to them. This book does not seem to be the one. It is the one in which the dividends were declared.—A. I never paid them any dividends, I know.

Mr. OATES. It is the book on which he says the dividends were entered.

Mr. RANNEY. It is on the book where I think I saw Mr. Marble's name as receiving dividends.

The WITNESS. That is the old stock. I will state that Mr. Marble had no stock in this. (Looking at the book.) Yes, I find it is here.

Q. Please read the entry.—A. (Reading.) "To two hundred shares capital stock transferred to him from the company stock, for legal services, twenty thousand dollars."

Q. What is the date of that?—A. This is April 29, 1885.

Q. That is Colonel Gantt's, is it? Now take Mr. Wright's.—A. I suppose that is the same. The reason I did not put it on the other book is that they had a disagreement about the amount afterwards.

Q. They wanted more?—A. Yes, sir. I see the entry is the same for Mr. Wright here. It is on page 198; the same date, April 29, 1885.

Q. Is it the same entry as to him?—A. Yes; the same entry to Wright as to Gantt. We agreed that we ought to give them more, but we had not fixed the price.

Q. So that they were not only the paid counsel in this case of the Pan-Electric Company, but likewise interested in the stock itself?—A. Yes; to the extent of their votes.

Q. Did you communicate that fact to Mr. McCorry?—A. I did not. I do not know whether he knew it or not. I had forgotten altogether that it was on the book.

Q. Didn't it occur to you when you were getting a suit brought in behalf of the public that it would look a little strange, and that the hired attorneys of all who were interested in the stock itself of particular companies were improper men to manage a suit on behalf of the Government?—A. No, sir; I had seventeen precedents before me; I did not think it was improper, for the Attorney-General of the United States had been doing it so long I thought it was proper.

Q. You do not think he really knew the relation of these men?—A. I do not know. I would have told him if I had thought it was necessary.

Q. Was the meeting of yourself, Mr. Beckwith, and Mr. Van Benthuyzen and yourself at Memphis accidental?—A. No, sir.

Q. Was it by an arrangement?—A. Yes.

Q. Was it by an arrangement by which you were to get the district attorney to bring the suit?—A. Yes, sir; we came for that purpose. It had not been decided when they came there what district attorney we would get. We decided that after they did come.

Q. By that arrangement you agreed on the district attorney of Western Tennessee?—

A. Of course. We would not have gone to him if we had not; but that was not the purpose when they came there.

Q. That was where you lived?—A. Yes, sir. The purpose when they came there was to go to New Orleans.

Q. What did they come up to Memphis for then?—A. They came to test certain instruments I had at Memphis.

Q. Did not Mr. Beckwith bring his models there to show Mr. McCorry the fraud?—A. Yes, sir; he brought them from Pittsburgh.

Q. To show the fraud, as you allege it?—A. Yes, sir; that was one object, and we showed it conclusively, too.

Q. How long a time did Mr. McCorry have to examine the question as to the fraud?—A. I suppose he must have been at it a week or ten days.

Q. Did he hear anybody on the subject except you, Mr. Beckwith, and Mr. Van Benthuyzen?—A. I do not know how many he heard. The only argument I heard made to him was that made by Mr. Wright.

Q. And that was a one-sided examination, wasn't it?—A. Yes, sir. There was nobody else present. It was just like all such cases had been made.

Q. It was a grand jury, an *ex parte* matter?—A. Yes, sir; just the same as the one you are conducting here.

Q. Where was the agreement made to meet at Memphis?—A. I don't recollect whether it was made here or whether it was made by a correspondence afterwards.

Q. Was it not made before you left Washington?—A. I cannot say.

Q. Will you say that it was not?—A. No; I do not say that it was or was not.

Q. Did you meet afterwards to make the arrangement before you met at Memphis?—A. No, sir; nowhere else. We had not met before we met at Memphis.

Q. Was it arranged by correspondence?—A. I do not remember whether it was arranged here or by correspondence.

Q. Do you remember any correspondence in relation to having this meeting at Memphis after you left Washington?—A. I do not remember any; we may have had; there may have been an arrangement made here.

Q. According to your best recollection?—A. I can't remember anything about it. You can put it as having taken place here if you want to.

Q. I want the fact according to your best recollection.—A. I have no recollection about it.

Q. According to your own best recollection, was not the matter talked of in your interviews here, between the 30th of July and the 7th of August, 1885?—A. Yes; my recollection is we talked about the whole matter.

Q. About meeting at Memphis?—A. I don't remember talking about meeting at Memphis. Mr. Van Benthuyzen wanted to bring it at New Orleans.

Q. You had then arranged that you would have another proceeding by the Government?—A. Yes; we had made up our minds we would have another suit if we could get it.

Q. And made arrangements then in Washington that you would have a suit by the Government?—A. Yes.

Q. How did you expect to arrange it if the Attorney-General said he would not do it?—A. Mr. Van Benthuyzen was the leader in the matter. I was opposed to the business, but he was strong-willed, and said he would have it done even if he had to go to the White House and see Mr. Cleveland and have it ordered. He said he was going to have it done, whatever Mr. Garland's relations were to our company or any other company; that it was his right.

Q. That you arranged here in Washington?—A. It may have been here; I do not recollect.

Q. If you do not recollect any subsequent correspondence on the subject, is it not your best recollection that it was arranged at Washington that you were to meet at Memphis?—A. No, sir; the recollection I have about it is that we talked about meeting somewhere. I think it was to be New Orleans when we left here, but it was changed for some cause to Memphis; I think because my models were there, and his were to be brought from Pittsburgh.

Q. The application of Mr. Van Benthuyzen in the Department for the bringing of the suit, it seems by the record, had been abandoned.—A. Yes, sir.

Q. And you had arranged to make a new application?—A. We had arranged to ask that the suit be brought at our relation, and let us pay the expenses.

By Mr. OATES:

Q. What do you mean by the word "arranged"?—A. We had a conversation, and agreed that we would take that course.

By Mr. RANNEY:

Q. You had agreed or arranged that you would start a new proceeding?—A. Yes; I advised it myself, and took all the responsibility of it.

Q. And that the one Mr. Van Benthuyzen had already started should be abandoned?—A. No, sir; I do not remember that he had taken it out. Mr. Von Briesen advised it and I advised it, but I did not know that he had done it until afterwards.

Q. You had talked about starting another proceeding. Why was it then that you did not insist upon going on with the application already made to the Attorney-General, but arranged for a new one?—A. Because I did not think it was the kind of a suit we wanted. I did not think the suit brought under that bill would accomplish anything for us. It would for the public.

Q. There had not been any bill offered then?—A. No, sir; but I supposed a law had been passed by Congress allowing the Attorney-General to annul a patent.

Q. Do you say, as a lawyer, that it would make any difference if the law, as it then stood, authorized the bringing of such a suit without the act of Congress, whether there had been any law passed by Congress or not?—A. In my judgment it would not.

Q. Did it make any difference because Mr. Van Benthuyzen had put in his paper a reference to a law passed by Congress, if there was an existing law already by which it could be done?—A. I do not understand your question.

Q. Mr. Van Benthuyzen had applied to have the Government bring suit, and had referred to the act of Congress under which it was to be brought. That application although it referred to an act of Congress under which it could have been brought, do you say it would not have been just as competent for the Attorney-General under that application to have brought suit under the existing law independent of the act of Congress, as it would to bring it under the act of Congress? If the law authorized it, does it make any difference whether it was by existing law or a subsequent act of Congress?—A. I think he had the authority without the law of Congress.

Q. Then what was the occasion of withdrawing Mr. Van Benthuyzen's application?—A. Because I advised to bring a different kind of suit; to bring a suit at our relation.

Q. His application did not confine him to that, did it?—A. No, sir; and that is the reason I consented it should be withdrawn.

Q. The application to Mr. McCorry was not to bring it on your relation, was it?—I did not write that, and do not know; I tried to get him to do it on our relation, and he would not do it; he said we fellows might claim to do the very same thing that the Bell people wanted, and he would not do it.

Q. The application of Mr. Van Benthuyzen did not say whether it was on the relation of anybody, whether it should be brought on the part of the Government to set aside the Bell patents on account of alleged fraud?—A. I do not remember how the first application was.

Q. I want you to tell me what difficulty there was under Mr. Van Benthuyzen's application in the Government's bringing that suit under the law?—A. I shall be very happy to show you.

Q. If you can show what there was under Mr. Van Benthuyzen's application, if they had seen fit to have the Attorney-General bring a suit in the name of the United States to annul their patent either absolutely in behalf of the whole United States, or on the relation of anybody, I wish you would do so.—A. If you will furnish me that bill, I will be able to enlighten you.

Q. The bill had not been brought.—A. I speak of the bill before Congress.

Q. I speak of the bill before Congress, too.—A. You do not understand what you are talking about.

Q. Yes, I understand it.—A. The argument you are making was made by the Bell company half a dozen times.

Q. What difficulty was there under the Van Benthuyzen application in bringing that suit under the authority of the United States to annul the Bell patent?—A. If you will furnish me the bill that passed Congress I will tell you what the difficulty was.

Q. I haven't it. That is not a law; it is a bill proposed.—A. I supposed it was a law, and I went on that theory. I will try to explain the law in this case, if you will listen to me. I have explained it to Mr. Storrow several times.

Q. In the first place, is not that application of Mr. Van Benthuyzen's a general one, without saying that it is to be brought on the relation of any one or not?—A. Yes; it is.

Q. I ask if the Government could not have brought suit on that proceeding on the existing law, irrespective of the statute?—A. No, sir; I think not.

Mr. EDEN. This discussion between Mr. Ranney and the witness in reference to the law is exceedingly interesting, and, if I had nothing else to do, I would like to sit here and hear it all the season. But it is not an investigation of any fact that we are called on to investigate, and while I have no particular objection to it I think we should all try and save time.

Mr. RANNEY. It relates to the movements of the parties and their action. However, I do not care about the dissertation of Colonel Young on the law, and I think your suggestion is a good one. So, without the law, I will let it pass. (To the wit-

ness.) But for some reason or other your associates thought it best to abandon the Van Benthuyssen application and make a new one?

The WITNESS. I thought so.

Q. And for some reason or other the Pan-Electric Telephone Company did not join in your application?—A. No; they did not join in the subsequent application.

Q. And yet for some reason or other the attorneys of the Pan-Electric Company and the attorney of the National Improved Company were the only ones that appeared before Secretary Lamar to urge the granting of this application of Mr. McCorry's?

Mr. HALL. I submit that that is more of an argument than it is a question.

The WITNESS. I am willing to answer it.

Q. Was there any other lawyer than those you have named who appeared there to argue it?—A. Yes, sir; Mr. Humphreys appeared to argue on behalf of the Globe Company, General Bradley T. Johnson appeared for the Washington Telephone Company, and Mr. Beckwith made an application in behalf of the Meucci application of New York.

Q. As a matter of fact nobody ostensibly appeared for the Pan-Electric Company?—A. No, sir.

Q. Was that not for the reason that you wanted to get it before the Attorney-General and the Department of Justice as a proceeding in behalf of those companies in which Attorney-General Garland had no interest?—A. Certainly it was, of course.

Q. So that he could act?—A. No; we knew that he would not act, but we did not care to keep up this newspaper clamor against us.

Q. In other words you wanted this new proceeding to be instituted by somebody other than those in behalf of the companies in which the Attorney-General was interested. Was not that the object of it?—A. Certainly, that was one of the objects. I think I had a perfect right to do it.

Q. And you did not then disclose to the Department of Justice the fact of the agreement that you had made between the National Improved Company and the Pan-Electric Company?—A. No, sir; I did not think it was necessary.

Q. You did not disclose it?—A. No, sir.

Q. But if the Attorney-General was going to act under the assumption that he was acting for other companies or at the instance of other companies than the Pan-Electric Company, don't you think it would have been proper to have communicated to him any agreement that had been made between the National Improved Company and the Pan-Electric Company?—A. I knew perfectly well that he was not going to act.

Q. Why, then, were you anxious to have it so presented to him that on its face it would appear to be on behalf of other parties than the Pan-Electric Company?—A. I did not care about it; I did not have any anxiety.

Q. You thought it was proper?—A. Yes, sir.

Q. Did you think it was proper; didn't you deem it proper that he should know the fact of the combination made by you?—A. No, sir; no more than you. He was not going to act on it.

Q. Suppose the Attorney-General was going to institute a suit on behalf of the Government, for the National Improved Company on the supposition that he was acting for a company in which he had no interest; don't you think he should be disabused of that error and be informed of the fact that there was a combination between that company and yours?—A. No, sir; I do not think there was any impropriety—

Mr. HALL. This seems to be a sort of debating society on the question of ethics.

Mr. OATES. I think we shall get through the examination much sooner if the questions are confined to the matters at issue.

Mr. RANNEY. If you mean that that is not an issue, we will settle it here. We are directed to inquire about all the facts and circumstances connected with the bringing of that suit.

Mr. OATES. If you can show me anything in the resolution where we are authorized to inquire as to a mere matter of taste, then I will agree with you.

Mr. RANNEY. It is a matter that pertains to the motives of this witness and the propriety of his motives. I say if they got the Attorney-General to bring that suit, or applied to have the Attorney-General bring that suit ostensibly on the application of the National Improved Company and others, when in fact the moving parties were the Pan-Electric Company, and when in fact there had been a combination between the Pan-Electric Company and the National Improved Company, it is a fraud on the Attorney-General.

The WITNESS. I am not on trial for fraud.

Mr. RANNEY. It is a competent question, and I want you to answer it.

The WITNESS. I should like to finish my answer. I was interrupted.

Mr. RANNEY. You can answer anything more that you desire.

The WITNESS. You asked me a question about my ideas of propriety, respecting my personal actions. Now, if I am on trial for perpetrating a fraud against the Attorney-General, I am ready to answer it. But answering your question and going further, I

do not think there would have been any impropriety in the world in my asking him to bring the suit myself, if I wanted him to do it; or that there was any necessity for my going and informing him that we were interested in it. Anybody had the right to make the application, and I had it equally with any other American citizen, and I would have done it if I had desired.

Mr. RANNEY. Are you through?

The WITNESS. Yes.

Q. Why is it, then, as you say there was no impropriety in the matter, that you kept the Pan-Electric Company out of that application?—A. Because I did not know but what there were captious people in the world, like you, who might indulge in unfriendly comment on it, and it was a matter for me to decide for myself.

Q. Is that all the answer you have to make?—A. Yes, sir, to that question. If you ask another, I will answer it.

Q. After Mr. McCorry sent in that request to the Attorney-General did you come to Washington?—A. I did.

Q. I want to ask you once more if you got any letters from Mr. Van Benthuyzen, or his counsel, Mr. Beckwith, written between the 7th of July, 1885, when the interview at Washington terminated, and the 31st of August, 1885?—A. I do not remember, but I think it highly probable that I did receive letters.

Q. How many?—A. I could not tell you. I did have some correspondence about it.

Q. With Mr. Van Benthuyzen or his counsel?—A. I never wrote to his counsel, Mr. Beckwith; I wrote to Mr. Van Benthuyzen.

Q. How many letters did you receive?—A. I do not remember. I remember writing one letter to Mr. Huntington, and receiving one from him. I do not remember how many letters I wrote to Mr. Van Benthuyzen, probably several; and I think I can get copies of them.

Q. What letters did he write you?—A. I think I can get you copies of them.

Q. I had rather have the originals.—A. I have not got them.

Q. Where are the originals?—A. I don't know; I was traveling about when I got them, and I did not preserve them; they were not of sufficient importance.

Q. They related to this suit?—A. Yes, sir; some of them did, and some to the consolidation.

Q. And you tell this committee that you have not kept one of them?—A. I have not kept one of them; I do not know that I have any of them.

Q. You say that you can get copies of them?—A. I think Mr. Van Benthuyzen kept copies of them. He is in the habit of keeping copies of his correspondence, but I kept no copies.

Q. Mr. Huntington was connected with the National Improved Company, was he?—A. Yes; he was a stockholder.

Q. You were aware of the fact that that company presented likewise to Mr. McCorry, the United States district attorney, an application for this suit?—A. Yes, I knew all about it.

Mr. RANNEY. I desire to have put into the record at this point the memorial, signed by Mr. Van Benthuyzen and others, dated Memphis, Tenn., August 26, 1885, and addressed to Mr. McCorry, the district attorney. That was presented to Mr. McCorry on the 26th of August; and I desire to put the whole of it in.

The paper referred to is as follows:

MEMPHIS, TENN., August 26, 1885.

Hon. HENRY W. MCCORRY,

United States Attorney for the Western District of Tennessee:

SIR: We are in possession of information that we deem reliable, which, in our opinion, is sufficient to establish these propositions:

(1) That Alexander Graham Bell, the alleged inventor and patentee in the following letters patent of the United States, viz, letters patent No. 174,465, dated March 7, 1876, for alleged new and useful improvements in telegraphy, and letters patent No. 186,787, for an alleged improvement in electric telephones, was not the original and first inventor of the art of telephony, or of any substantial matter described or claimed in said letters patent.

(2) That the electric speaking telephone was known and used in the United States and Europe long prior to his alleged invention and discovery of the same.

(3) That he was cognizant of these facts; had witnessed the use of the electric speaking telephone, and had knowledge of the discovery thereof, before his alleged discovery and invention of the same. That he has no just or rightful claim to the discovery or invention of the broad art of electric telephony. That he is not the founder, or entitled to stand at the head of said art by reason of prior invention and discovery.

(4) That his oath to his application for letters-patent filed in the Patent Office, in patent No. 174,465, of date January 20, 1876, in which he claimed that he was the first and original inventor of the art, is and was false, in these particulars:

First. He did know that the said art was known before his alleged invention.

Second. He did know that it was used prior to his alleged discovery and invention of the same.

Third. He not only had such knowledge from reliable sources of information, but actually had seen it work and practiced as a known and existing art prior to his alleged invention and discovery of the same.

(5) If said Bell had not intentionally concealed, but had fully disclosed and set forth in his application and the oath thereto for such patent, all that he knew of said art as it existed prior to and at the time of his alleged invention and discovery of the same, such disclosure would have effectually defeated his said application for said patent, by furnishing conclusive evidence that the said art existed, and that the state thereof, as it existed, and the use thereof were known to said Bell prior to his alleged invention and discovery of the same.

(6) That, at most, the alleged discovery and invention of said Bell, as set forth in said application and patent, are an improvement on a well-known art, existing at the time of said alleged invention and discovery by said Bell, and the alleged improvement itself is valueless because not useful and not used even by those owning the said patent of the said Bell, but, on the contrary, wholly discarded as of no practical value.

(7) That what is called the Bell Telephone, and now in extensive use, consists of successive improvements upon the art as known long prior to the said Bell patent; and the said improvements themselves, on the said art, are the discoveries and inventions of others and not of said Bell, and not covered by said Bell patent. That the so-called discoveries and inventions of said Bell, set forth in said patent, constitute nothing that is new, useful, or valuable in the electric speaking telephone, nor are they, in fact, employed in the same.

Yet said patent has been artfully and successfully employed in such manner as to enable the great corporation now owning it to wrongfully establish and maintain a close monopoly of the broad art and business of supplying electric speaking telephones to all the citizens of the United States. The income thus wrongfully derived amounts to many millions per annum, to the great wrong and injury of the citizens of the United States generally, who are forced to pay exorbitant prices, and get therefor a telephonic service far inferior to that which would be furnished if the said monopoly were overthrown and free and fair competition allowed. This to the great detriment also of many worthy inventors and discoverers of improvements in said art, who hold letters patent for the same from the United States, but which are rendered valueless in the hands of these bona fide inventors and improvers by reason of the close and complete monopoly thus wrongfully set up and maintained under said patent.

(8) That no grant should be allowed to stand without inquiry as to its bona-fides and validity, when procured in flagrant disregard of law and established usage of the Patent Office; and such was the case with the Bell grant of March 7, 1876, as the following facts will show:

First. On the very day that said Bell filed his application for said grant (February 14, 1876), Elisha Gray filed a caveat for an electric speaking telephone, in which the principal design and devices were set forth with such clearness and fulness as to manifest beyond question the object of the caveat.

Second. By the positive command of the act of Congress on the subject this caveat should have been filed among the "confidential archives" of the Patent Office, and "preserved in secrecy," yet, in a few days thereafter, without the knowledge or consent of said Gray, the secrets of this caveat were made known to said Bell by an official in the Patent Office; and after said knowledge, and in view of the same, said Bell, on the 29th of February, 1876, made an important and material amendment to his said application.

Third. And within a few days, and whilst the contents of said caveat were still supposed to be held in the inviolable secrecy of the Patent Office, said Bell publicly claimed the very means and devices by which the said Gray caveat proposed to transmit articulate speech, and which means and devices were not specified, claimed, or described in the application of said Bell of February 14, 1876.

Fourth. The examiner of patents being of opinion that there was interference between the said Gray caveat and Bell application, in accordance with the practice of the Patent Office, in order that such proceedings might be had, touching the supposed interference, as the law provides in such cases, without the knowledge or consent of Gray, and in the interest of said Bell, said suspension was removed, and a grant issued without delay to said Bell. This could only be accomplished by over-riding and disregarding the established rule of the Patent Office, which forbade the counting of fractions of days; acts done on the same day were in sense of this rule done simultaneously. Yet, in this instance, said Bell, without the knowledge or consent of said Gray, was allowed the benefit of a fraction of a day upon the pretense of subserving the ends of justice. But nothing could be further from the truth, as the material matter was not whether one of these papers was filed a few hours before the other, but which was entitled to priority of discovery and invention in the interfering

matter of Gray, the caveator, or Bell, the applicant; and on the question the merit of priority was with said Gray.

(9) That Philip Reis, a learned German, who died in 1874, was the real author and inventor of the electric-speaking telephone. That everything done since that day has been by way of improving the art which he discovered, made known, and successfully employed.

Every essential principle contained in the electric speaking telephone of the present day is contained in the art as discovered and expressed by said Reis, in written description thereof, drawings, models, plates, and designs of the same, all of which were well known in Europe and in the United States prior to 1870. Yet, with unparalleled audacity and perseverance, those interested in said Bell patent assert that the said art, as discovered and expressed by said Reis, was inherently defective in principle. That it was incapable of sending and delivering speech, and that no amount of improvement in construction could by possibility make it do so. They procured a ruling from one of the inferior courts that the Reis conception of the art and his device for an electric speaking telephone were so defective in the principles thereof that a century of improvement in construction would not make it send and deliver speech as an electric speaking telephone. This decision has been followed by other inferior courts, not because it was right, but because it was made.

Upon the correctness of this ruling and the truth of the fundamental facts on which it rests depends the validity of the claim of said Bell to be the founder of the broad art, and that it is secured and covered by said Bell grants; because, passing by other objections to this claim, if that of Reis is good it anticipates Bell by many years and completely overthrows it. We have the proofs and means of conclusively demonstrating that this vital fact is adverse to the Bell claim, and directly contrary to the said judicial expression so procured in the interest of said Bell grant.

First. We can establish, by many credible witnesses, that the Reis electric speaking telephone successfully transmitted and delivered articulate speech on many occasions in the lifetime of said Reis.

Second. That it has done so since his death upon a great many occasions can be shown by a large number of credible and disinterested witnesses.

Third. We know the fact ourselves from actual tests which we witnessed.

Fourth. As conclusive and final, we herewith exhibit to you Reis instruments, made in strict conformity to the principles laid down by him, and beg that you test them for yourself, and know, as a fact beyond question or cavil, that they are capable electric speaking telephones, and that it is a grave error to assert that they are inherently defective in principle and incurably incapable of transmitting and delivering articulate speech, and that a century of mere improvements in construction could not make them do so. And, that there may be no room for mistake, and as the highest evidence we can furnish of our good faith, when you have tested these Reis instruments, we propose to leave them in your custody, to the end that, in open court, they may speak for themselves, and thus conclusively refute and forever silence the groundless charge that they are without capacity to receive, send, and deliver articulate speech as electric speaking telephones.

Fifth. We submit for a similar test, and to be used in the same way, what are known as the Vander Weyde instruments, which are mere improvements on the Reis art, and are capable of receiving and delivering articulate speech, antedating several years the invention and discoveries of said Bell. We propose to let them talk for themselves in open court, face to face with those who assert that they are mutes, and therefore cannot talk.

We also submit for your inspection, and to be used in evidence, the Pickering instrument, which is an improved Reis telephone, antedating the alleged Bell discoveries, and capable of transmitting and delivering articulate speech, as electric-speaking telephone, and which was known to said Bell prior to his alleged discovery and invention in the said art of telephony.

(10) That said Bell and mesne owners of said Bell grants have suppressed and endeavored to suppress and conceal important evidence of the actual state of the art, and which, if obtained and used against their claim, would show that said Bell was not the original and first inventor of said art, and that it was not a new art, but was well known at the time of his alleged discovery and invention.

(11) That while said letters-patent do not claim, in any specific phraseology, or form of words, in the specifications of the alleged discovery and invention of said Bell, the art of transmitting speech by the employment of electricity as an agency therein, and do not set up a claim to the art of telephony, yet said Bell and those claiming under him colorably use and employ the said patent of March 7, 1876, as covering and embracing said art, and as of giving and securing to them monopoly thereof.

Under this colorable claim, said Bell and those claiming under him are wrongfully usurping a franchise, in holding out and claiming that said Bell is the founder and original inventor of the broad art of transmitting articulate speech, in every mode in which electricity is employed as one of the agents of said transmission, and when

their pretense in this respect is contested they point to the fifth claim in said letters-patent as containing such grant and as securing to them art as new, and have obtained through some of the inferior courts the erroneous declaration that said claim is warranted by said letters-patent, to the great wrong and injury of the citizens of the United States.

(12) That, well knowing that he was not the founder of the art of transmitting speech by the electric speaking telephone, and also that the said letters patent of March 7, 1876, neither in the drawings, specifications, nor claims in said letters patent describes any apparatus or device by which articulate speech could be transmitted through the instrumentality of electricity as perfectly or as well as articulate speech had for years prior to his alleged invention been transmitted through the instrumentality of electricity, by the use of well-known pre-existing devices, methods, and apparatus; and feeling therefore insecure in the grant supposed to be contained in said letters patent, the said Bell sought to fortify himself in his wrongful claim and more completely secure to himself the monopoly contained in said letters patent, and, to further impose on the Government of the United States and the Patent Office, on or about the — January, 1877, made another application for a patent and grant to be issued to him of the letters patent No. 186,787, dated January 13, 1877, which said letters patent purport to be granted to him for the specific device and apparatus for transmitting articulate speech through the instrumentality of electricity. That at the time said Bell applied for and obtained said last-named letters patent, he well knew that every material and substantial part, portion, device, element, and combination of the apparatus and device described and set forth in the drawings and specifications of said last-named letters patent were not, nor any part thereof, the invention or discovery of the said Bell, but that the separate elements, considered either separately or combined, were taken bodily by him from well-known and pre-existing apparatus and devices and plans invented and contrived by others for the purpose of transmitting articulate speech by means of electricity, for a long time prior to his pretended invention, and in common use among scientific men and in institutions of public learning; and not content with thus wrongfully claiming for himself the apparatus, combination, and device of others, he, and those claiming under him, wrongfully used his said last-named letters patent to fortify and protect them in their monopoly for the transmission of articulate speech, claimed to have been granted to said Bell in said former patent, and he so framed the several claims in said last-named letters patent as on the face thereof to give him and his assignees the practical monopoly of well known and essential devices used and combined in all instruments for the transmission of articulate speech by electricity; and now those claiming under him hold on to both of said letters patent as not only giving them a monopoly of the broad art of transmitting articulate speech by electricity, but of all the essential parts of apparatus by which the transmission of speech by electricity can be effected, and is at the present time accomplished, basing the claim to a close and complete monopoly upon said letters patent.

(13) That said Alexander Graham Bell has, by conveyances duly recorded in the Patent Office, transferred his entire interest in said patents to a corporation called the American Bell Telephone Company, which is using the same fraudulently and oppressively, to the citizens of the United States. That said company charges exorbitant prices for inferior telephone service, to the exclusion of a cheaper and better service, which would be furnished by bona fide owners of improved devices and apparatus for said art and secured by letters patent of the United States, if not so excluded by said monopoly, to the great injury and damage of citizens of the United States.

(14) That said American Bell Telephone Company has stationed its agents and emissaries in all parts of the United States, with a view of purchasing all telephone devices and apparatus from the owners hereof, who are threatened in the event of any assertion of their rights, or in the event of using their own patented inventions, with expensive and harassing litigation, based upon said fraudulent Bell patent, and by these means said company has, in effect, rendered useless and valueless in the hands of honest owners, franchise, rights, and property, held by grant from the United States, and which, but for these practices, would not only be of great value to the owners, but to the citizens at large of the United States.

(15) Outside of the owners, paid agents, emissaries, and counsel of said monopoly there is a general and deep-seated conviction that said Bell was not the founder of the broad art of transmitting articulate speech through the instrumentality of electricity, and that the monopoly built upon that assumption is grossly oppressive and unjust to the citizens of the United States.

(16) In view of the importance of telephony in the transaction of business, its constantly-growing use as an instrument of commerce, the vast value of property rights and interest affected thereby, the general belief that said monopoly was wrongfully and unjustly obtained, and the conclusive evidence herein laid before you, that said belief is well founded, we respectfully submit, that it is of great concern to all the citizens of the United States that steps be at once set on foot looking to a prompt issue and determination, by judicial inquiry, in a suit brought by the United States

Government itself, to determine the validity and the extent and range of rights granted and secured, if any, by said Bell patent. If said patents have merits, then the owners themselves should be anxious for such a decisive test. If they have not, then, to the citizens at large of the United States, it is a question of the greatest concern that there be an early and authoritative determination to that effect.

We therefore respectfully invite your earnest attention to this communication and the inclosures, and request that you report on the same to the Department of Justice to the end that leave may be granted you to institute suit, in the proper form, in the name of the United States against said American Bell Telephone Company, or whoever may be found to be the owner of said two Bell patents, so that complete judicial inquiry may be made into the validity of each of them, and a determination, upon such inquiry, whether the said patents are effected by fraud and void on that account, or void for any other cause, and, also, whether they should be recalled and vacated; and that these questions be thus put at issue by the United States Government, and finally determined in its courts.

We have the honor to remain yours, very respectfully,

W. VAN BENTHUYSEN, *New Orleans, La.*

CHARLES P. HUNTINGTON, *Mississippi.*

J. R. BECKWITH, *New Orleans, La.*

GEORGE GANTT, *Memphis, Tenn.*

By Mr. RANNEY:

Q. Mr. George Gantt, of Memphis, Tenn., who signs that, was attorney to your company?—A. Yes, sir.

Q. I do not see that in the communication he says anything about the Pan-Electric Company?—A. No; he did not mention it.

Q. Or of his having a share or interest in it?—A. No, sir; he did not think it was necessary.

Q. No matter what he thought. I see that on October 17, 1885, at page 6 of the last record referred to, there is a communication addressed to the Hon. L. Q. C. Lamar, Secretary of the Interior, referring to these papers, signed John Goode, "Acting Attorney-General in this instance."

The CHAIRMAN. What is the date of that?

Mr. RANNEY. October 17, 1885.

Mr. HALL. Do you want that to go into the record?

Mr. RANNEY. I want that in the record.

Mr. HALL. That book has not been introduced in evidence, I believe.

Mr. RANNEY. I called the attention of the committee to the fact that I had a certified copy of it. I do not put in the whole book, but only that which is material. I said I would use this book instead of going to the Department and getting the certified copies of it.

DEPARTMENT OF JUSTICE,
Washington, D. C., October 17, 1885.

Hon. L. Q. C. LAMAR,
Secretary of the Interior:

SIR: I send you herewith a communication from H. W. McCorry, esq., United States attorney for the western district of Tennessee, renewing his application for permission to institute a suit in the name of the United States to test the validity of the Bell telephone patent. I send also for your examination several affidavits and other papers which accompany his letter. This Department desires to be furnished with such information touching the matter referred to as may be afforded by the records of the Interior Department, and also to be favored with any view which you may think proper to submit as to the propriety of granting said application. Please return the inclosed papers after you have examined them.

Very respectfully,

JOHN GOODE,
Acting Attorney-General in this instance.

Department of Interior. Received October 19, 1885.

Office of Commissioner of Patents. Received October 20, 1881.

Mr. RANNEY: I also desire to have put in at this point the letter of Mr. McCorry, United States district attorney for western Tennessee, dated August 31, 1885, addressed to Attorney-General Garland.

The letter is as follows:

OFFICE OF UNITED STATES ATTORNEY,
Jackson, Tenn., August 31, 1885.

Hon. A. H. GARLAND,
Attorney General, Washington, D. C.:

DEAR SIR: Col. George Gantt, of Memphis, and others, presented me an application in writing a few days since asking an examination of certain publications, affidavits,

&c., and also a personal inspection of certain telegraphic instruments which had previously been put in circuit in Memphis, and which are those known as the Reis inventions, and the same referred to in the affidavits accompanying.

The object of the application made to me was to obtain a report by myself to you as to the propriety of instituting a suit in the name of the United States to have the patents under which the Bell Telephone Company operate declared void, and vacated and recalled.

I examined the documents given me, and also made a personal inspection of the Reis instruments referred to. I heard the words over said instruments plainly and distinctly, and am fully satisfied that they are the true Reis instruments and inventions, and am sure if the papers submitted are true, and there is every reason to so believe, that Alexander Graham Bell was not the inventor of the transmission of articulate sound or spoken words over wires by means of electricity, and that such invention was that of Reis, a German, and made about 1862, and also that these facts were, and must have been known to said Bell when he applied for and obtained his patents.

There appears to have been irregularities attending the issuance of these patents, but my knowledge of the practice on this point is not such as to offer an opinion.

I am of the opinion that the patents were improvidently issued, that they were obtained by false suggestion and concealment, and that Bell was not entitled thereto under the law, and that the interest of the people of the United States demands their recall, if it can be done.

I have examined the authorities (cited by Colonel Gantt) upon the question of practice, and am of the opinion that letters-patent improvidently issued can be recalled, and that the proper proceeding to that end is by bill in equity, as was suggested, and I am impressed not only as to the propriety of instituting such proceedings, but believe it to be a duty.

I am assured that the parties specially pressing this matter will, if required, save the Government harmless against expense, but I do not think it proper to require such of them farther than the payment of fees to the counsel whom they desire associated with me in the case. I deem this the proper course, because the suit should be, in fact as well as in name, absolutely one by the Government, and without the power of any one to suggest that, having a pecuniary interest, &c., they should be heard specially in its management, for it might happen that such interest could be adjusted by contract so that it would become desirable on the part of such persons to dismiss or permit the suit to fail, which should not be.

I caused the Reis instruments which were shown me, and over which I heard conversations, to be put in the hands of the marshal and under my control, so as to protect the Government in case of any compromise between interested parties, and for the same reason I shall keep control of all documents and affidavits, &c.

I inclose the papers submitted to me for your inspection and also a memorandum of the authorities.

I ask that Hon. Casey Young, Col. George Gantt and General Luke E. Wright, of Memphis, and Col. J. R. Beckwith, of New Orleans, be permitted to appear as associate counsel without expense to the Government, and that you will direct the commencement of proceedings.

Very respectfully,

H. W. McCORRY,
United States District Attorney for West Tennessee.

Memo. of Authorities.—14 Wall., 434. 18 Fed. Rep., 22 Fed. Rep., 9 Fed. Rep., 2 Wall., 525. I have not the Federal Reporters at hand to give the pages, having examined them in Memphis.

By Mr. RANNEY:

Q. Mr. McCorry sent that communication on the 31st of August to Washington?—A. Yes, sir; he did.

Q. You knew of the fact, or heard of it, that the district attorney of Memphis, Mr. McCorry, had sent that communication to Washington, did you not?—A. Yes; I knew it.

Q. You knew it at the time?—A. Yes, sir.

Q. You knew it was to go?—A. Yes, sir.

Q. Did you see it before it went?—A. I think I did. I did not prepare it, but I think I probably read it.

Q. How soon did you come to Washington after that?—A. I came immediately.

Q. Did you bring it?—A. No, sir; I did not.

Q. Who did?—A. I don't know anything about that.

Q. On what day did you come?—A. It appears from a memorandum book I have here that I got here on the 2d of September.

Q. This was signed on the 31st of August by Mr. McCorry. If it had been sent by mail, how long would it have taken for it to reach here?—A. About two days.

Q. Where did you stop when you reached here?—A. I stopped at Wormley's, I see from this book here.

Q. Whom did you meet here?—A. I met a great many people. Mr. Huntington came with me.

Q. Did you start together?—A. Yes, sir.

Q. From where?—A. From Memphis.

Q. Was Mr. Van Benthuyzen there?—A. I think he was.

Q. Did he come with you?—A. No, sir.

Q. Did Mr. Beckwith come with you?—A. No, sir.

Q. Was he there?—A. Yes, sir.

Q. Did he come with you?—A. No, sir.

Q. Was he at Memphis?—A. Yes, sir.

Q. You and Mr. Huntington, representing the National Improved Company, came directly to Washington?—A. Yes, sir.

Q. Whom did you come representing?—A. I came representing myself. I came to see about this very thing.

Q. You came to see about this very thing with Mr. Huntington?—A. Yes; but I want to explain my answer.

Q. And you stopped at Wormley's?—A. Yes, sir. I want to explain my answer. I came here for that purpose. I knew this had been sent on, and I was very anxious if the suit should be brought at all that it should be brought in the way I intended, and I intended to use my influence to have it brought in that way.

Q. Brought on the relation of somebody, you mean?—A. Yes, sir. Mr. Van Benthuyzen wanted to come, and I told him not to do so. He is a man of some infirmities of temper, and his purpose was to go to the President, and I advised him not to do it. I wrote the letter, however, that was to be delivered to the President, but on my advice Mr. Huntington came instead of Mr. Van Benthuyzen. At that time we supposed Mr. Garland was here. We knew he had refused to take any action in regard to it, and we intended to present the paper to him, and if he refused to act, to go to President Cleveland and lay the matter before him. That was the purpose in coming.

Q. Did you bring the letter with you that you had written to the President?—A. Yes; I had it in my pocket at the time. I intended to go with Mr. Huntington to the White House and lay it before the President.

Q. And were you going to have it brought on the relation?—A. I was going to try to do it.

Q. On the relation of whom?—A. Well, perhaps our own or the National Improved or some of the other companies. I do not know that I had my mind made up about it.

Q. Did you come here with the purpose of having it brought on the relation of the Pan-Electric Company?—A. I don't know whether it was the Pan-Electric Company or the National Improved Company, or both. I thought I had a perfect right to do either.

Q. But you came here in view of this communication of Mr. McCorry's?—A. Yes, sir; I knew it had been sent here.

Q. And you meant to get here about the time it did?—A. Yes; I started the moment I knew it.

Q. Did you intend to have it brought on the relation of the Pan-Electric Company?—A. Perhaps I did.

Q. If you did, why didn't you apply to the district attorney to have it brought?—A. I did; but he would not do it.

Q. You knew his communication did not recommend that?—A. No, sir; I never saw it, but he told me he would not do it, and he gave as his reason for that that if it was brought at all it should be brought in the interest of the people and not in the interest of a company; and he said, "If I do it, they will charge the same thing you do against the Bell Company, that it is a collusive suit."

Q. When you got here you met Senator Harris?—A. I saw him afterwards. I did not meet him with Mr. Huntington.

Q. How soon did you meet him?—A. I think the next day.

Q. Here in Washington?—A. Yes, sir.

Q. Did you meet General Johnston?—A. No, I did not see General Johnston.

Q. Was General Atkins here?—A. No, I did not see him.

Q. Or Colonel Gantt?—A. No.

Q. Was Senator Harris stopping here at that time or was he sent for?—A. He was here.

Q. Had you sent for him to meet you?—A. I don't remember whether I sent for him or went to his room.

Q. What was the next step you took?—A. I went to the Department of Justice and saw Mr. Goode.

Q. On what day?—A. It was very soon after I got here. I do not remember the date.

Q. See if you cannot fix the date.—A. It was the next day, I think, after I got here.

Q. Did you go alone, or was somebody with you?—A. Senator Harris went with me the first time I went.

Q. You and Senator Harris went to the Department of Justice?—A. Yes, sir.

Q. Had you any appointment?—A. I think I went to his house and asked him to go with me.

Q. Was not Attorney-General Garland there?—A. No.

Q. Was he not in town?—A. No.

Q. Was he in town at the second visit?—A. I cannot say he was not in town, but that was my understanding.

Q. You went to the Department of Justice and saw Mr. Goode?—A. Yes, sir; we went and saw him about this very business.

Q. Had you been directed to see Mr. Goode before that?—A. No; I went on my own motion.

Q. Why did you go and see him?—A. Because Attorney-General Garland was out of town.

Q. If the Attorney-General had been here you would have gone right to him?—A. Yes, I would.

Q. How long an interview did you have with Mr. Goode?—A. It lasted about two minutes.

Q. Do you know whether he knew anything of this matter until that time?—A. I have no idea that he did. He did not say anything about it.

Q. Did you go into the facts about it?—A. No, sir; I did not stay two minutes. I just asked if the papers had come.

Q. Did you see him again?—A. Yes, I did.

Q. When?—A. I think it was the next day or the day after.

Q. What occurred then?—A. I asked him if the papers had come and he told me they had.

Q. Didn't you ask him the first day if the papers had come?—A. Yes, I did. On the first day I did ask him if the papers had come.

Q. Did you say "those" papers?—A. Wait until I answer the question. I went there the first day and told him what papers they were, and asked him if they had arrived, and my recollection is that he said they had not, and sent out while I was there for them. I left him then. The next morning or the day after I went back again by myself, and I saw the papers lying on the table, and he said, "I am writing a letter to Mr. McCorry now," and I turned around and walked out. I went there for the purpose of insisting on his bringing this suit in the way I wanted it brought, but on reflection I thought I would not do so, and I walked out, and that was the only interview I had with him about it.

Q. I will ask you whether you said to him, "Have those papers come?" Is that what you said?—A. Yes; I explained what papers they were.

Q. What did you say to him about what papers they were?—A. I cannot remember my exact phraseology, but I presume I used the language necessary to convey my meaning, and designated those papers so that he would understand it.

Q. Did you understand that he knew that any such papers were coming?—A. No, sir; I knew that he did not know it. When I was here before he had gone to the Pacific Coast.

Q. Had he any information on the subject before that?—A. None that I know of.

Q. When you went in the next day, what occurred?—A. I asked him then if he had decided to do this, and he said, "I am writing a letter to Mr. McCorry now"; and I saw the papers lying on the table. That is about all that occurred.

Q. Did he tell you what he was writing?—A. I do not think he did—yes, I believe he did. I think he said, "I am directing Mr. McCorry to bring this suit."

Q. He did, right off?—A. Yes, I think so.

Q. And he was writing then?—A. Yes, sir; he was writing.

Q. He had not got them, perhaps, the first day?—A. Oh, yes. I told you that he sent for them—sent out by some clerk for them.

Q. And right off, the next day, he was writing him to bring the suit?—A. Yes, sir.

Q. He had had only twenty-four hours to examine?—A. I am not aware that he had any other time. He is a pretty good lawyer, and perhaps he may have examined the law of the question before I had.

Q. Had he anything before him except Mr. McCorry's statement?—A. Yes; he had Mr. Gantt's brief.

Q. Did Mr. Gantt make a brief for him?—A. Yes, sir.

Q. When did he do that?—A. It was sent up with the papers by Mr. McCorry himself.

Q. The next day what was done?—A. Nothing; I just left there.

Q. Did you go right back to Memphis?—A. I do not remember how long it was; I cannot tell you the date.

Q. Did he say anything at that time?—A. Let me answer one question at a time. Let me tell you when I went back to Memphis. I see by an entry in this memorandum book that I got my ticket to Memphis on the 5th of September.

Q. When did you arrive at Memphis?—A. I suppose I arrived the next day; it takes two days to go.

Q. Did you send any notice to Memphis that it was to be done?—A. I think I wrote Colonel Gantt.

Q. Did you say anything to Colonel Gantt about having it brought on the relation of anybody?—A. No, I did not.

Q. Did you go to the President?—A. No, sir; it was not necessary; the suit had been ordered; I would have gone. I intended to have the suit brought, if that is what you want to get at.

Q. Did you inform any one before you went back that the suit was to be brought?—A. I do not remember; possibly I did.

Q. Who did you write?—A. I do not remember. I may have said something about it.

Q. Did you see Dr. Rogers and his son at that time before you left for Memphis?—A. I do not remember; probably I did.

Q. What did you talk with them about?—A. There is no use trying to tell that. I think it probable I saw them, and that is all I can say.

Q. What conversation did you have with them during that interval while you were here in Washington?—A. If I had any on that subject I expect I told them that the suit had been ordered.

Q. I don't want you to say "If you had any." Won't you say whether you did or not?—A. I have just told you that I do not remember having any conversation with them. Now what do you want?

Q. I do not want anything but the truth.—A. That is all you will get from me.

Q. Try to remember whether you did have any interview with them.—A. I cannot remember whether I did or not.

Q. You will not swear that you did or did not?—A. No, I will not.

Q. When was that interview that has been spoken of where the son was invited to a conference at the Ebbitt House where the father was not invited?—A. That was on the 30th of July, the same time when I was here. I wanted him to come down and talk about a consolidation, and told him about the terms proposed.

Q. You had an interview on the 30th of July with Mr. Van Benthuyzen when you invited the son and not the father?—A. That was on the 31st, I think.

Q. What was that interview?—A. I have stated it two or three times. I went to his house and saw Harry, as I recollect, about getting a patent for a receiver that he had an application for, and while I was there we talked about this matter, and the conversation occurred as I stated. We talked about the Government suit, about the letter that Dr. Rogers had written to the Attorney-General, and about the letter that Mr. Van Benthuyzen had written to him, and talked generally about it, and the conversation that I remember occurred just as I have stated it.

Q. Are you speaking now of a conversation with the Rogerses?—A. That is the one you asked about, is it not?

Q. What was that conference at which the son was invited and not the father?—A. That was about the 31st of July, in reference to the consolidation of these two companies.

Q. Was that the time that Harry was invited to meet Mr. Van Benthuyzen?—A. He was never invited to meet him at all that I know of.

Q. Did he meet him then at that time at the interview at which the father was not invited and the son was?—A. No, I do not think he was there that day. Neither one of them.

Q. But one was invited and the other not?—A. Oh, I told Harry Rogers that Mr. Huntington had some unfriendly feeling towards his father in consequence of a quarrel that he had had. The doctor is a little irascible sometimes.

Q. I alluded to that to identify the interview at the Ebbitt House.—A. Harry Rogers did not come there.

Q. Who was present at that interview?—A. Colonel Gantt, Mr. Huntington, Mr. Van Benthuyzen, and myself.

Q. Was not Senator Harris there?—A. He was only there once, and while he was there not a word was said about it that I remember.

By Mr. HALL:

Q. Do you mean that he was there on this occasion?—A. No, sir; when we were consulting about this matter Senator Harris was not there.

By Mr. RANNEY:

Q. I ask because I notice in the testimony that the father speaks of Senator Harris meeting Mr. Van Benthuyzen without him, when he denounced Benthuyzen as a dis-

honored man.—A. I do not think Dr. Rogers intended to state that—that Senator Harris was invited there and he would not meet him because he had denounced him.

Q. He states that Senator Harris met him and denounced him as a dishonored man.—A. I don't know anything about that.

Q. You cannot tell me whether Senator Harris was there or not at that time?—A. Yes, I can.

Q. At that particular time, I mean.—A. No; he was not there.

Q. When was this conversation that you had with the son, when you told him not to say anything about it?—A. About the 31st of July, probably.

Q. Where was it that you told him not to say anything about it?—A. I think it was on the way from his house down to my room, or in my room. I never should have thought of it again if I had not heard him testify about it.

Q. You told him not to tell anything about it?—A. Yes, sir.

Q. What was it that you told him not to say anything about?—A. We were talking about the consolidation of the company and about this suit being brought by the Government, and I had explained to them that I thought it was proper for our company not to have anything to do with it at the time. I was apprehensive that something might be said to connect our company, and I said to Harry Rogers, "Perhaps you had better not say anything about it."

Q. You had talked about the combination of the two companies and talked about the Government suit being brought, and told him not to say anything about it?—A. Yes, just as I have stated.

Q. Just before that you had talked with the other Rogers, hadn't you?—A. I think they were both present. Both were together when I first had the conversation.

Q. Where was that?—A. I think at Dr. Rogers's house, on Four-and-half street.

Q. When was it?—A. I think on the same day; the 31st of July, or about that time.

Q. Can you give the exact date?—A. I cannot; I have told you that a dozen times.

Q. Was it not after the time when it had been determined that Van Benthuyzen's application should be withdrawn and a different proceeding started?—A. No, sir; it was not, because I saw him immediately after I got here.

Q. It appears that the Van Benthuyzen application to the Department of Justice for the bringing of the suit had been in fact withdrawn from the Interior Department.—A. In fact it was not withdrawn, because I found the letter there when I went to argue the case before the Secretary of the Interior, and it is there yet, I reckon.

Q. We have the indorsement here upon it.—A. I see the indorsement, of course.

Q. Do you say those indorsements are not true?—A. Oh, no sir.

Q. We have the indorsement here that it was withdrawn on the 7th of August with the consent of the Attorney-General.—A. Well, I saw it there when I went to argue that suit.

Q. If you can fix the date of that interview with Dr. Rogers I should like it.—A. I should be happy to oblige you, but I cannot fix the date any nearer.

Q. You seem to have been here from the 30th of July to the 7th of August.—A. Yes, sir.

Q. It was during one of those days; is not that all you can say?—A. No; I think it was the 31st of July; but I am not sure.

Q. Have you any means of fixing the exact date?—A. None in the world.

Q. But it was sometime during that time?—A. Yes, sir.

Q. To come back to this other matter, after Mr. Goode said he had directed the suit brought, you went immediately back, did you not?—A. No; I did not.

Q. How long did you stay here?—A. I see by my memorandum book that I left on the 7th of September.

Q. A bill was filed in the circuit court of the United States at Memphis?—A. It was.

Q. What date was it filed?—A. I don't recollect the date of the filing of the Government bill.

Q. Have you the bill here?—A. No, sir; I have not.

Q. This suit that was brought in pursuance of Mr. Goode's letter, I want to know the date on which it was filed.—A. I do not remember, but I suppose it was filed pretty soon after the order went.

Q. Was it not as early as the 7th of September?—A. I cannot say. If you deem it important, I will telegraph and ascertain the exact date.

Q. I want that bill and the date it was filed.—A. I have not got the bill.

Q. Who drew that bill?—A. Mr. Beckwith, of New Orleans.

Q. When?—A. I do not know when he drew it, but I presume he drew it about the time I went back from Washington.

Q. In Memphis?—A. No, sir; he did not come to Memphis. Mr. Beckwith went to work with Mr. Gantt for two or three days in Mr. Gantt's office, and then Mr. Beckwith was called back to New Orleans on some business that he had, and took some of the manuscript that had been written along with him, and said that he could prepare it in his office at home; that he had some English authorities there that he wanted to refer to. He was gone two or three days, and when he came back to Memphis he brought that bill with him.

Q. When you went home to Memphis, was Mr. Beckwith there then?—A. I do not think he was.

Q. Did you telegraph to have him come?—A. I did not.

Q. Who did?—A. I don't know.

Q. How did he happen to come to Memphis?—A. There is a gentleman here who can tell you all about that, Mr. Seixas; we will put him on the stand. I do not know anything about it.

Q. You knew when you got there that Mr. Beckwith was there?—A. I knew he was there in Memphis two or three times.

Q. Where you not in company with him when the bill was being drawn?—A. Yes, I was. I had no part in drawing it, but I was in and out.

Q. You had no hesitation in participating in it?—A. No, sir; I would have drawn it myself, if necessary.

Q. It was drawn in Mr. Gantt's office?—A. Yes, sir.

Q. It was not finished and he took it back to New Orleans?—A. Yes.

Q. And then it came back to Memphis?—A. Yes.

Q. Was it not filed the 7th of September?—A. It may have been; I do not know the exact date.

Q. If it was filed as early as the 7th of September he would not have had time to go to New Orleans. Wasn't that drawn before you came to Washington?—A. I do not know; it may have been.

Q. You didn't bring that with you?—A. I did not.

Q. Did Mr. Goode ever see that bill?—A. I don't know whether he did or not; if you will ask him I expect he will tell you.

Q. Will you tell us whether that bill was drawn in Memphis before you came to Washington, or started, or after you got back there?—A. I cannot tell you certainly, but I will give you the name of a witness who can tell you; I saw the bill; it was talked of before I came here.

Q. Wasn't it substantially drawn before you came to Washington?—A. I cannot say it was; I do not remember distinctly whether it was drawn before or afterwards.

Q. Did you not say you had that bill here?—A. No, sir; I have not; I may possibly have it in my room.

Q. Did you not appear as counsel in it?—A. No, sir; my name is not on it at all.

Q. When you talked with Mr. Goode in Washington about it, did he say anything about the propriety of having it referred to the Secretary of the Interior first?—A. Not a word. I never heard of such a thing being done before.

Q. Did he allude to the fact that Attorney-General Garland had in two cases since he had been in, and in every case on this application, referred it to the Attorney-General?—A. No, sir; he did not. He never mentioned it.

Q. You knew that he had referred the Van Benthuyzen case?—A. I heard so.

Q. Did you not think that was proper?—A. No, sir; I knew it was an improper practice, and that it ought not to be referred in that way, no law requiring it.

Q. Although you knew the Attorney-General had taken that course?—A. Yes, sir; but I knew no other Attorney-General had taken it. I knew Attorney-General Brewster had not done it.

Q. You did not want it done?—A. If I had been consulted about it I might have given my opinion that it was unnecessary. I am in the habit of giving very good opinions when I give any at all.

Q. You knew that Mr. Garland had adopted that course?—A. I knew that he had referred Mr. Van Benthuyzen's letter.

Q. And yet you thought he was wrong in doing it?—A. I do not know that he was wrong in doing it.

Q. You wanted the suit brought in Memphis without its being done?—A. Be good enough to let me answer the question. I did not think it was morally wrong, but I did not think there was any law requiring it, or any practice or precedent that sanctioned or authorized it. I have not been able to find any.

Q. Did you consider that question at that time when Mr. Goode was acting on it?—A. I do not think I considered it at all. If he had asked me I would have told him not to do it. If you take Mr. Storow's argument you will see all that question before you, you will find all the facts you are trying to bring out, all brought out there.

Q. Mr. Storow's argument is not in evidence.—A. I am willing you should put it in.

Q. You are a witness now and not counsel. I simply want to ask you whether you thought of the question as to whether it was proper or not, or required in law or not, to refer the matter first to the Secretary of the Interior at the time you were having your interviews with Mr. Goode?—A. I do not think I did. If I had I would have told him not to send it there.

Q. Did you advise with him about it?—A. No, sir; he did not ask my advice.

Q. You were aware of the fact that the Attorney-General had referred it?—A. I heard it.

Q. Did you talk with Mr. Goode at all about the application Dr. Rogers had made?—A. I never mentioned it. I said nothing at all about it.

Q. Did you not tell Dr. Rogers you would as soon have Mr. Goode as Mr. Garland?—
A. I have no recollection of any such thing.

Q. Will you swear you did not?—A. Now, just wait until I get through. I will swear to anything that is the truth.

Q. Will you swear that you did not tell him so?—A. When I answer your other question I will answer that one. I may have seen him after this suit was ordered, and may have had a conversation with him about it, and if I said anything to him at all on that subject, I might have said—

The CHAIRMAN. You should not state what you might have said.

Q. I ask you if you did not tell Dr. Rogers that you would as soon have Mr. Goode as Mr. Garland. Will you swear you did not say that?—A. I will tell you what I did say, so far as I can remember, and you must be the judge whether it is substantially or actually the thing you ask. Let me answer it in my own way; if not, I will say I do not remember.

Q. My question is a very plain one, and you may give your own answer.—A. I am obliged to you. That is the first time you have given me the opportunity.

Q. Will you swear that you did not tell Dr. Rogers that you would as soon have Mr. Goode as Attorney-General Garland bring the suit?—A. I do not remember that I said anything to him at all about it. We had a conversation after this suit was brought, and I may have said it.

Q. You will not swear that you did not tell him so?—A. I do not know that I said anything about it. I do not remember.

Q. You know whether you will swear positively or not whether you stated it to him?—A. I have just stated to you that I do not remember whether I did or not. Is that satisfactory to you?

Q. Whatever you say I have to take as an answer, when I get your answer distinctly.—A. I try to make it as plain and distinct as possible.

Q. You say you did have a conversation with Dr. Rogers after the bringing of this suit?—A. Oh, yes, sir.

Q. But you do not remember whether you did or not tell him that you would just as soon have Mr. Goode bring the suit as Attorney-General Garland?—A. I do not think I ever told him anything about it. I do not think I ever mentioned Mr. Goode's name to him.

Q. Will you swear you did not?—A. No; I will swear what I state to you. I do not believe I ever mentioned his name to him at all. I could not remember all that occurred between myself and Dr. Rogers in the various conversations we had.

Q. You have confidence in Dr. Rogers' integrity; you have indorsed him as a man of integrity and truth, and you say that anything you will say he will agree to?—A. I think so. I think if I were permitted to cross-examine him he would sustain every word I said.

Q. We will give you that opportunity after awhile if you want it. You have said you will not say that you did not tell him that, but that you might have told him. You do not seem to have a very distinct recollection about that conversation?—A. No, sir; I do not. I do have a distinct recollection about former one.

Q. I speak of this conversation wherein he says you told him you would as soon have Goode as Garland.—A. I do not remember I ever mentioned Mr. Goode's name to him.

Q. Didn't you tell him that he was friend of yours?—A. No, sir; I am certain I never made a remark of that kind unless in connection with something else. Mr. Goode is a friend of mine, and has been for many years, and I am glad to have such a man as my friend.

Q. Can you swear to this committee what else you said in that conversation?—A. I can swear to anything that is the truth.

Q. If you do not recollect what the conversation was, how can you state what it was?—A. I cannot. I cannot speak of anything I do not remember.

Q. You heard what Dr. Rogers swore here about that conversation?—A. Yes, sir.

Q. And you testified that you had forgotten it until you heard him swear to it?—A. Yes, sir; I had.

Q. If it was a conversation you had forgotten you cannot testify with any positiveness what it was, can you?—A. I can testify with a great deal of positiveness to particular things in connection with other matters which refresh my memory.

Q. I would like to have you narrate that conversation with Dr. Rodgers in your own way.—A. At what date?

Q. The one I have referred to, where you told him about Mr. Goode.—A. I have not said I told him anything about Mr. Goode. Can I relate a conversation I do not remember?

Q. You and Dr. Rogers are in conflict upon that conversation, and I want to see who is right. He has sworn distinctly what it was, and you say you cannot tell what it was.

The CHAIRMAN. You may as well let it rest there.

The WITNESS. You are alluding to what conversation?

Q. Dr. Rogers testifies to a conversation in which he says you told him—A. I would rather have the document. Just please read what he said, and then I will tell you.

Q. You may answer the question in your own way. Dr. Rogers has testified to specific conversations in which, among other things, he says you told him you would just as leave have Goode bring the suit as the Attorney-General.

The WITNESS. If I am required to testify to a conversation, I want to see the record; I want to see what the facts are.

Q. It is not material as to whether Dr. Rogers testified to those facts. This is my question: Dr. Rogers testifies to an interview with you, and to a conversation which he gave between himself and you, wherein among other things he says you said in substance that you would as soon have Mr. Goode bring the suit as Mr. Garland; that he was a friend of yours. That is the substance of it. Was there any conversation where such a thing was said?—A. I have no recollection of any such conversation, none whatever!

Q. But you recollect having a conversation with him on the subject?—A. Yes; I talked with him a dozen times about the suit, but I don't remember that Mr. Goode's name was ever mentioned in connection with it. After the suit was brought I may have told him what Mr. Goode said, but I do not remember.

Q. If you do not remember, if you have no more definite recollection about it than that, I will leave it there.—A. I have given exactly what my recollection was. I have no recollection of having any conversation with him about Mr. Goode at all. After the suit was brought I may have told him that Mr. Goode had ordered it. I told others so, and perhaps I told him, but I do not remember.

Q. Do you recollect the conversation with the son where, after you had cautioned him not to say anything about it, he said what was the use of that, that he had found others knew it?—A. Yes, I remember that.

Q. Where was that conversation?—A. I don't recollect where it was, but I remember it from the fact that Colonel Gardner told me about it. Colonel Gardner spoke to me about the same thing.

Q. You do remember the conversation at Dr. Rogers's house, where he and his son were present?—A. Yes, sir.

Q. And you do remember soon after that having a conversation with the son?—A. Yes, sir.

Q. Do you remember the conversation that occurred at that house?—A. I remember the substance of it, but I cannot give the language of it.

Q. Fix the date, if you can.—A. I think it was on the 31st of July.

Q. How long were you there?—A. Perhaps an hour, or may be two hours.

Q. Please narrate that conversation as it occurred.—A. I could not narrate all the conversation that occurred during my visit there, but part of it related to the telephone receiver that he had patented, and I wanted to get the patent, and as soon as I heard him testify I remembered that some mention was made of this suit. Whether I introduced it or Dr. Rogers introduced it, I cannot remember. But we referred to this letter he had written on the 24th of May, and referred to the letter that Mr. Van Benthuyzen had written to the Attorney-General to bring the suit, and I said to him if that was the law, supposing a law had been passed, it would be delicate for Mr. Garland, in his situation, to act; but I saw no escape, if that was the law, and Mr. Van Benthuyzen was determined to have the suit brought, but that our company must not have anything to do with it.

Q. Is that the substance of the conversation?—A. That is the substance of all that occurred on that subject.

Q. Do you remember hearing Dr. Rogers testify in regard to that?—A. Yes, sir; I heard him say it here.

Q. Do you remember positively about that?—A. I do.

Q. Why do you remember that so positively if you do not remember the rest?—A. I remember that for the reason that I had written to him before that Mr. Garland could not do it, and that on that day or the next day I heard Mr. Garland declare that he would not do it.

Q. You have stated the conversation as it actually occurred?—A. I have tried to state the substance of it.

Q. Do you remember anything else that Dr. Rogers said in that conversation?—A. Only what I have stated. I do not know that I could state *in hoc verba* all that he did say.

Q. Or anything that young Mr. Rogers said?—A. Not the words that he used.

Q. Do you remember that the name of Mr. Goode was introduced?—A. I do not think young Mr. Rogers said anything. The conversation was mostly between myself and the old gentleman. I am sure Mr. Goode's name was never mentioned at all.

Q. Will you swear that the name of Mr. Garland was not introduced?—A. Oh, no; his name was mentioned.

Q. In what connection?—A. I have just stated the connection. I was talking about the letter that he had written and the letter that Mr. Van Benthuyzen had written,

requesting him to bring this suit, and in reference to the law that I supposed had passed Congress making it his duty to bring the suit.

Q. Will you swear that this was not said: "I believe I would rather have Goode than Garland; he is a friend of ours, and is all right"? Will you swear that that was not said?—A. I will swear that I never said that.

Q. Didn't you say a little while ago that you would not swear that it was not so?—A. No, sir; you mentioned another occasion.

Q. No, I have mentioned this all the time.

The CHAIRMAN. They testified at the first conversation that Mr. Young told them that the Attorney-General had agreed to bring the suit, and that Mr. Rogers said he was glad to hear it, because Mr. Garland would do what he said. The other conversation occurred at another time.

Q. Did you have any other conversation when Dr. Rogers and his son were both present?—A. Possibly I did, but I don't remember any. I never had but one conversation that I remember with them where Mr. Garland's name was mentioned at all. After the suit was brought I may have told Dr. Rogers about it; I told a number of people and may have told him.

Q. You do not remember but one conversation about the bringing of this suit at which the father and son were present?—A. No, I do not; there may have been others, but I do not remember them.

Mr. RANNEY. Mr. Chairman, I think you are mistaken about that conversation not being at the house of Dr. Rogers. On page 63 of the testimony, he says:

"Q. Have you any recollection of Mr. Young's ever coming to your house and telling yourself and your son of an interview he had had with Mr. Garland?—A. Perfectly.

"Q. State what was said and when it was.—A. He said, enlarging on that thing about Mr. Gantt having found precedents for it, that the suits would now be brought and with good prospects, and I asked him if Mr. Garland had promised, and he said that he had.

"Q. How did you come to ask him whether Mr. Garland had promised?—A. I thought it would have to come through the promise of Mr. Garland.

"Q. Did he indicate that he had had an interview with Mr. Garland?—A. Oh, I think so. It was predicated upon that.

"Q. Give his words as near as you can.—A. It is difficult to give the very words, but I can give you the substance. I think I would be more apt to give the words in that case than in most others, because I had felt great interest in that thing from the time I wrote my letter, and I said, "Well, if Mr. Garland has promised, he will do it." Then Mr. Young said, "But Mr. Garland will leave the matter or refer the matter to Mr. Goode." I saw in some paper that I had said that he would leave Mr. Goode; that he would go home to Arkansas and leave Mr. Goode to attend to it. I probably used the word "leave," but it was not said that he would leave it with Mr. Goode.

"By Mr. RANNEY:

"Q. Is that the conversation of Mr. Young with you?—A. Yes, sir, with me. I said, "How would Mr. Goode act; would he do as well as Mr. Garland?" "Oh yes," he said, "I believe I would rather have Mr. Goode than Mr. Garland. He is a friend of ours, and it will be all right." That is the substance of it; I cannot remember the very words."

The CHAIRMAN. Dr. Rogers first testified that this delicacy of Mr. Garland's position was referred to in that conversation, but was afterwards uncertain whether it was in the conversation or in a letter to him. I was under the impression that the Goode matter was referred to at another interview.

Mr. RANNEY. I still want that contract.

The WITNESS. Oh, you shall have the contract.

Mr. RANNEY. I think before I proceed to another matter the committee had better adjourn here.

Mr. OATES. I move that the committee adjourn until to-morrow at 11 o'clock.

The motion was agreed to, and the committee adjourned.

WASHINGTON, D. C., *Friday, March 26, 1886.*

The committee was called to order at 11.24 a. m.

Hon. CASEY YOUNG appeared before the committee, and his examination was resumed.

By Mr. RANNEY:

Q. You spoke in your previous examination of the order which Mr. Goode gave on the 3d of September, 1885, to Mr. McCorry, the district attorney, to bring the suit. Have you a copy of that order?—A. No, sir; I suppose it is in that record. I haven't got it.

Mr. RANNEY. I will put into the record here the order of John Goode, Acting Attorney-General, dated Department of Justice, Washington, September 3, 1885, as found on page 726 of the record in the Maryland case.

The order referred to is as follows:

DEPARTMENT OF JUSTICE,
Washington, September 3, 1885.

SIR: Yours of the 31st ultimo, inclosing certain papers with reference to letters-patent of the United States, heretofore issued to Alexander Graham Bell for improvement in telegraphy, has been duly received. Upon a careful examination of the papers submitted, I am of opinion that they make a *prima facie* case sufficient to justify a suit, in the name of the United States, to vacate, annul, and declare void the said letters-patent. You are therefore authorized and instructed to institute a chancery suit in the name of the United States, in the United States circuit court for the western district of Tennessee, for the purpose of vacating and canceling the said letters-patent of the United States, issued to the said Alexander Graham Bell on the 7th day of March, 1876, and numbered 174,455, upon the ground that the same was improvidently issued, and were obtained by false and fraudulent suggestion and concealment on the part of the said Alexander Graham Bell.

Permission is also given, as you request, to Hon. Casey Young, George Gantt, Luke E. Wright, and J. R. Beckwith, esquires, to appear as your associate counsel, with the distinct understanding, however, that the conduct of said suit is to be absolutely controlled by yourself, under the direction of this Department, and that no liability is to be incurred by the Government of the United States for the payment of any fees to the gentlemen named in consideration of their services as such associate counsel.

Very respectfully,

JOHN GOODE,
Acting Attorney-General.

H. W. McCORRY, Esq.,
United States Attorney for Western District of Tennessee, Jackson, Tenn.

By Mr. RANNEY:

Q. I see by the application of Mr. McCorry, and also by the leave granted by Mr. Goode, that you and the other gentlemen named as counsel were to act without expense to the Government for your fees.—A. Yes, sir.

Q. Who were to pay them?—A. There was no arrangement made about paying them. I have been doing the legal work of my company without pay, but I suppose I should have charged them if I had attended to it; I suppose our company would have paid them.

Q. You three men were acting for your respective companies, then?—A. Oh, yes, sir.

Q. And expected to be paid by them?—A. I supposed the companies would pay it. There was nothing said about it except the vote that you see on the book there. I don't remember anything more about it.

Mr. RANNEY. I now put in evidence, for the purpose of calling the attention of the witness to it, one of the printed letters found on page 8 of the appendix, printed for the use of the committee, No. 94, dated September 7, 1885. I will read it:

"OFFICE OF PAN-ELECTRIC TELEPHONE COMPANY,
Washington, D. C., September 7, 1885.

"DEAR HARRY: Some time since Senator Harris sent me an account of Bradford & Co. (I think that is the name) for some work done by your order amounting to about \$30, and requesting me to forward check for the amount. I was very busy at the time, and laying the account carelessly aside, when I came to look for it I was unable to find it. So I sent a check, blank as to amount, payable to the order of Senator Harris, and requested him to pay the account. But when I was in Washington recently he told me he had not [done] so. I intended to have done it myself before leaving, but was so hurried I forgot it.

"I wish you would see Mr. Bradford and tell him to send me the account and I will pay it."

I now come to what I want to call your attention to:

"We have secured all we expected or wished, and we will soon proceed to utilize, but nothing must be said about it for a little while yet.

"Yours, truly,

"CASEY YOUNG."

Was that September 7, 1885, the date you left Washington for Memphis?—A. I suppose it was about that time.

Q. Where was Harry Rogers then?—A. I think he was here; the letter seems to have been addressed to him here.

Q. That was written after you had seen Mr. Goode, of course?—A. Yes, sir; I guess it was.

Q. And the letter was being sent by him?—A. Yes, sir.

Q. Now I want to go back to one or two matters not fully covered yesterday.

The WITNESS. Don't you want me to go any further with that; won't you allow me to explain it?

Mr. RANNEY. No, not now; I will give you time to make any proper explanation about it that you desire, but not now. I want it connected with some other things. When you and Colonel Gantt, Mr. Van Benthuyzen, and Mr. Huntington, I believe, went and called on the Attorney-General the last of July or the first of August, the time you have spoken of before when you had a conversation with the Attorney-General about the bringing of a Government suit—I call your attention to that—can you now recall exactly what you and each one of you said to the Attorney-General there? I want to get it accurately.—A. I have told you several times about what was said, and I can state it again if you want it.

Q. Have you stated it exactly? I have not the minutes of your evidence of yesterday.—A. Yes, sir.

Q. Did you, either of you, request or apply to him to bring a suit?—A. Yes, sir.

Q. Did you ask him to do it?—A. No, sir; I did not; Mr. Van Benthuyzen did, and Mr. Von Briesen did, I think.

Q. What did they say to him in your presence?—A. I think, as well as I recollect, that the conversation was opened by Mr. Von Briesen, who said, in language something like this: "Mr. Attorney-General, we have called to see you to get your permission, or to get you to bring a suit against the Bell Telephone Company to annul its patents." The Attorney-General said, "I am interested in a telephone company. I have been or I am its attorney"—I don't remember which—"and I cannot have anything to do with it." Mr. Von Briesen then pulled an affidavit out of his pocket, made by Mr. Wilbur in reference to the Bell Company, and said, "Mr. Attorney-General, here is an affidavit I want you to read. I want you to listen to this affidavit." Mr. Garland said, "I cannot hear it; I cannot hear anything about this matter. I am interested in a telephone company, and I cannot talk to you gentlemen about it." That is all I remember that occurred between him and Mr. Von Briesen. Then Mr. Van Benthuyzen took the matter up, and he said in substance—I don't remember the exact words—"If it is your duty to bring this suit I am going to have you do it. You are not interested in my company, and I have the right to have it brought, and if I have a right I intend to do it, even if I have to appeal to the President," or "go to the White House," or something of that kind. Mr. Garland said, "I cannot have anything to do with it."

Q. Did you have anything to say about it yourself?—A. Not a solitary word, except to introduce those gentlemen to Mr. Garland.

Q. You said you did not think at first of going yourself, because you were not going to have anything done for the Pan-Electric Company.—A. Yes, sir.

Q. Was not the application made to Mr. Garland to bring a suit in behalf of the Pan-Electric Company?—A. No, sir; there never had been any application made to him that I know of, except the one made by Dr. Rogers, and I advised against the making of one by Mr. Von Briesen.

Q. Was there not an application made to Attorney-General Garland to bring a suit in the name of the Pan-Electric Company?—A. None, except that made by Dr. Rogers that I know of. We never made any other. I never said a word to him about it.

Q. Did you ever read the letter of Attorney-General Garland to the President, of October 8, 1885?—A. Yes, sir; I think I have.

Q. Calling your mind to that, I want to read what he says there, and see who is right, you or he. I have this letter certified to in the Baltimore record, which I will file. I read from page 768 of the Baltimore record, the first paragraph at the top of the page:

"Some time last summer, I do not recollect the precise day, some gentlemen approached me, stating that they desired to make application, in the name of this company, of which I was a stockholder and attorney, for the use of the name of the United States, to test the validity of the Bell telephone patents in the courts. Those gentlemen were Mr. Casey Young, Col. George W. Gantt, Mr. Van Benthuyzen, and one other gentleman whose name I do not recollect. I told the gentlemen that I could not consider the matter, and being asked by one of them why, I stated that I was disabled because of being a stockholder and the attorney for the company in whose name it was intended to make the application. Several questions were propounded to me as to the manner and mode of proceeding in such matters, which I declined to answer, stating that I was disabled from considering the subject-matter at all. I could not consider these questions, and this response seemed to be satisfactory to the gentlemen present."

You notice that he says distinctly you three gentlemen came there.

The WITNESS. Who says so?

Mr. RANNEY. The Attorney-General.

The WITNESS. Did he write that letter?

Mr. RANNEY. Yes.

The WITNESS. How do you know?

Mr. RANNEY. It was certified to from his office.

The WITNESS. Where is the certificate? I want to see if you have identified it as a letter that he wrote.

Mr. RANNEY. If there is any question about that—

The WITNESS. I decline to answer the question until you prove that to be his letter. That is taken from the proceedings of the Bell Telephone Company.

Mr. RANNEY. Yes; in the Maryland suit.

The WITNESS. I know it is.

Mr. RANNEY. And it is certified to.

The WITNESS. By whom? It was certified to a newspaper by Bell's lawyers.

Mr. RANNEY. It purports to be his letter, and is put into this record as an exhibit where your counsel wants it.

The WITNESS. That is in one of the Bell cases; it is not in this case.

Mr. RANNEY. It purports to be in his letter, and I have already seen it published.

The WITNESS. I decline to answer any question about what purports to be his letter, if it came through the Bell Telephone Company.

Mr. RANNEY. I can read it, and ask you if it is true. Is that statement true?

The WITNESS. What part of it?

Mr. RANNEY. I will read the statement again:

"Some time last summer, I do not recollect the precise day, some gentlemen approached me stating that they desired to make application in the name of this company, of which I was a stockholder and attorney, for the use of the name of the United States to test the validity of the Bell telephone patents in the courts. Those gentlemen were Mr. Casey Young, Col. George W. Gantt, Mr. Van Benthuyzen, and one other gentleman whose name I do not recollect. I told the gentlemen that I could not consider the matter, and being asked by one of them why, I stated that I was disabled because of being a stockholder and the attorney for the company in whose name it was intended to make the application."

Was that statement made to the Attorney-General by you or any gentleman in your presence when you called there?

The WITNESS. That they said they wanted a suit brought in the name of the Pan-Electric Company?

Mr. RANNEY. Yes.

The WITNESS. No, sir; it was not mentioned.

Q. Then that is not true?—A. No; and I can tell you why; I can show that it is a mistake, if you want it done, but I don't suppose you do. Go on.

Q. If there is any fact about it you desire to state, do so.—A. Very well; I will prove that by another witness. It is a mistake, and has been shown to be so.

Mr. OATES. You have a right to state if you want to.

The WITNESS. I can state what other persons told me; but I think perhaps they had better testify. The Pan-Electric Company was not mentioned.

By Mr. RANNEY:

Q. You swear distinctly that you did not say that you wanted a suit brought for the Pan-Electric Company?—A. No, sir; I did not say it, and nobody else said it.

Q. Did not the Attorney-General tell you that he could not entertain such an application, because it was an application to bring a suit by the United States in behalf of a company in which he was a stockholder and director?—No, sir; not at all. He said he could not engage in it because he was a stockholder and attorney for a telephone company. He did not understand it was being brought for that company.

Mr. RANNEY. I find that this is put into the record not under the certificate.

The WITNESS. You will find many things put into that record in the same way.

Mr. RANNEY. It purports to have come from the New York Herald of Saturday, February 10, 1885.

Mr. HALL. Do these comments go down in the record? I infer it all goes down.

Mr. RANNEY. If there is any dispute about the authenticity of the letter we will have the original.

The CHAIRMAN. I do not think it is material.

Mr. RANNEY. Though if it appeared that it is not a certified letter coming from the Department, although proof in that case, it would not be competent here. But I have a right, for the purpose of questioning a certain statement, to ask if that was true.

The CHAIRMAN. That is about the effect of it. The witness has made one statement as to the conversation occurring at the Attorney-General's office, and the gentleman from Massachusetts has asked him whether it was not another statement.

By Mr. RANNEY:

Q. I will ask you this. If, when you left the Attorney-General you gave him to understand that there would be an application coming to him thereafter?—A. No, sir; I did not say a word to him except to tell him good-by.

Q. Did you give the Attorney-General any reason to suppose that you would come to him after that with an application, after the statement that he had made that he

could not bring one in the name of his own company?—A. No, sir; I never said a word to him afterwards.

Q. No, I mean at that time.—A. No, I did not.

Q. It appears that after that interview with the Attorney-General, whatever it was, you gentlemen had conferences in which you did determine to have a Government suit brought?—A. Yes, sir.

Q. You had not determined then where it should be brought, but you had determined it should be brought?—A. Yes, sir.

Q. And you went immediately to Tennessee and proceeded there?—A. No, sir; I staid here two or three days after the conference with him, and then I went home, on the 7th, I think.

Q. Did not these gentlemen go with you?—A. No, sir; I do not think they did. Colonel Gantt went before I did.

Q. Substantially you met there very soon afterward?—A. I left about the 7th and I think I got there about the 9th.

Q. I want you again to refresh your recollection by your memorandum book and tell me how soon these other gentlemen, one or more of them, met in Tennessee, at Memphis, in regard to this proposed suit by the Government?—A. I have nothing on my memorandum book about that, but I can tell the time. I have not their names on it. Anything in this book would not enable me to designate the precise date. If I was at home I could give it. But I suppose it was about the 10th or 12th, or somewhere along or about that time.

Q. How long did they remain there before Mr. Beckwith took the papers to New Orleans to complete the bill?—A. I suppose they remained there a week or ten days; a week fully.

Q. And after that week or ten days Mr. Beckwith went home to complete the bill?—A. Well, they were figuring at the bill. I had written one myself about that time, but they did not think it was a very good one.

Q. When did you write that?—A. About that time, after I got home. I wrote the outline of that one.

Q. They did not like it, and Mr. Beckwith took it and went home?—A. I had written the outline of one myself and they did not like it very well, and I think the gentleman who sits right behind you [Mr. Taylor] tried his hand at it, and finally it was turned over to Colonel Gantt and Mr. Beckwith, and they worked at it a day or two, and I heard Mr. Beckwith remark that there were some English authorities at his home that he would like to examine; and he got a telegram to come home, and he took the papers with him where he could get at the authorities, and then brought it back.

Q. What time did he go to New Orleans?—A. I cannot say myself, but I can furnish that information by another witness who is here.

Q. State to the best of your recollection.—A. About the 25th or 26th of August, I think it was, that he went home. There is a witness here who could tell the very day.

Q. During the days they were there in August, before Mr. Beckwith went home, how many interviews did you have with Mr. McCorry?—A. I saw him three or four times. I think General Wright wrote to him to come down there and examine those instruments. I saw him first in the library at our court-room, at our court library. General Wright and Mr. Taylor, the gentleman who is sitting behind you there, were present, examining the authorities at Memphis, at our law library, when I walked in, and that was the first time I met him. That was about the 15th; I don't remember the exact date. I think he came there for that purpose. General Wright told him to come down there. I do not know that he wrote to him to tell him what he wanted, but to examine these instruments that he had there, and that he wanted his assistance to bring a suit against the Bell Company, and that is what we were conferring about.

Q. How early in August was that?—A. I cannot tell the date. It was after I got home, and I got home about the 9th. I think he may have been there on the 12th or somewhere along there. I have nothing in my memorandum book to show that.

Q. Did you go to Jackson to see him?—A. No, sir; not at that time. I went to Jackson about the time these papers were sent on here the—application. I went to see him for that purpose, about those papers.

Q. How far is it from Memphis to Jackson?—A. The way I have to go it is about 125 miles, but a shorter route is about 75 miles. I would like to explain why I went there, Mr. Chairman.

The CHAIRMAN. Proceed.

The WITNESS. I knew these gentlemen had been asking Mr. McCorry to bring the suit, and I understood he was satisfied that he ought to do it. He is a very conscientious man, and would not do anything that he had not examined thoroughly. I went there to recommend Mr. McCorry to bring the suit at our relation, as I have been stating, and he refused to do it.

Q. At whose relation?—A. At the relation of the National Improved Telephone Company, or mine, or any one else.

Q. Which one?—A. I don't know which one. You can take it that it was ours if you want to. I cannot say which one. Just put it any way you want it. I would have had it done in the name of ours if I could, and perhaps I had that in my mind; I don't remember. I don't think I would have put it in the name of either company, but in the name of some citizen or member of the company. I think that would conform more to the law and precedent.

Q. Did you request either?—A. Yes, sir; I did request him to ask the suit to be brought at the relation of somebody. I do not know that I mentioned any particular individual.

Q. Did you make that request in writing?—A. No, I just went to his office and told him.

Q. It seems you had been in conference with him a good while before August 26, 1885?—A. Yes, sir; from the time I went home, every day.

Q. But the only application on which he based his action would seem to be a communication to him, which I put in yesterday, dated August 26, 1885?—A. Oh, we had been talking to him for two weeks every day or parts of days.

Q. Then, after all your talk, it was determined to take this application, was it not?—A. Yes, sir; they wanted to put it in form and send it up.

Q. It was determined then to make this application?—A. Yes, sir.

Q. And this application was sent, signed by Mr. Van Benthuyzen, Mr. Huntington, Mr. Beckwith, and Col. George Gantt?—A. Yes, sir.

Q. And they signed that as individuals?—A. It seems to be so; I would have signed it myself, if it had been handed to me; I am surprised I did not; I would have done it.

Q. What reason did you give for making it in the name of individuals?—A. I didn't give any; I didn't write it; it was written by Colonel Gantt or Mr. Beckwith.

Q. What reason did you give for not having it made by the Pan-Electric Company or by the National Improved Company, but by these gentlemen as individuals?—A. I did not give any at all.

Q. Why, with all your talk with him about it, and your talk among each other, did you come down to an application like that?—A. You might have asked the same question if they had made it in the name of one of the other companies; I don't know of any reason.

Q. Was it not this, that you wanted the application made to the district attorney and from him to the Attorney-General in behalf of people who were not members of the Pan-Electric Company where Attorney-General Garland was interested?—A. I don't know that I thought about it. I didn't care a cent. I wouldn't have given a nickel for the difference. I would just as soon have had it made in the name of the Pan-Electric Company as any other. I considered Mr. Garland as clear out of it and I felt no delicacy about it in the world.

Q. If it be true that Mr. Garland placed his objection to granting the application on the ground that the application was made on behalf of the Pan-Electric Company, and he was a stockholder and director in that company and attorney for it, I say if it was true that he placed his objection to preceeding on that ground, you would desire to make an application where that objection did not obtain, would you not?—A. You are proceeding with a hypothetical state of facts. He did not decline it on that ground.

Q. Did it occur to you, to put it in this form, that it was better to have an application for the suit based on the request of people not connected with the Pan-Electric Company, in which company Mr. Garland was interested?—A. I don't know that I thought anything about it. I would have done it in the name of our company if it had been thought best, because Mr. Garland was clear out of it, had nothing to do with it, had declared his intention and purpose to have nothing to do with it, and I would not have hesitated to make it in the name of our company.

By the CHAIRMAN:

Q. Was Colonel Gantt a holder of stock in your company at that time?—A. He was the attorney of our company and held stock, yes, sir; I would have done it myself at any time.

By Mr. RANNEY:

Q. You see that Mr. McCorry's application was made to the Attorney-General?—A. It appears to be so there, doesn't it?

Q. If the Attorney-General had absolutely and unequivocally declined to proceed in such a suit in behalf of the Pan-Electric Company, as you say he did—A. I didn't say that; hold on, my friend; I didn't say anything of the sort, that he refused to hear it because the Pan-Electric Company made that application. I said nothing was said about it.

Q. You did not hear my question. You say that he absolutely declined, in that interview, to do anything about it?—A. Yes; I say that.

Q. Why?—A. Because he was counsel and interested in a telephone company, not because that telephone company made the application, as you say.

Q. I haven't said that in my last question, or anything about it. But you knew this much, that he had declined to proceed in a suit because of his interest?—A. Yes, sir.

Q. That being so, would you have been a party to a renewed application of this kind in this formal way right to the Attorney-General, to bring a suit where he was interested in the Pan-Electric Company?—A. I would, and I intended to compel him to do it.

Q. Although he was interested?—A. Yes, sir; it would have been his duty to do it.

Q. You didn't believe in his scruples about it, his delicacy?—A. Yes; I thought it was very proper that he should feel a sense of delicacy about it. He was the head of the Department of Justice, and it was only through it that application could be made, and they had determined to go to the President and have an officer appointed and have that suit brought. We knew that we were fighting a powerful corporation, though, which would have done everything to prevent it.

Q. Why didn't you sign that application to Mr. McCorry?—A. I would have signed it if it had been presented to me.

Q. You observe that the application to Mr. McCorry was made August 26, after you had been in conference and consultation, and drawing bills since the 10th?—A. Yes; I knew all about that paper. I cannot give you any reason why I didn't sign it. I will sign it now, if you want it done.

Q. How happened it that somebody did not sign it officially in behalf of the National Improved Company and the Pan-Electric Company?—A. I refer you to Mr. Van Benthuyzen, who is president of the company. He can give you more definite information than I can.

Q. Was it not because you supposed that the Attorney-General would grant it on the application in behalf of these individuals or other parties, when he would not be likely to grant it on behalf of the Pan-Electric Company, where he was interested?—A. I knew perfectly well when that instrument was prepared and forwarded to the Attorney-General that he would have nothing whatever to do with it; I knew that perfectly well.

Q. Now, I will repeat my question. Was it not so signed and presented because you thought he would be more likely to authorize the suit, or to proceed with it himself, if he had an application made by parties such as these, than he would if it was on an application made by the Pan-Electric Company?—A. I answered your question that I knew he would not do it at all if it was made; I knew it perfectly well.

Q. You were perfectly satisfied about that?—A. Yes, sir; perfectly satisfied.

Q. And yet the moment that letter was sent by Mr. McCorry to Washington on the 31st of August, you followed it and got here as soon as that did?—A. I did; pretty near as soon, I reckon.

Q. And as soon as you got here you and Senator Harris went immediately to the office of the Attorney-General?—A. I think it was the next day. I came here to have that suit brought.

Q. And you went to see Mr. Goode?—A. Yes, sir.

Q. And you and Senator Harris saw him?

Mr. HALL. You might have the record of yesterday read about that; it is going over the same thing all the time.

Mr. RANNEY. You will allow me to exercise my own judgment about it.

Mr. HALL. I think we are doing that.

Mr. RANNEY. I do not think you ought to be afraid of getting at the truth.

Mr. HALL. I do not think a suggestion like that should come from any member of the committee.

By Mr. RANNEY:

Q. You and Senator Harris went on the 2d of September to Mr. Goode's office.

The WITNESS. Well, how do you know?

Mr. RANNEY. You say you did.

The WITNESS. No, I did not. I said I thought we went on the 31st of July—no; that is true, it was on the 2d. Let me look at my book. [Examining a memorandum book.] I was looking at my book when I was stating it yesterday, and if you look there, you will get the date; if not, you will have to go back to my book. I thought you were referring to a former visit. It may have been the 2d. I don't recollect what date I got here.

Q. You and Senator Harris went together to see Mr. Goode?—A. Yes, sir. I guess that was the second time, from this book here.

Mr. EDEN. Who was it that you said went with you? I did not hear the answer.

Mr. RANNEY. Senator Harris and himself went there?

The WITNESS. Yes; we went there about that time.

Q. And while you were there, when you first asked him, he said that he had not seen the papers, and sent for them?—A. Yes, sir; he sent out a clerk for them, and they came in while I was there.

Q. And you talked it over with him?

Mr. HALL. And he went again? Let us have that over again, if possible. He has been over it two or three or four times. I do not object to the question, but I think some consideration ought to be paid to the other members of the committee. I do not suppose any member of this committee desires to interpose any objection, but I have some interest in the proceedings of the House, and would like to get back there as soon as possible, and do not see the necessity of going over and over the same question, which would certainly not be permitted in a court, and the counsel, I think, ought to consider the other gentlemen of the committee in conducting this examination.

Mr. RANNEY. Whom do you call counsel?

Mr. HALL. I call you counsel.

Mr. RANNEY. You had better apply that designation to yourself and not to me.

Mr. HALL. I withdraw that expression. I did not mean it in that sense.

Mr. RANNEY. I think you had better do it.

Mr. HALL. I meant in the sense that you are conducting the examination. I think instead of going over precisely the same transactions and events repeatedly after they have been put upon the record and stand as having been covered by the testimony of the witness it should be allowed to remain as it is.

Mr. RANNEY. Have you got through?

Mr. HALL. Yes.

Mr. RANNEY. Do you make any motion to the committee?

Mr. HALL. Yes; I make the motion that we adopt some method of conducting the examination which shall prevent going over the same matters of detail so many times.

Mr. HANBACK. To prevent the examination?

Mr. HALL. To prevent the examination going over the same subject. This matter of the interviews on these two occasions has been gone over at least half a dozen times when I have been present, and I have not been present all the time. The witness has testified again and again what the subjects of those interviews were and what they did there and who was present.

The CHAIRMAN. What is the gentleman's motion?

Mr. HALL. I want to call the attention of the committee to the fact that there ought to be some plan devised or some system adopted by which we can conduct the examination having in view some saving of time. Of course I believe if any gentleman on this committee makes any objection to any question put, it will be said, as was said by Mr. Ranney, that there is a disposition to keep out the truth and prevent a full examination.

Mr. RANNEY. I made no such remark.

Mr. HALL. You said a moment ago to me that if I desired to prevent such a thing being gone into I could do so.

Mr. RANNEY. I did.

Mr. HALL. Well, I think that is equivalent, and it is not the first time it has been said by yourself. I want to say that for one I have not the slightest objection to any inquiry in any direction, but I think that this committee ought, out of regard to the time of the members and their business in Congress, to reach some decision which will prevent the examination going over and over again the same precise inquiries of the same witness.

The CHAIRMAN. I do not understand the gentleman to make any motion, but that what he says is a mere suggestion.

Mr. HALL. I do not like to interrupt the proceedings, otherwise I would ask for an executive session of the committee, so as to have a consultation on the subject.

Mr. RANNEY. You have wasted a great deal more time about the matter than if you had allowed me to go on.

Mr. HALL. I have some rights as a member of the committee. I think you have been wasting a good deal of time, and some other members of the committee ought to have the same privilege.

The CHAIRMAN. There is no motion then made for the committee to act on?

Mr. RANNEY. I will proceed then. [To the witness:] I was simply alluding to what you testified to yesterday as the basis of another inquiry. I understand you testify, and have testified, that you and Senator Harris went on the 2d of September and had an interview with Mr. Goode?

A. I think that was the date.

Q. That he sent for the papers and said he would see you the next day?—A. What do you say? Do I understand you to say that Mr. Goode said to call the next day?

Q. I understand you went the first day, and he said he would look it up, and you were to call the next day and get his reply.—A. I had no agreement of that kind with Mr. Goode, but I did go the next day.

Q. But it was not by his request?—A. No, sir; I didn't say anything to him about coming, but I did go the next day.

Q. And you did the next day learn that he had already written the letter?—A. No, sir; he was writing the letter when I went in, he said.

Q. How early in the day was it?—A. I judge about 1 or 2 o'clock; I don't remember the time.

Q. I want you to tell me now whether you or Senator Harris on the first day, that is on the 2d of September, or the second day, or the third day, when you called, alluded in your conversation to Mr. Goode, in any way, to the fact that the Attorney-General had been previously applied to and that he had declined?—A. There was never a word said about it.

Q. Or alluded to the fact of his interest in the patent?—A. Not a word.

Q. You are sure about that?—A. Oh, yes; I know it.

Q. Had you any reason to believe that he knew anything about the Pan-Electric Company?—A. None whatever; but I had a very strong reason to believe that he did not. He had been absent from the city a short time before—when I was here previously he had been on the Pacific coast and had just got back, I understood.

Q. How long before had Mr. Goode returned?—A. I understood a very short time; I do not know how long.

Q. A few days?—A. I understood it was a short time before.

Q. When you got here you found the Attorney-General gone; he had left on the 27th of August, I believe?—A. I don't know what date he left, but I can tell you, if you want to know it, that I knew he was going away, and I was hurrying up to get here before he did get away. I was informed in the papers that he was going.

Q. How early were you informed that Mr. Garland was going to leave?—A. Oh, I saw it in the newspapers. It was just before I left home, and I wanted to get here before he left.

Q. How soon had you heard that the Attorney-General had gone away?—A. I think it was two or three days before I left home that I saw it in the papers.

Q. How soon did you learn that he had gone?—A. I picked up a morning paper at Cincinnati and saw he had left the day before.

Q. When did you learn that Mr. Goode was away?—A. I learned that he was away when I was here in July; I saw that in the papers.

Q. When did you learn that he had returned?—A. I did not know that he had returned until I got here.

Q. Then you had no reason to suppose that Mr. Goode did not know anything about it?—A. Yes, sir; I had a very strong reason to suppose it.

Q. Did it not occur to you that when you were presenting this thing to him, a new thing, it was proper for you to say that you had had an interview with the Attorney-General previously?—A. If you want that question answered I will try and answer it. What is the question?

(The reporter read the question to the witness.)

The WITNESS. It is not a proper question, but I will answer it. When I try a lawsuit before a judge I do not generally tell him that some other judge has decided it the other way, and I don't believe you do, either.

Mr. RANNEY. Speak for yourself please, and not for me.

The WITNESS. I am speaking for myself, and that is what I did; I did not feel called upon to give Mr. Goode any information on the subject whatever. The law was before him, and I supposed he was lawyer enough to pursue it without any suggestion from me whatever.

Q. Is it not true that you or Senator Harris did mention it to him?—A. It is absolutely untrue that Senator Harris or I did mention it.

By the CHAIRMAN:

Q. If the Attorney-General had refused to allow the bringing of that suit for any other reason, as, for instance, upon the merits of the application, and you had then made application to the Solicitor-General, would you have informed him of the action of the Attorney-General?—A. I would if I had not had it in view to go beyond that. I intended to appeal to the President. I believe the law authorized it, and I didn't care a cent about what Mr. Garland or Mr. Goode thought about the merits of it. I would have gone to the highest source.

By Mr. RANNEY:

Q. Do you mean that you intentionally withheld that fact from Mr. Goode?—A. Of course, if I didn't tell him.

Q. I thought perhaps you had forgotten it.—A. Oh, no, sir; whatever I do is generally intentional. I do not do anything hastily, by mistake or inadvertance, but intentionally.

Q. When you went in to see him did you inquire when the Attorney-General would be back?—A. No, sir; I did not make any inquiry.

Q. Did you seek to ascertain how soon the Attorney-General would return?—A. I did not. I didn't care a cent when he came back. It was a matter of no concern to me whatever.

Q. I want right in that connection to call your attention to one fact. You heard what Dr. Rogers said you told him as to what Mr. Goode would do; that the Attorney-

General would not, but that Mr. Goode would. Now, looking at the fact, is it not true, as a matter of fact, that that which you had told Dr. Rogers did happen; isn't it true that what you told him was to happen did so happen?—A. No, sir; I didn't tell him anything of the sort.

Q. But he says you told him.—A. Read what he says about it.

Mr. EDEN. I would suggest that the witness has the other interview perhaps in view.

Mr. RANNEY. I asked him if what followed after the conversation he had with Dr. Rogers, about which they differed, was not exactly what Dr. Rogers said he told him was to happen?

Mr. EDEN. That is a matter of reasoning.

Q. You have noticed that what followed is exactly what Dr. Rogers said would happen, or would be done, was it not?—A. If you will read exactly what he said I will tell you whether it was in exact accordance with what he said was to happen, and whether he is a prophet or not.

Mr. RANNEY. We went all over that yesterday.

The WITNESS. I know we did, and I am surprised to see you going over it again.

Mr. RANNEY. I want to see who is mistaken, you or he.

The WITNESS. Very well, go ahead.

The CHAIRMAN. The point is whether Dr. Rogers had made the statement before the occurrence.

Mr. RANNEY. I do not think you should reason about the matter. I am putting a fair question. [Referring to the record.] Dr. Rogers says it was all to be turned over to Mr. Goode.

Mr. EDEN. This evidence is for the information of the committee. If Dr. Rogers swore to a certain state of facts and it turned out afterwards that the thing happened as he said, that would not be important.

Mr. RANNEY. There are two things connected with the subject of inquiry before the committee, one to get at the facts, and the other, that when two witnesses swear to one thing, and another witness comes and contradicts them as to what they say, we want to reconcile their testimony, if we can, or to see which is mistaken.

Mr. EDEN. Suppose the two Rogerses did testify that Colonel Young said that Mr. Goode would take charge of the case or would govern, and that Colonel Young testifies that he told them that, and it follows that Mr. Goode did order the bringing of the suit, that is not evidence; we all know that as well as Colonel Young does, and where is the propriety of asking him to give any further explanation about it?

The WITNESS. I will explain it if the gentleman wants me to.

Mr. RANNEY. The question is a very proper one as attempting to reconcile the conflicting testimony of these two witnesses, Colonel Young and the Rogerses, to show, if possible, which was mistaken, and I want to convince this man, if I can, that he is mistaken.

The WITNESS. Which "man" are you talking about?

Mr. RANNEY. I am talking of Casey Young, of Memphis, Tenn. I do not mean any disrespect, but I say it is a proper question to put to a witness where two conflicting statements have been made.

The CHAIRMAN. Oh, yes, there is no objection to that.

Mr. RANNEY. I call your attention to this: Dr. Rogers says in his testimony that Colonel Young said, "'but Mr. Garland will leave the matter or refer the matter to Mr. Goode.' I saw in some paper that I had said that he would leave Mr. Goode, that he would go home to Arkansas and leave Mr. Goode to attend to it. I probably used the word 'leave,' but it was not said that he would leave it with Mr. Goode." Now, I call your attention to the fact that you went home and got this application from McCorry, and came here when Mr. Garland was absent, did not inquire about Mr. Garland's being absent or when he would return, did not say anything to Mr. Goode about the fact that you had applied to the Attorney-General, and that Mr. Goode proceeded at once, as a matter of course, within twenty-four hours after getting those papers, to authorize this suit to be brought.

The WITNESS. Is it a matter of course that he proceeded within that time?

Mr. RANNEY. Yes, that he proceeded between the 2d of September, when you called on him, and the 3d, about twenty-four hours, to at once authorize it without anything more being said. Now, you see that that appears to happen which Dr. Rogers says you told him was to happen.

The WITNESS. Well, are you through; shall I answer?

Mr. RANNEY. Now, with that fact still before you, you say that you did not tell Dr. Rogers that thing?

The WITNESS. Yes, and I say further that Dr. Rogers's testimony was given six months after this was alleged to have occurred. If he had testified to that fact before, your question would be pertinent. But he testified to it six months afterwards, that it had been done. I could have testified to that, and so could you. Dr. Rogers is just mistaken about it, that is all.

Q. You see that Dr. Rogers states in a letter which was put in, that the first appli-

cation was on account of the Pan-Electric Company and Mr. Garland declined to do it, and that afterwards the application was put when the Pan-Electric Company were not the moving parties, and then he did it.—A. Where does it appear in the record that they were the moving parties?

Q. Who was the moving party?—A. Look at the record. You say the Pan-Electric Company was. Where do you get that?

Q. You said that Dr. Rogers had made, on the 24th of May, an application for the Attorney-General to proceed on account of the Pan-Electric Company, which he had declined to do and did not act on it.—A. I did not know it until after he made it.

Q. But you knew it at the interview at the last of July or the 1st of August; you knew it before then?—A. Oh, yes, sir.

Q. And you knew that Mr. Garland had declined or omitted to act on an application in behalf of the Pan-Electric Company?—A. Oh, no, sir. Dr. Rogers's application seems to have been on his own behalf, and not in the name of the company. He says, "I am but one."

Q. You knew that Mr. Garland had declined to act because of his interest in that same company.—A. I do not know that he declined to act on Dr. Rogers's application for that reason, but I know that he did afterwards when I went to him, because he said he was interested in it.

Q. When you went there on September 2, you went there with an application based on the request of parties not connected with your company?—A. They were connected with it to the extent you have stated. Colonel Gantt was the lawyer of the company.

Q. But it was not disclosed?—A. No, sir; it does not appear in that record.

Q. You did not disclose to Mr. Goode Colonel Gantt's relations to the company?—A. No, sir.

Q. You did not disclose to Mr. Goode Mr. Van Benthuyssen's connection with the National Improved Company?—A. No, sir; I did not consider it material. I would have done it if I had felt inclined.

Q. You did not disclose the fact that you were interested in the Pan-Electric Company?—A. No, sir.

Q. Nor account for the fact that you had not signed the application?—A. I was not called upon to give any account of it.

Q. Mr. Goode never raised any of those questions?—A. No, sir.

Q. Did he raise any question as to the propriety of your proceeding as counsel?—A. None in the world.

Q. Did he inquire to see why you should be employed as counsel for the Government?—A. He never asked me.

Q. Did he inquire to see why Colonel Gantt should be employed?—A. He did not of me.

Q. In that interview with Senator Harris?—A. Not in my presence.

Q. Did he inquire why General Wright should be employed?—A. He didn't make any inquiry about any of them.

Q. Did he make any inquiry about the propriety of these gentlemen being employed by the Government?—A. No, sir; he acted on the letter of the district attorney.

Q. Did he inquire as to whether they were to represent the United States or private interests?—A. I could not say.

Q. Did he make any inquiry about that?—A. None in the world to me.

Q. Didn't he suggest that if this suit was to be brought by the United States in behalf of the whole people of the United States, for the public good, and not for the interest of private individuals, parties disinterested should be employed as counsel and not parties connected with private interests or corporations?—A. I am so stupid that I don't quite comprehend the question. I should like to hear it again.

(The reporter read the question to the witness.)

The WITNESS. It is considerably mixed up, but there was no conversation on that subject.

Q. That answers it then. I understand you to say that he made no inquiry about the fitness or propriety of employing those counsel?—A. He did not say a word about it.

Q. I understood you to say in your examination that you did not want a Government suit brought under the Van Benthuyssen application, because it would destroy the foundation of the Bell Telephone Company patent and yours alike?—A. I thought that might be the effect of it.

Q. You wanted to destroy the Bell telephone patents, did you?—A. Yes; I did if they were illegally granted. If Bell has a right to it, I say amen, let him keep it. I don't want to beat him out of it in any improper way.

Q. But you wanted to do it on grounds that would not at the same time destroy the value of your own patent?—A. Yes. I will give the reasons more in detail if you will let me.

Q. I have not asked you for the reasons; I want the facts. Was your object to destroy a great monopoly?—A. Oh, I cannot say that I was patriotic enough to want to destroy it because it was a monopoly. I am no communist. I am not fighting

against monopolies. I wanted to maintain my own a patent, which I thought was a valid one.

Q. And you wanted, if you could properly, to remove them out of the field and get it yourself?—A. No, sir; I wanted to prevent their moving me out.

Q. You say you wanted to destroy their patent?—A. No, sir; that would not remove it any more than it would remove the Western Union Telegraph Company wires. They were fighting it on the ground that the Reis telephone anticipated all telephones, and then the contest would be between us on the mechanical contrivances, and we thought ours was wide enough to maintain ourselves against Bell; but if it covered the whole element of electricity, as he holds, any telephone would infringe it, no matter how valuable it was. In other words, I wanted to destroy his fifth claim.

Q. You desired to get the Bell patents vacated, but at the same time to preserve those in which you were interested?—A. If I was entitled to them under the law.

Q. And you thought the way Van Benthuyzen was proceeding would operate to destroy not only the Bell telephone patents, but yours, too?—A. Yes; because if it was decided upon the ground that Reis was the inventor of the thing, why nobody would have any telephone patent.

Q. I want to know if you knew of the pendency of a suit by the Bell Telephone Company, in Baltimore, Md., against the Pan-Electric Company?—A. I did; I knew all about it.

Q. Did you have anything to do with carrying or getting carried the record of this Government suit in Memphis, after it was instituted, to Baltimore, to be used in that suit as a reason why the injunction against the Pan-Electric Company should not be granted?—A. I do not think I did; I think it was sent there by somebody else; I was not at my office at the time; I think I learned from General Bradley T. Johnson that he got it from Colonel Gantt; I would have sent it if I had been there.

Q. You were aware of the pendency of a suit in the State of Maryland, in the United States circuit court, brought by the Bell Telephone Company against the Pan-Electric Telephone Company and others, wherein an application was made to enjoin the defendants from the use of their telephone instruments?—A. Yes, sir.

Q. You knew that was pending on the 1st of August, when you were here, didn't you?—A. I knew it when it was filed. I have forgotten the date of the filing.

Q. Didn't you know time had been given to put in the answer and proofs on it?—A. I do not know that I ever did know that any time was given for that purpose. I did not keep track of the subject particularly. I knew it was pending, and feared the old chancery suits.

Q. Can you give us the date on which this Government suit was filed in Memphis? I find by the record in the Maryland case that it was on the 9th of September.—A. Mr. Taylor, who was counsel in the case, says he thinks it was the 10th of September.

Q. Here is the copy of the record in Tennessee: bill filed September 9, 1885.—A. I suppose that is correct.

Q. On the 15th of September the hearing was in Baltimore on that motion to get the injunction, and the copy of that record was there to be used as a reason why the injunction should not be granted?—A. I do not know. Let me see if I was in Memphis at that time. (Referring to a memorandum book.) I do not think I was. If I had been there I expect I would have sent it.

Q. You were not, there at the hearing at Baltimore?—A. I was there later than that at a hearing in October or November.

Q. That is the time that the hearing was actually had. It was postponed from the 15th?—A. It was set down to be heard, and I was telegraphed to by General Johnson and went over there. Mr. Storrow was there, and we made an informal agreement to let it go over indefinitely. I know I made no argument and nobody else did.

Q. I have the record with all the arguments.—A. I say I made none at that time.

Q. You were there when the pendency of this suit down in Memphis, brought by the Government, was urged as a reason why the injunction should not be granted?—A. No, sir; I was not there until October or November. I heard that it was done.

Q. You had been to Baltimore previously to the 15th of September to see to that case?—A. Yes, sir; and I went from there to Pittsburgh.

Q. You went there then to see about that suit?—A. Yes; I went there and tried to get that suit brought. When was the suit brought in Maryland? I went there to get General Johnson to write a letter to the president of the Bell Company, telling him that if he did not bring a suit we would bring suit against him under some English authorities we had found. I think that was probably in June before the bringing of that suit.

Q. I have a copy of the record here.—A. Well, may be it was in May that I saw him. The suit was not brought until then, was it?

Mr. RANNEY. Yes, July 16.

The WITNESS. I was there in June or early in July to see about that thing. In July, when I went there, I went for the purpose of trying to get that very suit brought.

Q. To prevent getting an injunction in that case by the Bell Telephone Company against the Pan-Electric Company, you deemed it important to get the Government to institute a suit so that you might use it as a reason why a demurrer or a preliminary injunction should not be granted?—A. No, sir; I never thought about it at all. If I had been there perhaps I should.

Q. It seems that notice of the filing of the bill was brought there immediately?—A. I do not know about that.

Q. The record shows that they had it there on the 15th.—A. That may be so, but I was not there.

Q. Passing from that. You said something the other day about the incorporation of the Pan-Electric Telephone Company in Tennessee. I want to call your attention to the laws in regard to that. I find among the letters not deemed material (but which are, it seems to me), under date of July 1, 1883, a letter of yours to Dr. Rogers, from Memphis, Tenn., which reads as follows:

"I received your letter a day or two ago, but was in the midst of an important lawsuit at the time and could not answer until now. Agreeing with you as to the importance of an early incorporation, I had an interview with Senator Harris, and finding him of the same opinion, I agreed, at his suggestion, to prepare the necessary papers for incorporating under the laws of Tennessee, but when I came to make a close examination of the acts of our legislature on the subject I reached the conclusion that they were wholly inadequate to meet the requirements of our case. In other words, I do not think that we can secure under it as enlarged corporate powers as we desire and as will be needful. I have, therefore, promised Senator H. that I would go to Little Rock in a few days and confer fully with Senator Garland in respect to organizing under the laws of the State of Arkansas, or of some other State whose laws may be more favorable to us. In this connection I would make this suggestion: It is only four or five months now until the members of Congress will begin to assemble in Washington. All of our company will be there then as well as people from everywhere, and we could thus understand, perhaps, more advisedly and possibly to more advantage. We could start off better—and we could not likely do much before then, no way, as this is the season of suspension of active operations in every kind of business. I will, however, in a short time prepare articles of incorporation under the laws of some State and send them on to you. I am very strongly of the opinion that we can do well with the 'transmitter,' which we are getting ready for more extended operations. I believe I could sell one of them to every man who has a telephone in Memphis, and the same I think could be done elsewhere, and we could derive a very considerable profit from it. I want to go to San Francisco and other Pacific slope cities this summer, and if I can get samples of them before I start I think I could introduce them there. Senator Harris left for Washington last night. Will confer with you fully."

Now, calling your attention to that letter, and referring to your previous testimony which you gave in chief, as well as in cross-examination, about the laws of Tennessee, I want to know if between the time you wrote that letter and the time you organized the Pan-Electric Telephone Company in the State of Tennessee, there was any change in the law?—A. I think there was a trifling or unimportant change in the summer of 1883 at an extra session of the legislature. Mr. Taylor, a lawyer who is present, perhaps could tell me about that. He says not; there was none. But I know I read an amendment which I thought would cover what we wanted at that time. I wanted to incorporate according to the ideas of Dr. Rogers as set out in that paper, and he wrote to me frequently, and that letter, I suppose, I wrote just as it is there.

Q. If I remember your testimony correctly—which I may not do—you testified before that you endeavored to get the laws of Tennessee changed and failed to do it?—A. I did. I think the legislature adjourned before my bill got there. I sent it to Colonel Patterson, one of our representatives, but it got there too late. I think there was an amendment offered by some member from the eastern part of the State, but that even was not sufficient to cover these things we wanted.

Q. If you got any new legislation before you organized, please give it to us.—A. I do not know of any.

Q. You do not know of any which reached that conclusion as expressed in your letter?—A. I am not certain about it.

Q. I wish you would look and see.—A. The session laws of Tennessee would show. I want at this point, or at some other point, to put in a paper, a fragment of a letter I found in my rooms, which I wrote to General Bradley Johnson in respect to my views on the laws.

Q. You may do so after I get through. I want to read you a letter, dated March 25, 1883, written by you to Dr. Rogers. This is what you say:

"MY DEAR DOCTOR: I am in receipt of your letter of 18th instant, which I found awaiting me on my arrival Friday night. I have examined the New Jersey statutes and do not find their provisions so favorable to us as you seem to conclude. Acting

upon your suggestion Senator Harris has prepared and sent to Nashville an amendment for our general laws of incorporation, which will give us all the corporate rights and privileges which we desire. I am afraid, however, that the legislature will adjourn before it can be passed. I find that the Maryland laws in respect to incorporations are extremely liberal and I think we would encounter no difficulty in obtaining such a charter as we want in that State. Harry must necessarily be incurring some expense and I would suggest that he draw upon the other members of the company for their pro rata share of it. It is better to keep the financial part of the business closed up as we go along. He might draw for the amount each one is to pay in installments of, say, \$25 or \$50 at a time. In notifying the members of this matter he and General Johnston can use my name if necessary."

Did that amendment of Senator Harris pass the legislature?—A. No, sir; it did not. That was the regular session of the legislature, and it adjourned shortly after. They had an extra session afterwards; and, I think, at the extra session there was some legislation, but it was not the bill we prepared.

Q. You do not know now of any legislation had in Tennessee after the writing of the letter of July 1, 1883, that removed the objection which you stated in that letter?—A. No, sir; I do not, unless it is this little amendment that somebody else may have offered from the eastern part of the State, but it was nothing I wanted.

Q. So that you proceeded to organize under the laws of Tennessee, although you thought they were entirely inadequate?—A. Oh, no. You do not understand it at all. Dr. Rogers wanted an organization in accordance with the one he has testified to covering all these things, and I was looking for that sort of an organization too.

By the CHAIRMAN:

Q. That was for the Pan-Electric Company?—A. Yes, sir. I found that we could organize a telephone company under the laws as they existed, but I did not think they were broad enough to cover the whole thing he had in contemplation at that time.

By Mr. RANNEY:

Q. It seems, then, that you canvassed about every State in the Union to see where you could get a corporation organized?—A. No, sir; not all of them. Dr. Rogers wrote me a letter about the laws of New Jersey; that he had looked into them, and had a favorable opinion of them, as I did. I examined the laws of New York, Maryland, and Connecticut, I think, and I believe I wrote to a friend in New Hampshire about the laws there. But I found some objections in the way in all of them.

Q. I will read another letter of yours. It says:

"What is Colonel L.'s programme? How does he expect to raise the money? I think your suggestions practical to stock some of our contemplated enterprises and sell enough of the stock to put the others afloat. The telephone is the greatest and easiest method of doing it. If Harry can by any possibility invent any kind of a telephone system that will not be a practical infringement of any existing patent we can start it on a small scale and dictate terms to Gould; for such a purpose I could in in this town before sundown to-day get subscribed \$500,000. Everybody is looking to the telephone as the coming means of rapid communication. I am of opinion that we had better incorporate as soon as possible, and if you deem it necessary for that purpose I will come to Washington City by the 1st of September. We will have to go to New Jersey, Connecticut, or New York. I know of no other State where the laws on that subject are broad enough to cover all we want. Has Colonel Looney seen Ewing? I think it important for him to do so. Tell Harry to put his telephone instruments to work. That is the broadest thoroughfare to fortune.

"Your friend,

"CASEY YOUNG."

Q. Do you remember that letter?—A. I do not remember it, but I have no doubt I wrote it; that is what I would have written at that time. I think the word "greatest" is a mistake; that some other word was intended. He thought it was important to organize and so did I. There was no difference of opinion.

Q. You said you knew no other State but Connecticut, New Jersey, and New York broad enough?—A. Perhaps that may have been my opinion at that time. I presume it was, or I should not have written it. I wrote him frequently. I was not preparing legal opinions when I wrote to him, but I think I talked very often about it with him before I went away. I can put in my view of the law if you want it.

Mr. RANNEY. If you deem it proper, I shall not object.

The WITNESS. Here is a fragment of a letter I wrote to General Bradley T. Johnson in reference to the law of this organization, which I have found.

Mr. RANNEY. Mr. Eden objected before, but I waive it now. If the other members of the committee want your view of the law, I shall not object. They objected to my putting in any view of the law where I deemed it important, as bearing on the mo-

tives of your action. Here I do not think it is of any consequence. If the other members of the committee say they want your views on the subject I shall not object.

The CHAIRMAN. If you think it is necessary in order to explain anything you have said, you may do so.

The WITNESS. All I want is to show what I thought of the law at that time after an examination. I will read it or put it in without reading.

Mr. RANNEY. If the members of the committee want it I do not make any objection to it.

The WITNESS. It is a conclusion or an opinion which I seem to have written to General Johnson.

Mr. RANNEY (Examining the paper). This does not seem to be the opinion itself.

The WITNESS. I say it is a fragment I found among my papers.

Mr. RANNEY. I do not think a fragment should be put in. If there is an opinion which you wrote and sent to General Johnson, where you have a copy of the opinion you sent to him, and the committee want your views of the law, they may put it in; I don't.

The CHAIRMAN. The committee have not expressed any desire to have his views. I spoke from Colonel Young's standpoint, if he wants it.

The WITNESS. I do not think it affects the inquiry, but I would not like to go out to the country as an incompetent lawyer. These are the conclusions I reached then.

By Mr. RANNEY:

Q. When did you write that?—A. That was written to General Bradley T. Johnson two years ago. This is a copy made by my clerk day before yesterday.

Q. Did you copy it?—A. No, sir; my clerk copied it. I write so poor a hand that nobody could have read it.

Mr. RANNEY. I do not think such a paper as that copied by your clerk, picked out from some papers, is important.

The WITNESS. I should like to give it as my view of the law.

The CHAIRMAN. It makes no difference whether it was copied by yourself or by your clerk, if you know it is correct.

The WITNESS. I know it is a correct copy.

By Mr. MOFFATT:

Q. Where did you say the original was?—A. I do not know. I wrote it to General Bradley T. Johnson, and I expect he has it.

By Mr. RANNEY:

Q. What was that copied from?—A. From some notes of mine.

Q. Where are they?—A. I have them, unless I tore them up. I am not sure whether I did or not.

Q. When did you last see them?—A. Day before yesterday.

Q. Did you compare them with him?—A. I read it to him.

By Mr. HALL:

Q. You dictated it from your notes to him?—A. Yes, sir; and he wrote it out.

Mr. RANNEY. I do not object to the witness's stating from the minutes his view of the law if the committee desires it.

The CHAIRMAN. I beg to remind the gentleman again that the committee has no desire in the matter; it is a matter for the witness. [To the witness:] Do I understand you to say, Colonel Young, that that was a copy of what was sent to General Johnson?

The WITNESS. I found it among my papers the other day when I was looking among them, a pencil copy of mine, of which this is a copy.

The CHAIRMAN. Is that a copy of that which was sent to General Johnson?

The WITNESS. Yes; I wrote to him at the time, and I remember having a conversation with him.

Mr. RANNEY. Inasmuch as when I was inquiring about the views of Colonel Young, his views of the law, as bearing upon the motives and cause of his action, and it was objected to by a member of the committee on the other side, and I yielded to it, and did not call for his views of the law on that subject, on the objection made, I do not think it should be permitted now for him to give the committee and the country his views of the law, as they are immaterial.

The WITNESS. I have already given them, but I want to correct them.

Mr. RANNEY. If there is anything necessary to explain what is stated in the letters which you have put in as to your view of the law, in that view I shall not object.

The WITNESS. Those are the views I entertained at the time about it.

The CHAIRMAN. The gentleman from Massachusetts has stated several times that

he does not object, and the witness has been told that he may put that paper in if he desires.

Mr. RANNEY. Very well, let us have it read.

The WITNESS. (Reading :) "From an examination of the foregoing authorities"—

Mr. RANNEY. Are the authorities there?

The WITNESS. No, sir.

Mr. RANNEY. I should like to have the whole of it. If we are to be instructed on points of law I should like to have the authorities. Proceed.

The WITNESS. (Reading :) "From an examination of the foregoing authorities, I have reached the conclusion that the organization of our company and the method we propose to pursue in the issuance of its stock is free from any legal objection.

"Under the original contract of 13th of March, 1883, the Pan-Electric Association or Company acquired the title to all of the Rogers inventions of every character relating to telephony, telegraphy, and all the various uses and purposes to which electricity can be applied as a lighting, heating, motive, or transmitting power.

"This association was composed of J. Harris Rogers, Isham G. Harris, Joseph E. Johnston, J. D. C. Atkins, A. H. Garland, and myself.

"I take it that under the instrument mentioned we became vested with full title to all the inventions above set out, and that we had a right to dispose of them in any way we saw proper, and at such price as we might be able to obtain.

"Subsequently the Pan-Electric Telephone Company was incorporated and organized, whereupon the parties to the original contract and the owners of the patents referred to, made an assignment to the Pan-Electric Telephone Company of all the patented rights which they owned, and in return therefor the company was to issue to them \$5,000,000 of its capital stock. I think the procedure thus far has been a legal and proper one, and in exact accordance with the methods adopted for the formation of every company for the development and operation of patented inventions.

"The proportion of stock which was to be issued to each one of the parties was fixed and provided for in the original contract, and I think it perfectly competent for the Pan-Electric Telephone Company to issue and deliver stock in accordance with that stipulation.

"The patents were the consideration given for the capital stock of the company, to be distributed as agreed upon, and I think the original owners had a right to fix any value upon them that they might see proper.

"Of course I have not had time to look so much into the matter in detail as I would be glad to do, but I am satisfied from the examination I have given to it that we need fear no future trouble in respect to the issuance of the stock, as under the laws of Tennessee no part of the capital stock of any incorporated company is required to be paid up."

By the CHAIRMAN:

Q. When did you send that letter to General Bradley Johnson?—A. Some two years ago. He spoke to me about it and I told him I had some doubt about the legality of the proceedings.

Mr. RANNEY. I wish you would produce the original of which this is the copy.

The WITNESS. I will try to do it if General Johnson has it.

By Mr. MOFFATT:

Q. You say you have a draft of it?—A. I am not sure whether I have the notes I had; I just dictated from my notes.

By Mr. RANNEY:

Q. To the organization of what company did that opinion apply?—A. To the Pan-Electric Telephone Company.

Q. Which was organized in Tennessee?—A. Yes, sir. General Johnson suggested to me that our organization was not legal.

Q. That was General Johnson, of Maryland, and not General Johnston, of Virginia?—A. It was General Bradley T. Johnson, of Baltimore, the president of this subcompany.

Q. What had he to do with the organization of the Pan-Electric Telephone Company in Washington?—A. We had sold him the right to use our telephone in this District, and he suggested to me the legality of this, and furnished me the authorities.

Q. Had he any interest in the Pan-Electric Telephone Company organized in Tennessee?—A. No, sir; except his right to use it in these different States under this contract with us.

Q. I see by the record—I have been looking at it since I examined you yesterday—that there was the Washington Pan-Electric Telephone Company, which embraced, as I understood, the States of Maryland, Delaware, the District of Columbia, Virginia, and West Virginia; is that right?—A. Yes, sir.

Q. And I see there was another company embracing the district of Maryland alone?—
A. That was a subsequent one to General Johnson himself. That was his company. They sublet to a company in Baltimore the right to use the telephone there under the license which we had given to them.

Q. Then this Baltimore company that was limited to the State of Maryland did not derive their rights directly from the parent company, but from the Washington company?—Answer. Yes, sir; that was subsequent.

Q. That was a grandchild?—A. Yes, sir; a sort of a grandchild. I did not baptise or name it.

Q. The Pan-Electric Company then has children and grandchildren?—A. Oh, yes, sir.

Q. Any great-grandchildren yet?—A. I don't know whether any have been born yet, but I think they have got a small one down in West Virginia.

Q. A great-grandchild?—A. Yes, sir; it would be styled that.

Q. And that would go down to the third and fourth generation. I see by the organization of the Washington Telephone Company, which embraced the States named, that you organized that under the laws of Tennessee, instead of the laws of either of the other States?—A. I believe so.

Q. I see that you are one of the corporators?—A. Yes, sir.

Q. You said yesterday you were one of the directors, and was paid \$50,000 for acting as a director; but I see by the copy of the records of that organization that you were one of the corporators down there in Tennessee?—A. Yes, I was.

Q. And if you were one of the corporators you probably participated in its organization?—A. I do not think I ever was present at any meeting; perhaps I was present at two meetings; the minutes of the company will show what the fact is, and the secretary, who is sitting there behind you, could tell.

Q. I see by looking over your testimony that you say that your combination, contract, or agreement made with Mr. Van Benthuyzen, was made verbally while you were at Pittsburgh?—A. Yes, sir.

Q. And subsequently was put in writing at Washington?—A. Yes, sir.

Q. So that you had made this agreement or combination with Mr. Van Benthuyzen (that is the National Improved Telephone Company represented by him) before Mr. Van Benthuyzen sent his application to the Attorney-General on the 12th of July, 1885, asking for the institution of the Government suit?—A. Yes, sir; but we made no combination.

Q. The agreement for the combination was made verbally in Pittsburgh?—A. It was not an agreement for a combination of the companies except to a certain extent.

Q. But some agreement or other?—A. Yes, sir.

Q. Your testimony shows that you said you made an agreement in Pittsburgh, but that it was reduced to writing after you came to Washington?—A. Yes, sir.

Q. So that that agreement which was made at Pittsburgh, and subsequently reduced to writing—I allude to it for identification—was made with Mr. Van Benthuyzen before he and his attorney went to New York and sent on to the Attorney-General the application for him to have the suit instituted in the name of the Government?—A. What is your question?

Q. I am calling your attention to the fact of your having testified that you made a verbal agreement with Mr. Van Benthuyzen, in Pittsburgh, which was before Mr. Van Benthuyzen and his attorney went back to New York, and before you met them again here in Washington.—A. I do not remember exactly what I stated in reference to that, but the facts are these, that we did talk about it. We had not agreed upon any specific terms.

Q. Do you want to change what you have sworn to before, that the agreement with Van Benthuyzen was made in Pittsburgh verbally and put in writing afterwards at Washington?—A. I do not know what my exact language was, and that is what I am asking you about now. I think I stated that we had talks about the matter and had agreed that we would combine forces in fighting these two suits pending.

By the CHAIRMAN:

Q. What two suits do you refer to?—A. The suit we had brought in Memphis against the Bell Company and the suit Mr. Van Benthuyzen brought against them in New Orleans.

By Mr. RANNEY:

Q. I am not asking you about the contents of that contract, but I was referring you to your testimony which you gave before, and which you have never corrected since, as to the agreement which you made with Mr. Van Benthuyzen at Pittsburgh.

The CHAIRMAN. That was verbal, but he can state.

A. That was a verbal agreement.

Q. Do you wish to change it?—A. I do not think I do. I have not looked at it, but when I do, if I find any mistakes I will ask opportunity to make a correction.

Q. I want to be sure of the fact, if it is a fact, that your interview with Mr. Van Benthuyzen at Pittsburgh, was prior to the 12th of July, 1885?—A. Oh, yes, sir.

Q. That is all; I want to be sure of the date.—A. Well, let me look at my book.

Q. Don't make any mistake about the date.—A. Oh, I won't make any mistake. I am not in the habit of making mistakes. [After referring to a book.] Yes, it must have been made previous to the 12th of July, because I find on that date I was on my way home.

Q. I want to know whether in your interview with Attorney-General Garland on the 31st of July, which you have before testified to, where you and Mr. Van Benthuyzen were present, you said anything to Attorney-General Garland then of your having made any verbal agreement?—A. Not a word.

Q. Did you allude to it in connection with the fact that Mr. Van Benthuyzen on the 12th of July had applied to the Attorney-General to bring a suit in behalf of the Government, and the fact that the Attorney-General, on the 14th of July, had referred that application to the Commissioner of Patents?—A. There was not a word said about it.

Q. Did you allude to it in that connection?—A. No, sir; not a word. I have stated everything that occurred at that interview.

Q. Had it anything to do with the withdrawal from the Commissioner of Patents of the letter of Mr. Van Benthuyzen to the Attorney-General, dated July 12, 1885, and which on the 14th of July, 1885, had been referred by the Attorney-General to the Commissioner of Patents?—A. No, sir; nothing in the world. I will tell you how it was withdrawn, if you would like to have me.

Q. I tried to ascertain the other day.—A. You would not let me tell it then, but I will tell it now, if you will let me. Mr. Von Briesen, who was Mr. Van Benthuyzen's lawyer, advised him that that was not the proper method to pursue.

Q. In your presence?—A. Yes, sir; in my presence; that if he desired a suit brought in the name of the Government, he should make his application to a local district attorney. Mr. Von Briesen said that he had pursued that course in one or two other cases himself, and afterwards Mr. Von Briesen prepared a bill, which was made the foundation of that bill at the time, as Mr. Van Benthuyzen's lawyer, and that was the reason why it was withdrawn.

By the CHAIRMAN:

Q. Have you any knowledge of the consent which was alleged to have been given by the Attorney-General to the withdrawal of that letter?—A. No, sir; I did not know it had been given until I saw the indorsement there.

By Mr. RANNEY:

Q. You said you knew all about it. I want to know who had to do with the getting of the Attorney-General's consent to the withdrawal of Mr. Van Benthuyzen's letter?—A. I have told you all I know on the subject. If there is anything more I will tell you, but I think that is all there is about it.

Q. Who got the Attorney-General to consent to the withdrawal of Mr. Van Benthuyzen's letter from the office of the Commissioner of Patents?—A. Mr. Van Benthuyzen says that he did. I do not know. I did not hear it mentioned.

Q. You do not know what reason was given for it?—A. I know what reason was given by Mr. Van Benthuyzen, that his lawyer, Mr. Von Briesen advised him to do it, upon the ground that that was a proper method to secure a suit brought by the Government; that he himself had had some practice in it, and had brought two or three suits and that the method was to make the application to the local district attorney; and I say from an examination of the authorities I think that was proper.

By the CHAIRMAN:

Q. In this conversation between Mr. Van Benthuyzen and Mr. Von Briesen as to withdrawing that letter, was anything said about getting the consent of the Attorney-General to the withdrawal?—A. I do not think there was. I do not remember there was.

By Mr. RANNEY:

Q. Let us look at that, it may refresh your recollection. You say Mr. Van Benthuyzen on his own account had sent to the Attorney-General a communication dated July 12, 1885, asking for the bringing of a Government suit. No reference was made whatever to the Pan-Electric Company, nothing disclosed in it that it was made in behalf of anybody connected with or interested in the Pan-Electric Company, or on the part of any one who had already entered a combination of interests, and you see that the Attorney-General, notwithstanding his interest in the Pan-Electric Company, on the 14th of July, had entertained that application so far as to refer it to the Commissioner of Patents or the Secretary of the Interior for information on the subject; he had entertained it. Now, was not the reason why the Attorney-General consented to that being withdrawn this, that he had found out that Mr. Van Benthuyzen

and the Pan-Electric Company were in combination?—A. No, sir; I am very sure he never heard of it.

Q. You are sure it was concealed from him all the time?—A. Yes, sir; it was concealed from him as it was from you. He had nothing to do with it.

Mr. HALL. Can the witness testify to any information of that kind, unless it came verbally by communication from the Attorney-General?

Q. You knew this fact: that if the Attorney-General had scruples against authorizing proceedings against the Bell Company in behalf of a company in which he had a direct interest, and if a communication had come to him from Mr. Van Benthuyzen, apparently from a party outside of his interests, and he had acted upon it so far as to refer it, according to the practice, to the Secretary of the Interior or Commissioner of Patents for information on the subject, and he had acted upon it in ignorance of the fact that Mr. Van Benthuyzen and you had made an agreement at Pittsburgh, that he would have stopped the action here taken, and withdrawn the matter?—A. That is a matter of opinion.

Q. Was not that discussed?—A. No, sir; I do not think he ought to have sent it there.

Q. You say you do not think that was true because you do not think you and Van Benthuyzen had made any combination. You are sure you did not tell him of that?—A. I am sure I did.

Q. And Mr. Van Benthuyzen did not in your presence?—A. No, sir; he did not in my presence; I have a distinct recollection.

Q. Can you conceive of any reason, from what was said and done, why Mr. Garland should have consented to have that letter withdrawn from the Secretary of the Interior?—A. There was nothing said to the Attorney-General in my presence on that subject one way or another. The only thing I ever heard in regard to it was in the conversation at my room between myself, Mr. Von Briesen, Colonel Gantt, and Mr. Van Benthuyzen.

Q. You cannot think of anything that was said other than you have stated which would have led to that? There is no fact in your knowledge which would enable you to say what the reason was?—A. Certainly there is. I have just told you—

Q. I say other than you have stated.—A. No, sir; I do not think he ought to have sent it there in the first place.

Q. I want to know if there was any talk among you that the House bill which had gone to the Senate had been stolen from the Senate?—A. No, sir; not at that time. I never heard that until afterwards.

Q. I see on the record of the case that Mr. Van Benthuyzen put it in that the bill that went from the House to the Senate had been stolen from the Senate.—A. That was put in on the 23d of October.

Q. What was that put in for?—A. You will have to ask him. He thought it had been, and I think very likely it was.

Q. A bill that had gone from the House to the Senate stolen?—A. I think it was, and a good many things done in connection with the Bell Telephone Company lead me to think so. I do not say that anybody did it.

Q. You are acquainted with legislation. Can you conceive it possible that a bill which had gone from the House to the Senate had been stolen from the committee?—A. Yes, sir. I knew while I was in Congress of one being stolen while it was being recorded.

Q. Don't you know they are all printed and could be replaced?—A. Yes; you could replace the bill, but you could not replace the exhibits, and those were the things that were stolen.

Q. Did you go to Senator Platt, chairman of the committee in the Senate which had that bill, to see whether it had been stolen or not?—A. No, sir; I saw in the newspapers that Senator Platt said he intended to investigate the matter and have it explained.

Q. Did you find that the Senate committee, of which Senator Platt was chairman, never reported that bill?—A. I do not know; I did not examine that matter.

Mr. EDEN. I do not think it is proper for us to inquire into that matter, whether the bill was stolen or not.

Mr. RANNEY. I want to find out what the truth is. It would seem from the record that that letter of Mr. Van Benthuyzen's was withdrawn and another substituted for some reason. Now, if Mr. Van Benthuyzen puts on it a reason which is a false one, it might be that it was done to conceal the real one. I think that is legitimate.

The WITNESS. He says exactly what I say about it.

Mr. RANNEY. I will read what I find on the fourth page of this record of the Department. It says:

NEW ORLEANS, October 23, 1885.

Finding that the law referred to in the writer's letter to General Garland had not been adopted, and being informed that the bill had been stolen from the Senate, after

being adopted by the House of Representatives, and being advised by my attorney to pursue another course, consent to withdraw the letter was obtained, and the letter was withdrawn by A. Van Briesen, esq., my attorney.

W. VAN BENTHUYSEN.

The WITNESS. That was written on the 23d of October.

Mr. RANNEY. I so read it the other day. It is part of the indorsement put on the papers in the Interior Department, and is in the book which I have put in. Now the subject of my inquiry is, if Mr. Van Benthuyesen gave a false reason for the withdrawal of that letter, the fair inference is that it was done to cover up the real reason.

The CHAIRMAN. That is not a question.

The WITNESS. I do not think so. When he comes here you can put that question to him.

Mr. RANNEY. I say if that is the reason, I want to inquire into it. Every fact or circumstance connected with the bringing of that suit is embraced within our inquiry.

Mr. HALL. You draw the inference yourself.

Mr. RANNEY. I am not drawing any inferences.

Mr. HALL. If I understood the question you put, it assumes to draw an inference.

Mr. RANNEY (to the witness). When you examined the matter did you find that it had been stolen or was missing?—A. I never went to the Senate to see about it at all.

Q. Did you look to see whether the bill was actually reported upon by the committee at all?—A. I never made any examination of the Senate records.

Q. Did you inform Mr. Van Benthuyesen that it was stolen?—A. No, sir; I do not say it was stolen.

Mr. EDEN. This indorsement you are speaking of seems to have been made by Mr. Van Benthuyesen, and not by anybody in the Interior Department at all. The paper was withdrawn July 21, 1885, and this indorsement was made October 23. It seems not to have been an indorsement made by the Interior Department at all.

Mr. RANNEY. You will find in the record that it is a part of the indorsement.

Mr. EDEN. The paper was withdrawn from there August 21, 1885, it appears.

Mr. RANNEY. You have forgotten what Colonel Young says, that although it was marked as withdrawn, still the paper was yet there and never actually taken away.

Mr. EDEN. This does not purport to be an indorsement made by the Interior Department, but by Mr. Van Benthuyesen.

Mr. RANNEY. That, as I understand, is indorsed on the paper.

The WITNESS. It is indorsed in his handwriting.

Mr. RANNEY. It was a withdrawal. You mean by a withdrawal that it had been taken off the files, but I understand from Colonel Young that although it was withdrawn the paper still remained there.

The WITNESS. I saw it there afterwards.

Mr. EDEN. This indorsement is signed by Mr. Van Benthuyesen, and not by anybody in the Interior Department at all. It is dated New Orleans, October 23, 1885.

Mr. RANNEY. As I understand from the record, a certified copy of the record, it is under the head of an indorsement.

The WITNESS. I think I can explain how it was.

Mr. RANNEY. You have forgotten what Colonel Young said; that it never had been withdrawn from the files, for he saw it there afterwards.

The WITNESS. I never saw that letter until I came here to argue the case before the Secretary of the Interior, and then I saw the original of that letter there with that indorsement on in Mr. Van Benthuyesen's handwriting.

The CHAIRMAN. This is an indorsement on the letter.

The WITNESS. Yes, sir; an indorsement on the letter made by Mr. Van Benthuyesen in his own handwriting. I found it there. I do not know how it got back.

Mr. RANNEY. So we have it; it is on there.

The WITNESS. Yes, I think it is there now.

Mr. RANNEY. It would seem, then, that after July 31, 1885, when it had written on it "withdrawn" by the consent of the Attorney-General, that for some reason, as late as October 23, Mr. Van Benthuyesen goes there and puts that indorsement on it.

The WITNESS. I expect he had it in his possession at New Orleans. I guess he withdrew it and returned it; I do not know, but I found it back there.

Q. Why should he at that late day put this indorsement on it?—A. When he comes you can ask him; I do not know.

Q. You saw it and was counsel in discussing it?—A. Yes, sir.

Q. Do you know any reason why you should have him put that indorsement on it at that late day?—A. I do not know of any. I do not think it occurred to me at all.

Q. Do you know of any other reason than that he wanted either a true indorsement or false one, one or the other?—A. I do not admit it was false; you can ask him; I do not undertake to judge about that; that is for him.

Q. That was referred to Mr. Montgomery. He was the new Commissioner of Patents, was he not?—A. Yes, sir.

Q. You acted in that suit. Are you aware that he declined to sit with Secretary Lamar in that case?—A. He did sit with him.

Q. And act with him?—A. Yes, sir.

Q. I have seen somewhere in the papers that he declined to act because he had a friend who owned stock?—A. That was the other Montgomery. M. V. Montgomery is the Commissioner of Patents, and Zach. Montgomery is the Assistant Attorney-General.

Q. He declined to sit?—A. I heard so.

Q. On the ground that he had a friend who was interested in the stock?—A. Yes, sir.

Q. Do you know who the friend was?—A. No, I do not know anything about it at all; I have no acquaintance with him; I never saw him until I saw him there.

Q. You said yesterday that you signed that agreement or combination between the National Improved Company and the Pan-Electric Company in behalf of your company; is it not true that Senator Harris signed it?—A. No, sir; I think I signed it; I feel quite sure I signed it, but I am not certain that he did. When it comes here it will show.

Q. I see on inquiry that Senator Harris says that he signed it on behalf of the company.—A. Well, if he says so I expect it is true. I feel pretty certain, though, that I signed it.

Q. Have you looked for that paper?—A. Yes, sir; I have. Here is a telegram—

Q. Have you looked for that paper you had?—A. Oh, yes; and I can't find it.

Q. I see by looking at your testimony you testified that you had a telegram which said the agreement had been sent by mail, and you testified it would be here the next day. Have you received that agreement by mail?—A. No, sir; I told you the other day how that was. Your question the other day implied that you thought somebody was trying to cover up something about those telegrams. I had torn up Mr. Van Benthuyzen's answer, I think, at least I could not find it, and this morning I went to the telegraph office to get my telegram and to get his answer, and they required me to make a written application. I didn't have time to write it then, and I have written it since. I will read it to the committee.

Q. What did you find there?—A. I didn't find anything, because they wouldn't give it to me unless I made a written application, and I didn't have time to write it there. I have written it since I have been sitting here.

Q. They do not destroy telegrams so soon, do they?—A. Oh, I will have it this evening.

Q. Your original telegram for the paper would be at the telegraph office?—A. Oh, yes; I will have it this evening.

Q. You did telegraph for the paper?—A. Yes, sir.

Q. An so your original telegram is there?—A. I presume so; I have written the company to ascertain. I will read the application to the committee.

Q. One moment. The original telegram which you sent for the paper is at the office?—A. I presume so.

Q. Have you looked for it?—A. I just told you I went there this morning to get it and they wouldn't give it to me without a written application, and I have made the written application and am going to hand it to them when I go down there; they would not give it to me without.

Mr. RANNEY. When you make the written application we will inquire further.

By the CHAIRMAN:

Q. What have you in your hand?—A. I have the written application in my hand.

Mr. HANBACK. He has not yet delivered the application.

The WITNESS. I showed it to Mr. Ranney this morning. I will read it:

"DEAR SIR: Some days since I sent a telegram——"

By Mr. RANNEY:

Q. You are now about to read an application which you have drawn since you came here to-day?—A. I am. I have just told you I went there this morning and made a verbal application at the office, and they told me they couldn't give it to me unless I made a written application, and I didn't have the time to write it out then.

Q. This is an application which you have written to be made, but which you have not made?—A. It is one I am going to hand them when I go down there. I did not have time to write it when I was there. I showed it to you this morning.

Q. I understand; and that is why I say you have now prepared a written application, which you have not delivered, and we had better wait until it is delivered.—A. I will hand it to them. Here is a telegram from Mr. Van Benthuyzen which I will read. I have just got it:

"Have determined to carry all papers and documents with me when I start for Washington——"

Q. Is that telegram addressed to you?—A. It is addressed to Mr. Seixas, his partner, sitting right here [indicating Mr. Seixas].

Q. Do you know whether it is the original telegram?—A. Oh, I don't know. He just handed it to me.

Q. It is not one you received?—A. Oh, no; I have received none from him.

Q. It is not a telegram you received yourself?—A. No, no.

Q. Did you receive a telegram that, as you testified the other day, the agreement was on its way, and was being sent by mail?—A. Yes, sir; and I stated I inferred it was on its way.

Q. Where is that telegram?—A. I just told you I have made written application for it in this paper. If you will allow me to read the paper, you will understand it.

Q. Did you state that you had a telegram that the agreement was on its way?—A. I think I did state that the agreement was on its way. The telegram was about to this effect:

"Your telegram too late to mail this evening. Will mail to-morrow."

Next came a letter to Mr. Seixas, in which he seemed to misunderstand what it was about; but it will all be explained when he gets here.

Q. Now we understand it. The telegram which you referred to a moment ago was addressed to whom?—A. To Mr. H. O. Seixas. Here he sits [indicating Mr. Seixas]. He is Mr. Van Benthuyzen's partner.

Q. I don't object to your reading it. Please read it.—A. It has just now come. He just handed it to me. It reads:

"Have determined to carry all papers and documents with me when I start for Washington, instead of sending them by mail. Show this to Colonel Young."

He will be here with all the papers connected with the matter.

Q. Let me see the original telegram.—A. Here it is. [Hands telegram to Mr. Ranney.]

This is a telegram purporting to have been received March 25, which was yesterday?—A. I guess it came when it purports to have come. Mr. Seixas told me about it yesterday.

Q. The telegram you had originally was received last week. If I remember right you spoke of it on your examination last Friday?—A. Yes, sir. That was in answer to a letter Mr. Seixas wrote Mr. Van Benthuyzen.

Q. You were then expecting to receive the paper by mail. Was not this telegram sent in answer to a new telegram sent to Mr. Van Benthuyzen since then?—A. I think it was in answer to a letter. Mr. Seixas wrote him a letter. I told him to do it. You will have every contract, every paper, every agreement ever made between those companies; every paper that was ever made.

Dr. J. W. ROGERS. I wish to say to the committee that the stenographer requested me to look over the proof of my testimony, and that I have made notes on the margin of some trifling errors and returned the proof to him. I want the committee to know I have done this.

Mr. RANNEY. When you come before the committee, after the examination of Colonel Young, you can state what the corrections are.

Dr. ROGERS. I have given the proof to him. I want the committee to know I have done it.

Mr. RANNEY. You had better call the attention of the committee to the matter hereafter.

Q. You said you brought a letter here to be carried to the President in case you could not get the Attorney-General to institute the suit?—A. Yes, sir.

Q. Was that letter signed by any one?—A. I think it was signed, or was to be signed, by Mr. Huntington. I am not sure whether it was signed or not. I think I wrote the manuscript in Jackson.

Q. Can you tell us who signed it?—A. I don't remember whether it was signed at all or not. I wrote it after a conference with Mr. Van Benthuyzen and all the gentlemen. We talked it over with the lawyers, Colonel Gantt and Mr. Beckwith.

Q. What is your best recollection as to whether or not it was signed?—A. My recollection is it was not signed, because at the time it was written—

Q. Do you tell this committee that you brought to Washington a letter to be delivered to the President in order to get this suit brought if the Attorney-General did not consent to it, and that that letter was not signed?—A. All I am telling you—

Q. Were you going to deliver an unsigned letter to the President?—A. Oh, no. All I am telling is told to this committee. You need not ask if I am telling the committee anything. What I am telling I am telling to the committee; and I tell the committee I did write a letter on consultation with Mr. Van Benthuyzen; and the reason it was not signed is, I think, that I was not sure who would come. Mr. Huntington and I persuaded Mr. Van Benthuyzen not to come, for the reason which I gave yesterday.

Q. You came to Washington with a letter not signed by anybody, to be presented

to the President. Were you going to present to the President an unsigned letter?—A. Oh, no; I would not have done that. Somebody would have signed it.

Q. Who was going to sign it?—A. I think Mr. Huntington; or perhaps I would have signed it myself. I reckon he would have signed it, because I proposed to do the talking.

Q. Was he here?—A. Yes, sir; he came with me. I think I should have had him sign it, and I should have done the talking myself. That was what I intended to do.

Q. You did not present it because Goode granted the application?—A. It was not necessary to present it.

Q. Dr. Rogers testified to certain meetings you had in the Judiciary Committee room; did you not have meetings in the Judiciary Committee room after May 24, 1885?—

A. If there was a meeting at the Judiciary Committee room I never heard of it, except that I went there and talked to Senator Garland, long before that time.

Q. Did you never report to the directors the fact that you had made a written agreement and signed it on behalf of the company—either you or Mr. Harris or both—with the National Improved Company?—A. I think I told every one of them of it; I don't know that I ever announced it at a meeting of the directors, because there has been none until—

Q. Did you announce it at a meeting of the directors?—A. There has been no meeting of the directors, except one, since that time; there were some informal meetings but no regular meeting, as appears by the minutes. I think I stated it at the last meeting we had; I am sure I told them all; I never kept it secret.

Q. Did you report it to Mr. Garland?—A. Oh, no; I never spoke to him about it.

Q. He was one of the directors, was he not?—A. Yes, sir; but since he has been Attorney-General I have never spoken to him about telephone matters but once.

Q. He has never resigned?—A. No, sir; no formal resignation.

Q. He was appointed attorney and was chosen a director, and is to-day?—A. Yes, sir; there has been no change at all.

Q. And you reported it to every other director of the company and did not report it to him?—A. There was no meeting of the board of directors, as I told you.

Q. You reported it to them individually, did you?—A. I am not sure; I think I did.

Q. Why did you report it to every other director and not to Mr. Garland?—A. I never spoke to Mr. Garland about it since he has been Attorney-General.

Q. Why?—A. I will tell you the reason, if you will allow me to do so. I did not desire to talk to him at all about this matter after he was Attorney-General, and never did.

Q. How many directors were there?—A. I believe there were seven.

Q. And he was one of them.—A. He was one of them.

Q. If you were reporting it individually to the other directors, and he was both your attorney and a director, why did you not report it to him?—A. I have just stated to you why I did not do it.

Q. I would like to have you tell me once more. I do not know as I understand you.—A. In the first place I never saw him to tell it to him, and if I had I don't think I should have done it, because I never talked to him about it after he became Attorney-General. I never mentioned it to him at all.

Q. You do say you saw him on the 31st of July?—A. But I did not mention it to him then.

Q. If you saw him then it is not true that you had not seen him?—A. It had not been signed then.

Q. You did see him?—A. I saw him on the 31st of July, or the 30th, but he never attended any meeting after he became Attorney-General, and only two before, I think.

Q. You made a verbal agreement at Pittsburgh, and on the 31st of July it had not been reduced to writing or signed?—A. No, sir.

Q. Do you know of any reason why you should not, before you reduced it to writing formally, and signed it on behalf of the company, have communicated the fact and advised with all the directors of your company?—A. No; there was no reason why I should not if there had been a meeting. I don't know but I did advise with all of them. I think I mentioned it to the most of them I saw.

Q. Do you know of any reason why you should have mentioned it to the others and not to Mr. Garland?—A. Yes, sir; I do.

Q. Why?—A. Because I never saw him.

Q. Did you not see him on the 31st of July?—A. It was not signed then.

Q. Could you not have written to him?—A. Oh, yes; but I never did. I could have written him and I could have gone and seen him, but I didn't do it.

Q. You have no reason to state why you did not communicate to him the fact that you had made this verbal agreement and subsequently reduced it to writing and signed it on behalf of the company?—A. I have a reason, and I gave it to you awhile ago. It was because I had never seen him. You assume I had no reason; but I have a reason.

Q. Is that the only reason?—A. That is one of the reasons. Perhaps I never thought about it.

Q. You do not now mean to deny that you did see him on the 31st of July?—A. Oh, I don't mean to deny anything that is a fact. Don't you make any mistake about that.

Mr. EDEN. He has stated it repeatedly.

The WITNESS (Mr. Young). Yes; and I will keep on stating it as long as he wants to hear it.

Q. Do you know of any reason why you should not have written him?—A. None in the world. I could have written every day, if I had wanted to.

Q. Why did you not do so?—A. Because I saw no occasion for it; no necessity for it. I did not feel any necessity for communicating with him at all.

Q. Was there any necessity for communication with the other directors?—A. None in the world; I would have done it without consulting any of them.

Q. Had you full power to act?—A. There was no express power conferred on me, but the control of this matter drifted into my hands, not because of anything I did, but the balance of them were engaged, and so the whole control of it drifted into my hands.

Q. I see in a letter of General Johnston's that has been referred to he speaks about not issuing stock, because if the enterprise fails you might all be declared swindlers.—A. I have seen the letter; the old man did have some opinion of that sort.

Mr. RANNEY. I will put that letter in here and read it:

WASHINGTON, D. C., December 23, 1883.

DEAR SIR: Your note of the 21st was received yesterday afternoon, and I saw Mr. J. Harris Rogers immediately in regard to its contents, as officially I can communicate with no one but him in regard to the stock which is borne on the company's records as his.

I reminded him that the sale of stock is not permitted by the company, and also that such sales, even if not prohibited, would be very dangerous. For if the enterprise should not succeed, all concerned in them would be considered by the public as swindlers. I mean all concerned, all of us.

Most respectfully, yours truly,

J. E. JOHNSTON.

Dr. J. W. ROGERS.

The WITNESS. I would suggest if General Johnston's letter is put in he ought to have an opportunity to explain it. I am glad he wrote that letter, and I have no doubt he is, too. I think he ought to be here to explain it.

Mr. RANNEY. It does not require any explanation or comment. I put it in now as a basis for making a few inquiries of you in relation to it.

The WITNESS. If you want to ask me about it, it is all right.

Q. You have complained about the sale of stock by Dr. Rogers after that?

The WITNESS. When did I complain?

Mr. RANNEY. I understood you to say in your testimony that he was selling stock, and you put a stop to it by a vote of the directors.

The WITNESS. I did not make any complaint that I know of. I have not seen any letter in which I made complaint.

Q. You have made no complaint about it?—A. I do not complain. He thought it was right, I have no doubt. It was a difference of opinion between me and Dr. Rogers. I did not think he sold any stock corruptly or improperly.

Q. Mr. Garland, as attorney, had examined these patent rights, had he not?—A. I think he had; yes, sir. He wrote an opinion about them.

Q. He gave two opinions, I think?—A. Yes, sir.

Mr. RANNEY. Are those opinions published with the letters?

Mr. HANBACK. No, sir; we did not have them.

The WITNESS. You will find them among some of the papers. He did give the opinion, I know.

Mr. MILLARD. The opinion was printed by the Pennsylvania Company.

Q. I will call your attention, now, to the following letter from Isham G. Harris:

UNITED STATES SENATE,
Washington, D. C., June 14, 1884.

DEAR SIR: In answer to your note of this day, I have to say that I have used the Pan-Electric telephone in my room for some time, and think it is vastly superior to any telephone that I have ever seen.

And upon a somewhat careful examination, my opinion is that it does not infringe the Bell or any other patent.

Respectfully,

ISHAM G. HARRIS.

General J. W. DENVER.

Did you know of that opinion?—A. I don't know as I ever saw it before. Perhaps I did. I don't know.

Q. Senator Harris, I believe, is well known as a lawyer?—A. Yes, sir; and a very good one, too.

Q. So that you had Senator Harris's opinion as a lawyer?—A. It seems he gave this opinion. I don't know that I ever saw it before.

Q. And you had Mr. Garland's opinion as a lawyer?—A. Yes, sir.

Q. And you had your own?—A. I had my own.

Q. After your examination were you satisfied there was no infringement?—A. No. I was satisfied there was no infringement so far as the broad claim was concerned. Perhaps I should hardly say "infringement," but I was satisfied the broad claim could not be maintained; and I based my opinion as to the mechanical structure not infringing upon Mr. Harris Rogers's opinion and Mr. Marble's opinion. I was not as competent to determine that question as they were.

Q. So far as you were competent to determine the question you did not see any infringement of the Bell telephone, did you?—A. Oh, I could not tell at the time. I did not look at it to see.

Q. You relied on Mr. Garland and Mr. Harris?—A. No; I did not rely on either of them in that respect. I relied on what Harris Rogers said and what Mr. Marble said.

Mr. RANNEY. I find in the Maryland case the opinion of Mr. Garland, and if there is no objection I will put it in the record in this connection, with the letter from Mr. Myers, which called it forth. I will read both letters.

NATIONAL HOTEL, *Washington, D. C., January 4, 1884.*

DEAR SIR: My attention has been called to the stock of the Pan-Electric Telephone Company as an investment. I therefore desire your opinion as to whether the telephone owned by said company, or any part of it, is an infringement on what is known as the Bell telephone.

Respectfully,

D. E. MYERS.

Hon. A. H. GARLAND.

WASHINGTON, D. C., *January 5, 1884.*

DEAR SIR: In reply to your question propounded in the note hereto attached, I beg to say I have given the subject referred to much attention, and have closely examined several opinions delivered by different courts in controversies between the Bell Telephone Company, Dolbear, Spencer Ghegan, and others, and I am clearly of opinion that the Pan-Electric named by you in no wise infringes the Bell Telephone. From the earliest decisions of our courts to the present, although inventions may in their general principles be alike, yet, if in their operation and working there is an essential or material difference, there is no conflict to amount to an infringement. This is recognized in the historic case of *O'Reilly v. Morse*, 15 How., U. S. Reps., 62, and in numerous decisions since that; but more clearly and with more direct application to the matter now in hand in *Clough v. Manufacturing Co.*, 106 U. S. Reps., 178 (October term United States Supreme Court, 1882).

Without attempting any minute detail touching the inventions in question, I am satisfied—thoroughly so—that the difference between them is wider and more distinct than that recognized by the court in the case 106 U. S. Reps., *sup.*

The courts held that a "substantial departure" from a former invention is patentable without infringing. (*Duff v. Sterling Pump Co.*, 127, U. S. Reps., 636.)

This, in my judgment, is more than enough to insure the Pan-Electric Telephone from any charge of infringement of the Bell Telephone.

Very truly, &c.,

A. H. GARLAND.

D. E. MYERS, Esq.,
National Hotel, City.

Mr. HALL. I want to say to the committee that in using the word "counsel," as applicable to Judge Ranney, that I did so entirely by inadvertence. You will all appreciate the fact that men sometimes misuse words in their remarks.

Mr. RANNEY. You withdrew it at the time. I am willing it should be stricken out of the record.

Mr. HALL. I did not design to apply the word to Mr. Ranney. It was a mere inadvertence.

Mr. RANNEY. I so understood it, and did not take any offense at it.
(To the witness:)

Q. I want now to inquire if the Bell Telephone Company and your Pan-Electric Company were not the main competitors in this fight?—A. They were two of them. There were other competitors.

Q. Were you threatened with proceedings and attack in the courts by anybody but the Bell Telephone Company?—A. No, sir; we were threatened with an attack once, which was never made.

Q. I speak of an attack in the courts.—A. No, sir.

Q. Before this Government suit, your Pan-Electric Company had been attacked in how many suits, and where?—A. Do you mean before the inquiry here?

Q. Before the Government suit was brought.—A. There was a bill filed against one of our local companies, to which we were made a party, in Philadelphia, and one filed in Baltimore of the same sort, both of which were dismissed as to us.

Q. And one in Pittsburgh?—A. Oh, no; we had nothing to do with that. That was the National Improved Company. I just happened to go there.

Mr. OATES (referring to the incorporation into the record of the opinion of Mr. Garland). Mr. Chairman, I object to Mr. Ranney's method of producing testimony. I have no objection to his asking any question about it, but I do not want it to appear right in the midst of the testimony of a witness. It seems to me it will make rather an awkward appearance in the record, and that it ought to appear after the testimony. I have no objection to the witness being asked anything about it.

Mr. RANNEY. It is made the basis of my inquiries, and so I think it should go in in connection with the testimony of the witness, so that when any one reads the testimony he can read the opinion right in connection with it, without turning over forty or fifty pages to find it. By my method the opinion is brought into juxtaposition with the testimony of the witness on the subject.

Mr. OATES. If you were to look for it, unless you had an index, you would never find it. You would only find Mr. Young's testimony referred to.

Mr. RANNEY. I will put it in again, if you want me to.

Mr. OATES. I do not care to have the record encumbered by its reproduction. I do not object to its going in, either.

Mr. RANNEY. It has all gone in.

Mr. EDEN. The only objection is as to its order. In law suits when a paper is produced it is identified, and then after the witness gets through the paper is offered.

Mr. RANNEY. That is a matter within the discretion of the examiner who puts it in at the time it is produced if it is proper.

Mr. EDEN. I have stated the rule in every court where I have practiced. I have never practiced in New England.

The CHAIRMAN. The course suggested by Mr. Eden would be followed, perhaps, where the authenticity of the paper was in question; for thus the counsel upon the other side would have an opportunity for cross-examination; but here the paper is admitted to be correct; at least, there is no question raised about it.

Mr. OATES. I have no objection to the introduction of the paper. It is only a question of order.

The CHAIRMAN. That is a matter for the gentleman conducting the examination, it seems to me.

Q. Right in that connection; your associates, so far as you knew, never had any doubt about the validity of your patents, and that there was no infringement, I take it. You said you were anxious to meet in the fight.

The WITNESS. Do you ask if we ever had any doubt on the question of infringement.

Mr. RANNEY. Yes.

A. Well, I cannot say that we had no doubt. We did not regard it as a question settled. We thought it was open to controversy.

Q. You knew you had the opinion of Mr. Garland and Mr. Harris, lawyers in whom you had confidence, that there was no infringement?—A. I did not have any such opinion.

Q. Did you not know of this opinion of Garland?—A. Yes. He did not give any such opinion that I know of. He gave an opinion that the broad claim of Bell could not be sustained, but that was only the fifth claim of his patent. He gave no opinion as to the mechanical appliances that I know of.

Q. I thought you said you had looked the law up and you were anxious to meet and have the fight?—A. Yes, sir; I was.

Q. Against the Bell Telephone Company, who claimed infringement?—A. Yes, sir; I wanted to settle it, and if we were infringing then I wanted to quit and surrender the field to them.

Q. Was it your opinion that you were infringing?—A. No; it was not my opinion we were infringing, or I would not have made the contest. If I had thought the question was settled against us I should have withdrawn. I thought it was like all legal questions, open to some doubt, and for the courts to decide.

Q. You knew that these suits, the one brought against the Rogers Company in Pennsylvania and the one brought in Maryland, would determine that question, did you not?—A. No; I did not.

Q. They involved it, did they not?—A. They involved the question of two of his

patents. I think it is possible we might have put all the questions in issue in that suit that we could put in any private suit. There are certain questions connected with patents that cannot be inquired into, as I hold, in any private suit.

Q. I am speaking of the question of infringement; that question could have been settled in the Pennsylvania suit and the Baltimore suit, could it not?—A. I think it could have been determined in those suits.

Q. In your opinion could it be determined also in the suit which the Pan-Electric Company brought against the Bell Telephone Company in Tennessee?—A. Yes; I think it could, if that suit could be maintained. Since that bill was filed I have entertained a little doubt about whether we could maintain exactly that form of action for legal reasons that I will give the committee, if desired. I do not say it is so, but I have some doubt about it, now you have raised the question.

Q. If the Bell telephone controversy with you was settled against the Bell telephone it would make your patents very valuable, would it not?—A. Oh, if it was settled in a private suit between us—

Q. It was the great object of the parent Pan-Electric Company and the subordinate companies to get the Bell telephone patents annulled or vacated, was it not?—A. We did not care so much about that; if we could get the Bell patents so construed as not to interfere with our patents, we would have been content to let them alone.

Q. It was a vital matter with you, was it not, to have the validity of the Bell telephone patents determined?—A. And the validity of our own; of course it was. Our patents would have been of no value if they had been held by the courts to infringe the Bell patents; or if the courts were to hold that the broad generic claim of Bell covered the whole art of telephony of course no patent would be worth anything; and if it was held that our mechanical structure infringed his in every part, it would have been of no value then.

Q. Was your object in trying to get the Government suit instituted an object growing out of your own interest or the interest of your own company; or was it for the public good, independent of private interests?—A. My primary object was to benefit myself. I am a patriot, but I wanted to benefit myself along with the public.

Q. You considered it a very essential matter to get the Government to proceed against the Bell Company, did you not?—A. Yes, sir, I did; because there were questions that I did not think could be presented in any private suit that were material to be determined.

Q. It would save you a good deal of expense, would it not?—A. No, sir; I did not intend to save anything. My object was to have the Government bring the suit and let us pay the expenses, as you will see before you get through.

By Mr. EDEN:

Q. The Tennessee suit was brought on condition that the Government should be at no expense, was it not?—A. To be at no expense as to counsel. We never expected the Government to pay any part of the expense.

By Mr. RANNEY:

Q. In other words, you wanted to use the Government's name, but to fight your own suit at your own expense?—A. We simply wanted to use the name of the Government at our relation. That was what I wanted.

Q. You wanted to have the Government lend its name, and its name only, while you bore the expense and fought the lawsuit?—A. That was all.

Q. For your own interest?—A. That was all the purpose I had in the world.

Q. For your private interest?—A. Yes, sir.

Q. And not for the public good?—A. Oh no; I am not fighting for the public good especially, in that lawsuit. The way it is now I think it will be very apt to benefit the public, for it is likely the whole thing will be thrown open to competition if the Government wins the suit.

Q. Do you think it would be an important thing for the public to break down one corporation and build up another?—A. No, sir; not another monopoly. I think it is important for the Government to break down all monopolies that are oppressive to the people. I am not sitting in judgment, but that is my impression.

Q. Do you think it would be important for the Government to break down your monopoly too?—A. If we had one.

Q. I mean by monopoly the exclusive right to use and sell those patents of the Rogers' which you control.—A. If we did have the exclusive right to use those patents, and it became an oppressive monopoly, I should think it would be the duty of the Government to pursue that course, though I do not know that I would ask them to do it.

Q. You would not call it a monopoly if you only used the rights which the law gave you, would you?—A. The law says it is a monopoly, and I will not undertake to say the law designates it incorrectly. The law calls all patents monopolies.

Q. But the law gives the monopoly?—A. To be sure.

Q. You had been negotiating with the Bell Company a good deal, had you not, some time previously?—A. I never did myself, personally.

Q. Your company negotiated?—A. Yes, sir; there was some negotiation between them, but I had nothing personally to do with it.

Q. Your company were doing it?—A. Yes, sir.

Q. In one of your letters I see something said about striking somebody?—A. That was in connection with Jay Gould. That is one of the offenses my friends of the New York Tribune were so shocked about. I did not care particularly about striking him. I don't know as I would have hurt him very much if I had.

Q. You were willing to strike him?—A. I don't know that I was. He was a pretty hard man to strike. We had enough to strike without striking Gould. The Bell Telephone Company was enough for us without Gould.

Q. If I recollect aright you read, early in your testimony, in the record of the very first meeting of your Pan-Electric Company, a resolution about conferring with the Bell Telephone Company?—A. Yes, sir.

Q. And you said you had not found out at that time that they controlled everybody?—A. No; I had not found out at that time that they were quite so strong as they have proven now, and this investigation is one of the evidences of it.

Q. How soon did you find it out?—A. Wait until I answer your question, and then ask me another. At the time that resolution was passed I never dreamed we were infringing the Bell patents. If I had thought we were I would have had nothing to do with it. We never dreamed we were doing so. We thought we had a very superior instrument, and we thought perhaps they would be glad to buy it. I did not know as much about it then as I do now.

Q. How soon after the passage of that resolution did you find it out?—A. That was in January. Mr. Vail, probably a month or two after that time, wrote a letter to Senator Harris in reply to one perhaps he had written to him, in reference.—

Q. Have you got that letter?—A. No. Let me get through. That letter was shown to me. Mr. Vail cited a number of cases which had been decided in favor of the Bell Telephone Company. I was not acquainted with those cases then. I had not looked into them; I had been practicing in a country where there never was a patent suit, and had no occasion to look up the law; but when I got that letter I did examine the authorities referred to, and then I became satisfied there would be a contest.

Q. Can you give the date of that letter?—A. No; I cannot. I expect Senator Harris has it perhaps.

Q. This was two or three months after the organization of your company?—A. I think so.

Q. Will you turn to your records and see if you do not find subsequent to that time another resolution passed in regard to the Bell Telephone Company? A.—I think probably there was. Have you seen it on the book?

Q. Yes; it appears on the book. A.—I don't recollect it.

Q. Look at the first meeting. A.—I remember the first meeting.

Q. On that same subject, on page 18 of the appendix, I see a letter from Mr. R. F. Looney, which I will read:

MEMPHIS, TENN., August 3, 1885.

MY DEAR FRIEND: It has been over a month since I heard from you. What is the matter? I wrote you last at Bladensburg, which I suppose you have not received.

Well, I have no news worth writing. Harris, Young, and Gantt are at Washington, I suppose, on telephone matters; I do not know exactly what they are driving at. I could make plenty of money out of the telephone if I had the chance, but I have really no answer to my proposition made to the company. Harris, I think, will make another effort to sell to the Bell Company, in the success of which effort I have but little hope. I am now looking anxiously for something on which to expend my energies and make some money.

I see Atkins is hunting up all the "dead beats" in the country to give them good places. What do you think of it? I have much to say to you when we meet about "persons and things." Write me a long letter when you receive this. If you can send me Armstrong's address, please do so. I wish to write to him. Can you tell me what has become of Alexander?

Remember me to all of your family, and ask Harry if he can write. If he can, tell him to write me a letter.

Your friend,

R. F. LOONEY.

Q. Do you know if Senator Harris was here at that time?—A. He was here at that time, I think.

Q. You know whether, about that time, he was endeavoring to negotiate with the Bell Company?—A. I don't know anything about the negotiations about that time. Senator Harris had an idea, I think, all the time that we could sell the transmitter to them. I never had any such idea. I differed with him about that.

Q. What do you know about Atkins "huating up all the dead beats in the country and giving them places"?—A. Nothing. I suppose he will explain that when he comes here. He didn't appoint any of my dead beats. I tried to get a few of them in, and couldn't do it. [Laughter.]

Q. Haven't you got places for all your dead beats?—A. I have not; I wish I could; I am in the same fix as all the others. [Laughter.]

(The entry in the record book previously referred to was here found and shown to the witness.)

The WITNESS. Shall I read this?

Mr. RANNEY. Yes.

The WITNESS (reading):

WASHINGTON, D. C., February 7, 1884.

Pursuant to call of the president the directors met at the rooms of Isham G. Harris, at 515 Eleventh street, Washington, D. C., at 7.30 o'clock, February 7, 1884. Present: Joseph E. Johnston, Isham G. Harris, Robert F. Looney, and Casey Young.

Joseph E. Johnston, from the committee appointed and authorized to contract with D. E. Myers & Co. with respect to the States of Ohio, Illinois, Indiana, and Minnesota, reported that the committee had consummated the contract as directed by the board of directors.

On motion of Robert F. Looney, Joseph E. Johnston, Isham G. Harris, and J. Harris Rogers were directed to proceed to the city of Boston for the purpose of conferring with the officers of the National Bell Telephone Company with a view of making some satisfactory arrangement with said company in respect to the telephone business.

On motion the meeting adjourned *sine die*.

J. E. JOHNSTON,
President.

CASEY YOUNG,
Secretary.

Q. All your efforts to unite with or trade with the Bell Telephone Company failed, did they not?—A. Yes, sir; there was never anything done. I never tried it.

Q. And your fight then began in earnest?—A. We didn't commence any fight on them. They subsequently filed a bill against us.

Q. They began on you?—A. They entered the Philadelphia suit sometime after that.

Q. Did you not commence the fight on them when you brought your suit at Memphis?—A. That was the first attack we made.

Q. Did you know of Dr. Rogers making an application to be appointed Assistant Attorney-General?—A. I heard of it. I don't know whom I heard it from. I don't know but I signed it.

Q. You have already spoken about trying to get his son appointed electrician?—A. Yes, sir.

Q. What did you know of the endeavor to get Dr. Rogers appointed Assistant Attorney-General when the new administration came in?—A. I heard of it. I don't know what was said about it particularly. I don't know whether I talked about it or not. Senator Harris, perhaps, talked to me about it. Perhaps I heard it from Senator Harris. I know there was such an application.

Q. You favored it, did you not?—A. I suppose I would have done it if I were asked. I think I was at home sick.

Q. Didn't you sign it?—A. I couldn't say.

Q. Were you not an applicant for appointment as Assistant Attorney-General, too?—A. No, sir; I was not. I wouldn't have any office under this Government. I had one here eight years that I got very tired of. I want it to go on the record that I never was an applicant for office. I will state that at the time this was being done I was confined to my room. My arm was paralyzed, and I was not able to go about for two months. I never went out of my room.

Q. How many people interested in the Pan-Electric Companies, either the parent company or children or grandchildren, got and held office under the new administration, and who are they?—A. I couldn't say. I didn't get office for any of them, and don't know whether any of them got office or not. General Atkins is the Commissioner of Indian Affairs and General Johnston is the Commissioner of Railroads. I don't know but that there may be others.

Q. You were the custodian of the papers of the Pan-Electric Company?—A. Yes, sir.

Q. Have you got the letter book containing the correspondence of the company?—A. I put it in here the other day. Here it is [indicating book].

Q. You kept a file of letters received, did you?—A. I had a number of other files like that, and sometimes a letter got into my other files.

Q. (Examining book.) I do not want to pry into your private affairs. Are there any private letters here?—A. There are some private letters, I think. I have not

looked to see what letters are there. This is marked "Telephone book." There may be some private letters in there. I think probably there are a few that my clerk put in by mistake. I have a lot of those files in my room that I have not had time to go through. I think very likely there are some letters there that relate to this business in some way or other.

Q. I would like them all.—A. I will look through them directly and see if there are any private letters here. I have not examined them at all. I just picked up the book and brought it along.

Q. One of my associates says he has looked at the letter books of your company, and does not find any correspondence since about May, 1885.—A. No; I don't think there is any in there, for this reason—

Q. One moment. There is none after that date. Has there been any correspondence since that date?—A. I was just going to say—

Q. Where are those letters?—A. Just let me answer one question at a time. About the middle of March, 1885, I was suddenly paralyzed, one morning, in my right side, from a hurt I got previous to that time. Up to that time I had put most of the letters I had got in those letter files. During my illness I was not able to do anything at all. Some letters may have come to me. If they did, my clerk took them, and read them, and attended to them. Mr. Money came down and attended to a great deal of my correspondence. I see some letters were put in here as late as May. As soon as I got able to travel I went home. I got very few letters then. Of those I did get some perhaps I have kept among my private letters, and some perhaps I did not keep at all. I corresponded with nobody during that time, except a few letters from Dr. Rogers; a few from Senator Harris, and a few from General Johnston. I don't remember any others that I got, except from persons residing at a distance from here.

Q. I see your letters were headed "Office of the Pan-Electric Company, Washington?"—A. Yes, sir.

Q. Was the office of your company of that name kept here in Washington?—A. Yes, sir.

Q. Did you have any clerk in charge of the office when you were absent?—A. No, sir; none at all. Major Gardner was in charge of it. He was the secretary of the Washington Telephone Company; the gentleman behind you (indicating Mr. Gardner).

Q. Do you mean to be understood that all the letters received since about May, 1885, you cannot find?—A. I have found some of them. I think there are some in this book a little after that time, may be. I have not looked through them. I wrote home to my partner to send me all my letter files and he sent them to me here—six or eight volumes like this. Perhaps there are some among them. I have not had time to go through them yet. A subcommittee can come and look at them, or I will do it myself. Doubtless a good many letters I received while I was home I would just tear up. Then I was at Hot Springs for two or three months, and I had no letter file there and I take it I tore up all the letters I got during that period.

Q. The paper relating to the appointment of Dr. Rogers as Assistant Attorney-General has been found. [Hands paper to witness.] Will you tell me whether that signature is the signature of Isham G. Harris?—A. It looks like it. I think it is his signature.

Q. His signature is the first, is it not?—A. I don't know whether it was signed first or not. I see some on the other side.

Q. The third one is Joseph C. S. Blackburn. Do you know whether that is Senator Blackburn's signature?—A. I couldn't swear to his signature. I have seen it. That looks like his writing. I am not very familiar with it.

Mr. EDEN. Do you care about showing who signed the recommendation other than the men connected with this company?

Mr. RANNEY. If they are connected with the Government.

The WITNESS (Mr. Young). Joe Blackburn has nothing to do with the telephone.

Q. "P. Dunn, Arkansas." Is that the man who has been named before in connection with the purchase of some stock?—A. Nobody ever mentioned his purchasing any stock that I know of. That is an assumption of yours.

Q. Was not something said about his buying some?—A. I stated that Mr. Dunn had spoken to me about trading a house to Dr. Rogers or Colonel Looney for stock.

Q. Here is the name John D. C. Atkins. Is that the signature of one of your associates?—A. That looks like General Atkins's signature.

Q. The next in order is J. E. Johnston. Is that the General Johnston you have spoken about?—A. I think that is his signature.

Q. The next is H. D. Money. Is that his signature?—A. That looks like his signature.

Q. The next is J. J. Johnson. Who is he?—A. I do not know.

Q. It is not Bradley Johnson?—A. Oh, no.

Q. Who is Bradley Johnson?—A. He is a lawyer, president of the Washington Telephone Company. That is not his name.

Q. You do not know who this man is?—A. No, sir.

Q. The next is R. F. Looney. Is that another one of your Pan-Electric friends?—
A. Yes, sir; that looks like his signature.

Q. You say you were paralyzed at that time, so you could not write?—A. Yes, sir; I expect I would have signed it.

Q. Next is John C. Brown. Is that another man who was with you?—A. I don't know whether it is his signature or not. I corresponded with him sometimes.

Q. It says "ex-Governor John C. Brown."—A. I expect it is his signature.

Q. That is his name, is it?—A. I presume it is his name; I am not very familiar with his signature.

Q. The next is Robert Klotz. Is that another?—A. That looks like Major Klotz's signature. I should say it was.

Q. This paper seems to have the names of all your associates, the principal ones in this Pan-Electric Company, except yourself.—A. Oh, no; only a few of them.

Q. It has not the name of Mr. Garland, of course?—A. Oh, no; it was directed to him I think. I don't see my name here and I don't see the name of Harry Rogers. Those are the only two of the original parties whose names I don't see.

By Mr. OATES:

Q. The petition is directed to the President, is it not?—A. I think it is directed to the Attorney-General.

Mr. RANNEY. I will read the paper:

"Learning that J. W. Rogers, esq., desires the place of assistant attorney in some of the Departments, we, the undersigned, commend him to President Cleveland for the position named, whenever a vacancy may occur in such Department."

By Mr. RANNEY:

Q. Harris, Atkins, Johnston, Money, Looney, and Klotz signed that paper?—A. Yes, sir. I would have signed any paper for the appointment of Dr. Rogers to any office I thought he was fitted for, and would do it yet.

Q. You would have signed it if it had been presented to you?—A. I suppose I would. It was not presented. I was sick and couldn't write, I think. I couldn't have written my name at that time.

Q. The reason your name is not on it is because you could not write at that time?—
A. I do not know that is the reason.

Q. Did you know that there was such a paper?—A. I had heard of it.

Q. Did you know that such a recommendation had been made and circulated?—A. Yes, sir; I heard it had. Probably I have heard more about it since this outcry about the telephone than I did before. I will sign it yet, if you think it will do any good.

Mr. EDEN. I suppose you don't care about having those names in the record?

Mr. RANNEY. I think the whole paper had better be put in.

Mr. EDEN. Very well; I do not object.

The following is the paper referred to:

Learning that J. W. Rogers, esq., desires the place of assistant attorney in some one of the state departments, we the undersigned commend him to President Cleveland for the position indicated whenever a vacancy may occur in such Department.

ISHAM G. HARRIS.
W. C. WHITTHORNE.
JO. C. S. BLACKBURN.
P. DUNN.
JNO. D. C. ATKINS.
J. E. JOHNSTON.
H. D. MONEY.
JAMES GIBBONS.
S. A. CLARKSON.
W. D. DAVIDGE.
J. J. JOHNSON.
J. W. DENVER.
A. A. LIPSCOMB.
FILLMORE BEALL.
BAINBRIDGE H. WEBB.
W. B. WEBB.
E. A. NEWMAN.
R. F. LOONEY.
L. G. HINE.
CHARLES WALTER.
CHARLES A. WALTER.
JOHN E. NORRIS.
WILLIAM A. GORDON.

ROBERT CHRISTY.
JOHN F. ENNIS.
WM. J. MILLER.
WILLIAM DICKSON.
ROBERT KLOTZ.*
JNO. C. BROWN.
T. A. LAMBERT.
FRED. W. JONES.
IRVING WILLIAMSON.
F. P. CUPPY.
JOHN CRITCHER.
P. J. RYAN,
Archbishop of Philadelphia.
F. M. VINING, (?)
Bishop of Albany.
S. V. RYAN,
Bishop of Buffalo.
JNO. J. MURPHY,
S. J., President Gonzaga College.
BERNARD A. MAGUIRE,
S. J., Gonzaga College.
ARTHUR MACARTHUR,
Justice Supreme Court, D. C.

* I wish particularly to emphasize this petition for my old and well-tried friend, J. W. Rogers.

Q. Were any of your associates applicants for office that you know of?—A. None that I know of. I was not. I do not know of any. Possibly there were applicants among them.

Q. You saw these so-called disclosures or publications in the World, did you not?—A. Yes, sir; it was very interesting reading to me. I used to peruse it.

Q. Did you go to see anybody about it?—A. Oh, yes; I saw Mr. Crawford about it.

Q. Mr. Crawford, of the World?—A. The correspondent of the World.

Q. You went to see him personally?—A. Yes, sir.

Q. Did you go alone or with somebody else?—A. I went once alone and I went once with Senator Harris and General Johnston. I went to see Mr. Crawford when the first article appeared.

Q. And subsequently, after it was all out—A. It is not all out yet, I believe.

Q. After all the publications were made you and Senator Harris and General Atkins went?—A. No; General Johnston.

Q. You three went to see Mr. Crawford?—A. Yes, sir.

Q. Can you state what you said to him at that interview?—A. I can state all I can recollect. I don't remember all that was said.

Q. State what you recollect.—A. When we went down there Mr. Crawford was not in the room. We waited a little while, and I think a young man went after him, or perhaps he came in. We called his attention to those publications, and we told him we thought he was doing us great injustice in publishing those sort of things; that there were some things in them not true and calculated to present us in a wrong light; that our office was near at hand, and if he would come over there any time we would submit the books, papers, correspondence, and everything else to him, and let him have access to every fact connected with the whole concern. I had told him that previous to that time.

Q. Is that all?—A. Oh, there may have been a good deal more conversation. If you will call my attention to any particular thing I may remember it. We staid there about half an hour.

Q. Did he tell you he would publish any statement you would make?—A. Oh, yes; he told me that before.

Q. Did he ask you whether you had any statement to make?—A. Perhaps he did. He told us he would publish anything that we might furnish, and I told him I did not care to contribute to that character of sensational literature.

Q. Did not you three men go in there and say to him that you wanted him to state in the presence of the whole three that neither one of the three gave him the information?—A. No; nobody stated it exactly in that way. I said myself that he had published an article previous to that time that seemed to have such a clear insight into the details of our business that it had given rise to suspicion, and I was afraid that some of my associates concluded I had furnished it to him. I said this in rather a jocular way, but Mr. Crawford seemed to think it was a more serious matter than I did, and he said: "No, sir; I acquit you of any connection with it," or something of that sort.

Q. Did you not say to him that you wanted him to state in the presence of these three men that neither one of them gave him that information?—A. Perhaps I may have done so.

Q. Did you not?—A. I cannot remember.

Q. Did he not then say, "Neither you, Mr. Young, nor you, General Johnston, nor you, Senator Harris, gave me this information"?—A. Oh, I think he did; yes, sir.

Q. Did you not ask him to say that, and state that was what you had all three come for?—A. Oh, no; I did not state that was what we came for.

Q. To have him state in the presence of you all that neither of you gave him that information?—A. Oh, no; we did not go for any such purpose as that.

Q. Did you not say so after you got there?—A. No; I don't think I said so. I didn't care a cent whether anybody thought I did it or not. I wouldn't have given a flip of a nickel for what anybody thought about it.

Q. Are you sure about that?—A. Oh, no; I am not. I may have said it. Mr. Crawford is here, and you can take his statement. I don't remember.

Q. I want your recollection.—A. That is about what I recollect.

Q. Please state whether he did not say to you in substance, "Gentlemen, have you anything to say? I will publish anything you have to say"; and you said, "No; we have not."—A. Yes, sir; I told him I did not want to contribute to any sensational literature of that sort, and I had been in politics a little too long to enter into a newspaper quarrel, for a fellow generally gets the worst of it before he stops.

Q. He said he would publish anything you might say?—A. Yes; he told me that before.

Q. And you said you had nothing to say to be published?—A. I think Senator Harris said he had no publication to make, or something like that.

Q. And thereupon did you say, "We want you to state to us three that neither of the three gave you that information"?—A. I don't think I made any such statement.

My recollection about it is that I said to Mr. Crawford that the details he had published seemed to be so accurate that they appeared to have come from somebody who was acquainted with the affairs of our company, and perhaps I would rest under the suspicion of having done it myself. That was rather a jocular remark. He said, "No, I acquit you of any blame or any connection with the matter"; something of that sort, but I did not care if he did; it didn't make any difference to me.

Q. I simply ask whether you told him that?—A. I am giving it as my impression that I told him.

Q. Do you remember whether he did say to you and to each of the other gentlemen that neither of you gave him the information?—A. I do not remember that; perhaps he did. I don't know.

Mr. RANNEY. I think of nothing more I desire to ask you except as to the letters, and as to this combination and agreement, when you get it.

The WITNESS. I asked the committee yesterday to let me see the letters that were considered by the subcommittee as not relevant. I see there are a good many I wrote, and they may have some bearing upon those that have been considered relevant by the committee. The connection between them might enable me to recall a good many things that I have forgotten, in any explanation the committee may call upon me to make. I would like to explain how I happened to write every one of these letters, so far as I can recollect.

Mr. RANNEY. There is a letter here of yours which purports to be an answer to one in regard to Senator Garland.

The WITNESS. What page is it on; is it that letter you alluded to awhile ago about striking at Gould? I would like to see that letter.

Mr. RANNEY. Here is one from Dr. Rogers that purports to be a dispatch:

"By reference to my letter you will see that I do not say, as you state, 'that Mr. Garland is indebted to me for getting him appointed;' but 'for my efforts to get him appointed.' Those efforts may be summed up as follows: *Ambages longe sunt.*

"I suppose that phrase means that roundabout ways are long."

Dr. ROGERS. Do you wish me to translate it for you? It is what Æneas said to Dido: "I have traveled a long way, and it will take until the stars subside before I can tell you all."

Mr. RANNEY. You traveled a long way to get Garland in.

Dr. ROGERS. Oh, no; he came in early in the morning.

Q. Did you make any efforts to get Mr. Garland appointed Attorney-General?—A. Oh, no; I had nothing to do with it.

Q. Did you not sign a recommendation to the President?—A. No; I don't think I did.

Q. Did not Colonel Gantt and your associates?—A. Oh, no; I think not; Colonel Gantt was not here; he is not a politician.

Q. None of you signed his papers?—A. Oh, no; I don't know anything about that.

Mr. RANNEY. I think I am through with the examination, with the reservation I have mentioned. If I have omitted anything, my associates will supply it.

The WITNESS. I will bring out anything you have omitted.

Mr. RANNEY. Probably I have omitted a good deal. I am sorry I have had to monopolize so much of you.

The WITNESS. It has been a very happy monopoly, so far as I am concerned.

Mr. OATES. I would like to have the reporter look through the testimony of Mr. Young and see if he did not, in response to one of Mr. Ranney's questions about the bringing of that suit, say that the Attorney-General was interested in a telephone suit.

The WITNESS. I didn't say a suit, I think.

Mr. OATES. I want to see whether you did or not.

The WITNESS. If I did, I made a mistake; I did not intend to say that, if I did; I meant he was interested in a telephone company. Will the committee allow me to have those letters?

The CHAIRMAN. I understand there is no objection.

The WITNESS. I would like to look over them.

Mr. RANNEY. In looking over the list of letters that are marked "unimportant," it has occurred to me that some of them may be important for the purpose of fixing dates, if nothing more.

The WITNESS. There are some here I cannot see the relevancy of. Here is letter No. 158. I will call Mr. Hanback's attention to that. I do not see what that has got to do with this business.

Mr. OATES. Those letters are not all in evidence.

The WITNESS. I see they are printed, and I thought they would go in the record.

Mr. OATES. No; they are only printed for the use of the committee. Such as are put in evidence will go into the record, and no others.

Mr. HANBACK. They do not all go in.

The WITNESS. I notice several here that do not seem to me to have any possible connection with this investigation.

By Mr. OATES:

Q. I understood you to say, in response to one question of Mr. Ranney, that the Attorney-General was interested in a telephone suit.—A. I meant he was interested in a telephone company.

Q. So if you said it in that form, you did not intend to do so?—A. Oh, no; he had no suit that I know of. If I used the word suit it was a *lapsus lingue*; I intended to say a telephone company. There was no suit that he was interested in that I know of.

Q. You are aware, are you not, that the Government has commenced a suit in Ohio?—A. I see it by the papers.

Q. To vacate the Bell patents?—A. I see it by the papers.

Mr. RANNEY. I object to the witness stating what he has heard about that matter. It is not embraced in the resolution of inquiry. I apply your own doctrine.

Mr. OATES. I take issue with you squarely on that. It is embraced in this inquiry.

Mr. MILLARD. I object to the evidence, as it must be hearsay.

Mr. RANNEY. If we are going to investigate that suit, we will do it. I would like to investigate the whole thing, if you want to.

The WITNESS. So would I.

Mr. RANNEY. If the House will authorize it, I will not object, although it is not a duty to covet. I cannot see how the resolution could embrace an inquiry into a suit that has been brought since the resolution was adopted.

The CHAIRMAN. Did not this Columbus suit grow out of the original application from the district attorney at Memphis?

Mr. RANNEY. Not knowing what the suit brought at Columbus is, I cannot tell.

Mr. HANBACK. I think it can hardly be said it grew out of that, because that suit was withdrawn.

The CHAIRMAN. It was withdrawn, but as I understand it from the record you have here, the application made to Mr. Goode by the district attorney in Tennessee is made the foundation for this suit which has now been ordered.

Mr. OATES. I read from the resolution: "And also as to what suit or suits, if any, have been brought in the name of the United States to test the validity of patents issued, or any other right or controversy between the Bell and the Pan-Electric Telephone Companies; what contracts had been made, what moneys paid or to be paid to any person or persons as assistant counsel by the Attorney-General or Solicitor-General of the United States; the reason and authority for constituting the United States a party to said suit or suits, and all matters connected therewith."

Mr. MILLARD. This suit had not been brought at the time the resolution was offered.

Mr. OATES. It was contemplated.

Mr. MOFFAT. It had been ordered, I think.

Mr. OATES. It had. We are instructed to inquire into and ascertain as to the suit or suits and all matters connected therewith.

Mr. RANNEY. If you are going into that, I see by the newspapers this morning it is alleged this suit has been brought at Columbus, so that it can be tried before Judge Baxter, who is a well known and notorious patent smasher. I do not state this as indorsing it or as knowing anything about it. I simply refer to it as enlarging the scope of the inquiry beyond what the House intended.

Mr. OATES. I serve notice on you now that if you insist upon your objection I shall hold you down to the same rule hereafter. I have been letting you run a long way outside of the rule, but if you want to enforce the strict rule and prevent the public from getting the facts, very well.

Mr. RANNEY. I do not recognize the fact that I have been doing anything by your permission.

Mr. OATES. You have, by my permission, as a member of the committee.

Mr. RANNEY. I have been doing what I have done under an assertion of my rights. If there was any objection to it you should have made it.

Mr. OATES. My rights, sir, are as broad as yours on this committee.

Mr. RANNEY. I concede it. I neither hold you down nor will you hold me down.

Mr. OATES. You can make your objections and I will make mine, and the committee will decide.

Mr. RANNEY. My objection is this: That the suit in Columbus, Ohio, is subsequent to the passage of this resolution, and is not embraced within the scope of the inquiry.

Mr. OATES. What I said was merely by way of preface to an inquiry that I intended to make of the witness about a matter that I think you will concede is material.

Mr. RANNEY. Then put the inquiry so that we can understand it.

Q. If any suit succeeds in setting aside the Bell patent, or if the suit or suits which have been brought at the instance of the Government shall set aside the Bell patents,

would it or not benefit the Pan-Electric Telephone Company?—A. Under the suit that has been brought it would not; it would destroy it.

Mr. MILLARD. That is not an answer to the question.

The WITNESS. Then I have misunderstood the question.

Q. If the suit which has been brought at the instance of the Government and in the name of the Government heretofore or at present, or hereafter, is successful in setting aside and declaring void the Bell patents, will that decision be beneficial to the Pan-Electric Telephone?—A. It would only be beneficial in this way: It would open up the whole telephonic field to competition by anybody who saw proper to put a telephone in operation, and then it would depend upon our business capacity and enterprise and industry in pushing those different matters whether or not it would benefit the Pan-Electric Company. It would benefit it to that extent and no more.

Q. If it would not benefit the Pan-Electric Company, why was it that that company was desirous of having such a suit?—A. That company was not desirous of having such a suit brought. It did not want a suit of that kind.

Q. What was it that the attorneys of the Pan-Electric Telephone Company desired or sought for in appearing before the Interior Department and urging that a suit be brought by the Government against the Bell Company?—A. Their purpose was to get a suit brought at their relation, by the Government, so that they themselves could control it, and let it as far as possible be a contest between them and the Bell Company, and not between any other company in the country. That was the sort of suit they wanted, but that is not the sort of suit they got. I suppose, in the absence of getting a suit of that sort, that they would have been willing to ask for the sort of suit that has been brought; but if they had known in advance that that sort of suit would have been ordered, the undertaking never would have commenced. But we got into it and there was no way to stop.

Q. You have stated in your examination heretofore that after you entered into the agreement with Van Benthuyzen about bringing the suit you talked with all your associates about it. Did you have any conversation with Mr. Garland about it?—A. Oh no; I never mentioned it to him. I did not say I talked to all of my associates. I talked with some of them. There were a good many of them—forty or fifty.

Q. Have any of your private letters and correspondence found their way into the newspapers and been published?—A. Oh, yes.

Q. Touching Pan-Electric Telephone matters?—A. Yes; pretty near every one I ever wrote to Dr. Rogers. He seems to have published all of them. I don't know whether there are any more or not; likely there are.

Q. Do you know of any other correspondence between you and your associates which has gotten into the newspapers and been published, except what has been furnished by Dr. Rogers?—A. No, sir; I do not.

Q. If so, what letters, and how?—A. I do not know of any others that have gotten into the newspapers. I take it he furnished them. I do not know.

Mr. OATES. I do not care to ask any other questions.

The CHAIRMAN. It is now the turn of the gentlemen from New York, Mr. Millard, to interrogate the witness.

Mr. MILLARD. I was not here yesterday, and do not know the ground that has been covered by Mr. Ranney.

The CHAIRMAN. I think it has all been covered.

Dr. MILLARD. I do not want to repeat, or take up time unnecessarily. I would like the privilege of looking over the evidence of yesterday, and to-morrow morning asking Mr. Young such questions as I desire.

The WITNESS. I understood the committee were not to meet to-morrow, and I made an engagement. I will come if they meet.

Mr. MILLARD. Whenever we meet again, I mean. I do not want to ask any questions that have been asked by Mr. Ranney. I was unavoidably kept away yesterday.

The CHAIRMAN. Colonel Young may be recalled hereafter if you desire. He may be recalled at any time.

Mr. MILLARD. I will ask a few questions.

By Mr. MILLARD:

Q. If you had succeeded in the suit that you brought at Memphis, would it not have disposed of the questions raised in the suit at Baltimore?—A. If we had been able to sustain that suit, I think it would have disposed of—

Q. I mean the Government suit.—A. If that suit commenced at Memphis had been prosecuted it would have disposed of more than all the questions presented in the Baltimore suit.

Q. If you had succeeded in the Government suit which was instituted by the district attorney at Memphis it would have covered the questions you sought to litigate, not only at Baltimore, but everywhere else?—A. We did not seek to litigate them at Baltimore. They brought the suit. I think it would have covered every question in the Baltimore suit, and some that could not be put in issue in that suit at all.

Q. One question further, and I will waive further examination. Will you state precisely the object you had in view in bringing the Government suit, so far as the questions between your company and the Bell Telephone Company were concerned?—A. O, yes, sir; I have no objection in the world to stating it. Our courts have held uniformly that the question of fraud, inadvertence, or mistake in the issuance of a patent cannot be inquired into in a private suit, and I was not sure whether we could succeed in our suit without embracing those questions, and showing that *ab initio* this patent was void.

Q. Your object was to break down the patent of the Bell telephone?—A. The object was so far to break it down as to prevent them from interfering with us. That was all.

Q. To sweep them from the field?—A. Oh, no; we did not want to do that.

Q. Your object was, was it, to get them out of the way, so that they would not interfere with your rights?—A. Yes, sir; simply to put them in a position where they could not interfere with us. It was not our purpose to interfere with them at all, because they would have gone on anyhow. We could not possibly stop them, no matter how the suit might have gone; neither we nor the Government could stop them. They would not stop.

By Mr. RANNEY:

Q. How could they have gone on if their patents had been vacated?—A. The Western Union Company has been going on for forty years—

Q. On patents that have been vacated?—A. No; not on patents that have been vacated. They could not, perhaps, compel people to pay royalties except under a contract; in other words, they could not prevent me from using the same instrument, unless there was some mechanical difficulty in the way.

By Mr. MILLARD:

Q. Your object was to set aside their patent?—A. No.

Q. To have it declared invalid?—A. My object was to have their patent construed; that is, to have declared illegal and void the fifth claim in their patent, which covers the whole art of telephony. When that was done I had no fear about the interference between our mechanical contrivances, because I had looked into it sufficiently since that time to satisfy me I could defeat an action of that sort. There is some similarity between the instruments, but I think there is a patentable difference so far as I have been able to judge. I am not an expert in these things, but I base my opinion upon that of other experts, men who do know. We simply want to take away from them the power to injure us. I will state further, if the committee will permit me, that we had abundant precedent for that proceeding. It has been done for the last fifty years, and no question has been raised about it.

Mr. EDEN. I do not want to ask any questions.

Mr. HANBACK. I will ask a few questions.

By Mr. HANBACK:

Q. In your testimony a little while ago you said in answer to a question by Judge Ranney that you had not known up to a certain time that the Bell Telephone Company had so much power over courts, Congressmen, &c., but you had since learned of it.

Mr. RANNEY. He did not say Congressmen.

The WITNESS. I say it now, if I did not before.

Mr. HANBACK. I thought he said it.

Q. (Continuing.) And you said this investigation was one of the evidences of the power of the Bell Company?—A. Yes, sir.

Q. Will you please explain that answer?—A. I will. Within the last seventeen years at least seventeen suits have been brought just like this. Two of them were so nearly alike that if you will change the names of the attorneys and the parties they will appear to be absolutely the same. The same questions were involved, and the same great interests were at stake. The same able lawyers were on either side. The questions were discussed here before the Attorney-General for two months by Mr. Conkling, Mr. Harding, Mr. Crowley, of New York, all eminent lawyers, and on the other side by General Butler, by Mr. Duncan Walker, and by a lawyer from Pittsburgh, whose name I have now forgotten. That agitation commenced exactly as this did, and pursued the same course, and suit was brought just as Mr. Goode brought it, upon the application of a patentee, and for the purpose of annulling a patent. After the suit was ordered the representatives of the rival company, Mr. Conkling and Mr. Crowley and Mr. Harding, came on here and made the same complaint that was made by the Bell Company, that this had been an *ex parte* proceeding, without giving them an opportunity to be heard, and asked that the case be reopened, and that they be given an opportunity to argue it. Attorney-General Brewster consented to do that, but did not refer it to the Secretary of the Interior

He did hear argument for a long time. The legislature of Ohio passed a series of resolutions about it. That was never brought into Congress. Another case just like that, the Torpedo case, there was just as much noise made about in the newspapers, and just as much opposition to as there was in this case. The same arguments were made in that case as were made before the Secretary of Interior here in the present case. Those gentlemen did not have power enough to get it before Congress. That is the reason I say this investigation here is just another evidence of the immense power and influence which the Bell company are able to exert through the newspaper press and other sources. I do not pretend to say the gentleman from Kansas (Mr. Hanback) had anything to do with that, because I do not think he had.

By Mr. EDEN:

Q. Did you mention the name of Mr. Goode as having ordered one of those suits?—
A. No, sir, Mr. Brewster; he ordered them just like Mr. Goode ordered this suit; there was no notice; it was *ex parte* altogether; there was the same great outcry made that was made here, and the same array of very eminent counsel; I did not intend to say that the gentleman from Kansas had anything to do with it, because I have assurances from another source that he did not have—that no influences from the Bell Company have operated on him.

By Mr. HANBACK:

Q. Then I understand from your statement that as to the correspondence, newspaper articles, &c., on which this investigation was based, appeared through the newspaper press of the land, especially the New York World, the New York Sun, and the New York Tribune, such publications were made by reason of the influence of the Bell Company upon those papers?—A. No; I do not say that; I do not say that any of those papers were paid a cent by the Bell Company; but I say this: that I do not believe there is another corporation in the United States that could have exerted so much influence and made so much noise through the newspaper press.

Q. I understood you to say earlier in your examination that this investigation is one of the evidences of the power of the Bell Telephone Company.—A. I think so. I do not believe any other corporation could have done it.

Q. So far as I know anything about it my information has been received from the newspapers, and that is where the country saw it. Do I understand you to say that the papers I have named were influenced by the Bell Telephone Company to make a fight in order to break down any opposing companies that might be built up?—A. I have no facts in my possession that would authorize the belief upon my part that any of these newspapers were corrupted by the Bell Telephone Company. If I had I would state them. But I do believe that no other corporation in this country is so powerful that it could have come into Congress and instituted an investigation because a suit had been brought against them just as it has been brought against fifty other corporations. I don't believe a corporation can be found in this country that ever did do it, or ever could do it again.

Q. You were asked a question by Colonel Oates a few moments ago which I have put down as fully as I could. I will give you the substance of it, which I think I have correctly minuted. If the suits heretofore brought or at present brought or in the future to be brought in the name of the United States against the Bell Telephone Company should prevail, the question as to whether it would inure to the benefit of the Pan-Electric Company; and I understood you to say it would not; and afterwards you qualified your answer by saying that the only benefit would arise from open competition.—A. Yes, sir; that is the only benefit it would be to us. It would just result in keeping their hands off of us.

Q. I wish to call your attention to a part of your examination which I will read, (p. 175):

“Mr. HALL. Now proceed. What transpired afterwards?”

“The WITNESS. I came on to Washington City to see him, not to have a suit brought, but to keep a suit from being brought in that way. My idea about the suit was, and the one I wanted—

“Mr. MILLARD. Please state that again.

“The WITNESS. I came to Washington City, not to get him to bring that suit as he proposed to bring it—

“Mr. MILLARD. You say you were opposed to the bringing of a Government suit?

“The WITNESS. No; I do not; but I say I was opposed to the bringing of the suit that he wanted to bring, and for these reasons, which I will give to the committee: That suit would have destroyed us as well as the Bell Company, and I did not want to do that. But I did want and advised him that if the suit was brought by the Government it should be brought by the Government at our relation, so that we could control the suit and it would not undermine us together with the Bell Company.”

The WITNESS. I do not know that I used the word “undermine”; perhaps I did; that is what I meant.

Q. Is it not true that the suit afterwards brought at Memphis was in the name of the United States, and not upon the relation of any company?—A. Yes, sir; very much against my wish, too.

Q. I think you testified to-day that immediately after the letter had been prepared asking authority for the bringing of the suit in the name of the United States you left Memphis, or very shortly afterwards, and arrived here about the 2d of September?—A. Yes, sir.

Q. And in answer to a question by Judge Ranney with reference to Attorney-General Garland you said you did not know he was absent until you reached Cincinnati, but it made no difference, because you knew Garland would not consent himself to have any suit brought and would have nothing to do with it, and that you did not care what Solicitor-General Goode did, because you intended to go to the President and fight to have the suit brought?—A. Yes, sir.

Q. That was this suit at Memphis, was it?—A. Oh, yes; that was the one.

Q. But that was not on the relation of your company?—A. I stated before that the reason it was not was because Mr. McGorrie refused to bring it in that way, and I intended when I got here to use what influence I had to have it brought in that way.

Q. On your relation?—A. Yes, sir; and if I had gone to the President and had been in a position where I could have argued it and presented my views, I should have insisted upon our right to have it brought in that form. I think it was a clear legal right we had, and I should have insisted upon it. I did not think anybody had the right to deny it to us. That was and is my view of the law, and that was the sort of suit I wanted. I thought I might get Mr. McGorrie's views changed. I thought they were wrong.

MR. RANNEY. If you can give the committee any authority for such doctrine, I hope you will do so.

THE WITNESS. I will give you very good authority. You do not seem to understand it very clearly, and I will take great pleasure in enlightening you. I will give you my brief.

MR. RANNEY. You may speak of what you understand or do not understand, but do not speak of the understanding of others.

THE WITNESS. You asked me a question, and I will take great pleasure in furnishing you with the information.

Q. After your examination of the law relative to the bringing of suits for the setting aside of patents, do you know of any case that has ever been brought by the Government, in the name of the Government, and not on the relation of any company, to set aside a patent other than a patent for land?—A. I have not examined the original record in any suit, but I have examined what the courts have said. The first case that ever was brought, that I have any knowledge of, was an English case, and that was brought upon the relation of another party by the Attorney-General. That was followed in subsequent English cases, and that same common-law doctrine has come down to us and is the law in this country to-day. I have no fear of maintaining such a suit, if they will allow us to bring it. It is brought in every State in the Union to-day. There is hardly a State where it is not brought.

MR. MILLARD. It is brought under statute.

THE WITNESS. If you will examine the case of the railroad against somebody, in 31 Wisconsin, you will see every case collated on that subject. On the law of this case I am "heeled," and I would like to discuss it.

MR. EDEN. The members of the committee have the advantage of you. You are answering under oath and they are not.

THE WITNESS. I am giving that as an opinion. I may be mistaken.

Q. I want to ask you relative to the conversations you had with the Rogerses, and I shall not be tedious. There will only be a few questions. I understand your testimony to be that you arrived here on the evening of the 30th of July?—A. Yes, sir.

Q. And as near as you can fix it, you had a conversation with the Rogerses, father and son, at their residence on Four-and-a-half street, the next day?—A. I think it was the next day. I could not fix the day exactly. I think it was the day after I got here.

Q. I do not care to go over what that conversation was, because you have been over it once. You had subsequently another conversation with them?—A. I had another conversation with Harry Rogers. I don't remember whether they were both present or not.

Q. Harry Rogers testifies that you sent for them and they came to your room, or your place of business, wherever it was, and that you informed them that Van Benthuyzen was here with others, and that they had collected a large amount of testimony?—A. I don't remember sending for them; perhaps I did. My recollection is that I found them at home, but I don't undertake to say how that was. I frequently did send for them when I wanted to see them, or wrote a note for them to call.

Q. You testified as I remember that you told Harry Rogers you would like to have him go up to the Ebbitt House with you and see those parties, but that he had better let his father remain away?—A. Oh, yes.

Q. That Van Benthuyzen did not like him?—A. Not Van Benthuyzen; that is a

mistake; Mr. Huntington. I don't remember that at that time I ever heard Mr. Van Benthuyzen say anything about him.

Q. So that conversation was evidently with Harry Rogers alone at that time?—A. I don't think the doctor was present at the time.

Q. I understand from Harry Rogers's testimony and your testimony that neither he nor the doctor went up?—A. I thought Harry did go, but as he says he did not, perhaps he did not; I don't remember; it was my impression he went with me.

By Mr. MOFFATT:

Q. After the resolution was passed by your company at a meeting of the stockholders, in which it was determined not to sell any more stock or put any more on the market, was there any other effort made by the company to enter into negotiation to sell any more stock or any more territory?—A. Well, there was some sale of territory after that time, I think. That, as I remember, was in February, and they subscribed, as the resolutions show, 10 per cent. of their stock. That was intended to be sold for the benefit of the company, if it became necessary, in the prosecution of these various suits. But it has not become necessary. We have had money all the while, and I have made no effort to sell it, and none of it has been sold.

Q. Was any negotiation entered into to sell territory?—A. Oh yes; I think we sold some territory after that time.

Q. There had been no stock sold by the company previous to that time, except as individuals had sold it?—A. None except what was stated.

Q. For what reason was the resolution adopted?—A. To prevent its being sold about town. That was a mere difference of opinion between us and Dr. Rogers. We did not think it would do the company any good. We thought it would do it harm. We thought differently and had a right to think so. We differed with him about it. It was a mere difference about business matters. He had a right to his opinion about it.

Q. Please turn to that resolution and read it.—A. (Reading):

"Pursuant to a call of the president, the board of directors of the Pan Electric Telephone Company met at the rooms of the secretary, 606 Thirteenth street north west, Washington, D. C., at 7.30 o'clock p. m., on the 7th day of April, 1883.

"Present: Joseph E. Johnston, J. Harris Rogers, J. W. Rogers, Robert Looney, and Casey Young. Mr. Harris represented by proxy Mr. Garland and Mr. Brown.

"The president stated the object of the meeting to be for the purpose of considering various propositions for the purchase of the right to use the Pan-Electric Telephone in different localities in exchanges for the benefit of subscribers; and after a brief discussion of the same it was decided by the board that no more rights to establish exchanges should be disposed of pending certain contemplated legislation with the Bell Telephone Company, unless ordered by subsequent motion of the board.

"It was decided, however, to sell telephones in pairs, for individual use, on private lines, to such parties as may wish to buy them; and the secretary was instructed to furnish telephones on application for such use, charging therefor the sum of \$40 for each telephone."

I will explain how that happened. At that time we had promised certain parties to let them have a few telephones for use on private lines; some two or three, perhaps.

Q. My inquiry was not directed to that, but to the sale of State rights.—A. I do not think there was one after that time. I don't remember any, unless it was the consummation of some contract that had already been entered into.

Q. What was the reason of it?—A. The reason of it was that we did not want to sell any more until we had established the validity of these patents by adjudication. We wanted to settle the question. That was my individual view, and I believe it was participated in by the others. If we were to be defeated in this thing we did not want to be responsible to any more people, as censure might come on us.

Q. Your recollection is that no further negotiations were entered into for the sale of rights?—A. There were none, except the continuation or consummation of some that were commenced previous to that time.

Q. Please turn to and read the minutes of the next meeting.—A. (Reading.)

"Pursuant to a call of the president, the board of directors of the Pan-Electric Telephone Company met at the rooms of the secretary, 606 Thirteenth street, northwest, Washington, D. C., at 7.30 o'clock on Monday, May 5, 1885.

"Present: Joseph E. Johnston, J. Harris Rogers, and Casey Young, who represented by proxy Isham G. Harris, A. H. Garland, and Robert Looney.

"On motion of Mr. Young, the following resolution, adopted at the last meeting, was rescinded, viz:

"*Resolved*, That the secretary be, and he is hereby, directed to give notice to the various parties to whom this company has sold the right to use the Pan-Electric telephone within certain States, districts, and Territories, which contracts have by their terms been forfeited, that the company will, on a specified day, proceed by resolution to declare said contracts and each of them forfeited and annulled."

Q. I will direct your attention right to what I want, so as not to incumber the record. See if you do not find a negotiation authorized for a sale?—A. (Reading):

"The secretary informed the meeting that Mr. S. H. Newsom, of Las Vegas, Territory of New Mexico, desired to negotiate with the company for the purchase of New Mexico and certain States in the Republic of old Mexico, for the purpose of putting in operation therein the Pan-Electric telephone.

"On motion of Mr. Rogers the president and secretary were authorized to make such contract with Mr. Newsom as they might see proper."

Mr. Newsom was a gentleman who had come here from New Mexico. He had been in old Mexico and had been putting up instruments of the Bell Company. He spoke the language of that country very fluently, and he wanted to make a contract to put up telephones in Mexico. This negotiation was directed more to old Mexico than to New Mexico, but nothing was ever done.

Q. What reason had you for negotiating in this case and not in others?—A. He had made a proposition to take New Mexico, but the purpose we had in view was to give him old Mexico, where he could get out patents.

Q. The resolution included both; I want to call your attention to that.—A. It seems to embrace both.

Q. I want to know why you would sell rights there and not anywhere else?—A. We did not sell them. I laid his letter before the board of directors.

Q. And they authorized you to proceed?—A. They authorized me to proceed and negotiate. I observe the minutes say "Las Vegas, New Mexico," but the purpose was to give him the right to operate in old Mexico. That was the only purpose we had in view.

Q. Who are the officers of the Pan-Electric Telephone Company at present?—A. The same officers; we never had but one election.

Q. Mr. Garland is still the counsel?—A. Yes.

Q. And Mr. Johnston is still president?—A. The first organization remains. It was provided in the resolution under which we elected the first board of directors, as the minutes will show, that they were to hold their offices until their successors were elected and qualified, and we have never had any election since. The officers have remained in just that way.

Q. Will you tell me from the books how much in dividends Attorney-General Garland has received from that company?—A. I can tell you pretty nearly without looking at the books.

Mr. MOFFATT. Perhaps the shorter way will be, as I proposed the other morning, to put so much of these books in evidence as relate to the dividends which have been received by the various people.

The CHAIRMAN. The separate accounts.

The WITNESS. I will draw them off.

Mr. MOFFATT. They are in the possession of the clerk, and he can draw them off and put them in the record.

The accounts referred to are as follows:

PAN-ELECTRIC TELEPHONE COMPANY.

[Dividend account from the beginning at page 192.]

Joseph E. Johnston.

1884.		
June 4.	Amount of dividend No. 1.....	\$298 17
June 6.	Amount of dividend No. 2.....	788 90
July 25.	Amount of dividend No. 3.....	750 00
		1,836 17

Isham G. Harris.

[Page 196 of cash book.]

1884.		
June 4.	By amount of dividend No. 1.....	\$56 77
June 6.	By amount of dividend No. 2.....	788 90
July 25.	By amount of dividend No. 3.....	750 00
		1,595 67

J. D. C. Atkins.

1884.		
June 4.	By amount of dividend No. 1.....	\$275 00
June 6.	By amount of dividend No. 2.....	788 90
July 25.	By amount of dividend No. 3.....	750 00
		1,813 90

A. H. Garland, in account with Pan-Electric Telephone Co.

[Cash book page 199.]

1884.		
June 4.	By cash dividend No. 1.....	\$298 17
June 6.	By cash dividend No. 2.....	788 90
July 25.	By cash dividend No. 3.....	750 00
		1,837 07

Casey Young in account with Pan-Electric Telephone Co.

1884.		
June 4.	By cash dividend.....	\$348 81
June 6.	By cash dividend.....	788 90
July 25.	By cash dividend.....	750 00
		1,887 71

Robert F. Looney, in account with Pan-Electric Telephone Co.

1884.		
June 4.	By cash, first dividend.....	\$200 00
June 6.	By cash, second dividend.....	1,300 00
July 25.	By cash, third dividend.....	1,227 50
June 7.	By cash, check No. 16, first series.....	234 75
		2,962 25

John C. Brown, in account with Pan-Electric Telephone Co.

[Page 205.]

1884.		
June 4.	By cash dividend No. 1.....	\$30 15
June 6.	By cash dividend No. 2.....	150 00
July 25.	By cash dividend No. 3.....	150 00
		330 15

J. Harris Rogers, in account with Pan-Electric Telephone Co.

[Page 207.]

1884.		
June 4.	By cash, first dividend.....	\$774 50
June 6.	By cash, second dividend, which includes stock of J. W. and C. A. E. Rogers.....	1,640 10
July 25.	By cash, third dividend.....	1,386 10
		3,800 70

The WITNESS. Mr. Garland received about \$1,800; I cannot state the exact amount without looking at the book. He did not receive any more than anybody else, and nobody objected to what he did receive.

Q. In regard to legislation, some of these inventions of Harry Rogers that were covered by this agreement were not patented, as I understood?—A. At the time the agreement was made they were not patented. I don't know whether patents have been issued for all of them or not.

Q. Were there some of them it was thought could not be obtained under the terms of the patent law?—A. Not that I know of.

Q. Did you introduce a bill at the first session of the Forty-eighth Congress extending the provisions of the patent law so as to cover stenography and phonography?—A. I did.

Q. Had that any relation to any of these inventions?—A. None in the world. I will show the committee a letter I have here. I want to explain that. I understood this matter has been hunted up from the files.

Q. What made me ask the question was some invention that young Mr. Rogers spoke of in his testimony, which was not patented, and which he considered very important.—A. There may have been something. I do not know. Do you refer to stenography?

Q. Phonography, I think, and stenography.—A. Oh, no; he did not mention that. I was informed that my record had been looked up in the file-room. I should have forgotten that bill; if you had asked me the question, I should have said I never introduced it. When my attention was called to it I was astonished, for I had no recollection of it in the world. This is the way it came about: Before I came on here to the Forty-eighth Congress a former attorney-general of our State, General J. B. Heiskell, who is now one of the attorneys of the American Bell Telephone Company,

told me his brother, who lived up in East Tennessee, had invented a new system of stenography, and he was of opinion that the present patent laws did not authorize a patent upon that as one of the new and useful arts; and he asked me when I came on here to introduce a bill to enlarge the patent laws sufficiently to embrace that. I told him I would do it, but I said, "You draw the bill and send it to me." So he wrote me this letter and inclosed the bill. I will read the letter.

[Heiskell, Weatherford & Heiskell, Attorneys-at-Law.]

MEMPHIS, TENN., *December 4, 1883.*

DEAR SIR: I inclose draft of bill to amend the patent law so as to include stenography in the useful arts embraced therein. I have, in accordance with our understanding, sent a duplicate to Hon. I. G. Harris, to have the same introduced in the Senate. Please have the thing put through.

Very respectfully,

J. B. HEISKELL.

Hon. CASEY YOUNG.

When I got that letter inclosing the bill I introduced it in the House, and I asked Senator Harris to introduce it in the Senate, too, which he did. He has now, and it will be laid before the committee, the manuscript bill written by General Heiskell, who is at present one of the attorneys of the American Bell Telephone Company of record in Memphis. That is how I came to introduce it. I had forgotten all about it. It has no reference to this matter whatever. I do not think there is anything in Mr. Rogers' invention in relation to stenography. If there is, I never knew it. That was the reason I introduced the bill.

Q. I believe you recommended the letting of the suit in Pennsylvania against the Rogers company go by default. Why did you do that?—A. I did it upon the advice of our local counsel at Philadelphia.

Q. Did you assign as a reason for the advice that you considered you could not obtain justice?—A. Oh, no; I said nothing of that sort.

Q. Your advice in that case was founded, as you have stated, upon the fact that they would probably follow other cases that had been decided, and would not open up the question?—A. Solely on that ground. I had no distrust of the integrity of the Pennsylvania judges. I had no reason of that sort. Mr. Coulston gave me his opinion about the matter, and he was our local lawyer and a man of some eminence in the profession. He advised that we pursue that course.

Q. You did not tell Mr. Rogers anything intended to convey any such impression?—A. Oh, no; I heard his testimony on that subject. He did not state it that way. He said we could not get justice. That was his way of expressing what I had said to him. He did not intend to say I expressed any distrust of the Pennsylvania judiciary.

Q. Did you tell Senator Vest that you did not want a suit brought East because it would be bought off?—A. How bought off?

Q. That was the expression Senator Vest used in his testimony, and I want to find out from you what you meant.—A. I had a conversation with him in which I may have used this language: That a great many of those suits up there had been compromised. I meant that the litigants had been bought off, not the courts.

Q. You were speaking of future litigation, and you wanted your case brought in the West, because if brought in the East it would be bought off?—A. He must have misunderstood me. If I said anything like that I had reference to litigants and not to courts.

Q. If you were the complainants you could not be bought off, could you?—A. Oh, I do not say that. It may be every fellow has his price, and if they would give me my price, I don't say I would not accept it.

Q. In that case it would not make any difference whether the suit was brought in the East or in the West?—A. No, sir.

Q. I see the following in Senator Vest's testimony:

"Q. When did you first hear that the suit would be brought by the Government?—A. I cannot say with any exactness. It was sometime in July or August of last year; that is my recollection of it.

"Q. Who was that from?—A. My first intimation was from Mr. Casey Young that he was trying to get such a suit brought to test the validity of the Bell telephone, and the next I saw of it was in the newspapers."

Then follows this:

"Q. Did Casey Young say why the case was to be brought by the Government?—A. Yes, sir; he told me that the Bell patent had been procured by fraud. He said all he wanted was a fair trial, an equal chance, and no collusion; that the idea was to

make this a test case; that if the suit was brought in the East it would be bought off, and they wanted it brought in the West."

Q. What have you to say about that?—A. I did not say anything to him about the judiciary being bought. We had a good deal of conversation and there had been a good deal said about these collusive suits and their being bought off. The Senator misunderstood me if he thought I was speaking about buying the judiciary. I had no such idea as that. I have practiced law a good while and I have never seen a judge sell out yet.

Q. I wanted your explanation in connection with the Senator's testimony.—A. That is the only explanation I have to make; he misunderstood me; we had a great deal of conversation about it.

Q. When did you first begin to consider the question of the Government bringing a suit?—A. I never commenced to think anything about it until this conversation that occurred between me and Mr. Van Benthuyzen at Pittsburgh. Oh, I may have thought about it before, when Dr. Rogers wrote me that letter; perhaps I did.

Q. Your ideas were founded upon the belief that this bill had passed Congress?—A. Yes, sir; I thought at that time that it had been passed; I thought of the matter first when I got Dr. Rogers's letter; I was in the House when the bill came up and passed the House, and I thought it passed the Senate.

Q. There was no attempt to have Mr. Brewster bring a suit, was there?—A. Oh, no; I never talked to him about it.

Q. In regard to the interest which you and your friends procured in this telephone business, you say it was not a donation; what do you call it?—A. I call it a contract; it was a contract.

Q. Was it a gift or a sale?—A. It was a sale under that contract; you can read its terms and see what it was.

Mr. EDEN. I suggest that the agreement, being in writing, will speak for itself.

Mr. MOFFATT. I understand that.

The WITNESS. I am willing to give you any explanation you may desire; there never was a word said about its being a gift or a donation.

Q. You gentlemen did not expect to pay anything for it?—A. It seems we did; we stipulated to pay for it, and did pay for it.

Q. How much?—A. A little over \$400; all we stipulated to pay, and all that was necessary to be paid; we would have paid more, if necessary; any one of us was able to do it; I could have put up the exchange myself if I had thought proper to do it; I had the financial ability to put it in operation.

Q. You have testified as to a pamphlet, as I understood, that was issued, or rather, printed, by the company, which you and Dr. Rogers burnt up?—A. Yes, sir.

Q. Have you a copy of that document?—A. No; but I can tell you all about it. I was getting letters frequently from people in all parts of the country inquiring about this telephone, and it took more time to answer those letters than I could give to it. As a matter of course I had no time for that purpose, and we concluded we had better publish a little pamphlet describing the instrument, so as to save time and trouble in writing all these letters, and I was too busy to do it when they asked me, and a friend of ours, General Marcus Wright, who handles the pen very well, was asked to prepare the circular or pamphlet describing the telephone and these various inventions. He wrote one and brought it up to my room. Dr. Rogers was there at the time. I looked over it, and I thought it was a little too highly colored; that it presented the inventions in rather too favorable a light. Dr. Rogers thought the presentation was not quite favorable enough. So we concluded not to let it go out. I think he coincided with me, and I then put the thing in the fire, and it was never circulated.

Q. You do not recollect anything particular about it?—A. It was just a description of the instruments and the number of patents we had, and the formation of the company and the names of the officers. Just an ordinary prospectus such as companies publish; but I thought it not best to put out anything of that sort, and I objected to it on the ground I have stated, and burnt it up. I have intended frequently to prepare a circular to save me the trouble of writing so many letters, but I have never done so.

By Mr. OATES:

Q. Was it circulated at all?—A. Not at all. One never went out of my room. I thought it was rather too highly drawn, and presented the enterprise in rather too favorable a light.

By Mr. MOFFATT:

Q. I noticed in some of the testimony or letters—I can't now call to mind exactly which—that it was proposed that one of the instruments be put up in the Congressional Hotel. That is near here; right across the square, is it not?—A. Yes, sir.

Q. Do you know of any reason why that particular place was selected?—A. Yes; because a room could be obtained over there. I give this testimony second hand, from what Dr. Rogers told me. I had nothing to do with it personally. Mr. Fletcher oc-

occupied the building then, and we wanted to put up a telephone to exhibit, and Dr. Rogers got that place. I had nothing to do with it personally. I saw it over there, but I never was there but once or twice.

Q. Was it on account of its being near the Capitol where the Congressmen were?—

A. I expect it was; I don't know. Probably it was because a great many people come here and we wanted to show it. In this connection I wish to say that I have seen it stated in the report of my testimony that I said I had a telephone put up in my committee room. I had nothing to do with it. It was put up by Dr. Harlan, who had the right to use the telephone in this District. I had nothing to do with it in the world.

Q. It was put up by the Washington Company?—A. Yes, sir.

Q. Of which you were a director?—A. It was not put up by the Washington company, after all. It was put up by the company, I believe it was called the Washington company, but it embraced the District of Columbia, and belonged to Dr. Harlan and Mr. Gustin. Afterwards the contract was enlarged and took in the surrounding States; at that time I was not a director; it was a different company,

Q. At what time did you become a director?—A. When the Washington company was formed.

Q. You do not recollect the date?—A. No, sir.

Q. Is there any evidence anywhere?—A. I will inquire. [Addressing a bystander:] Colonel Gardner, when was the Washington company formed?

Mr. GARDNER. On the 6th of June, 1884.

The WITNESS. This was one which preceded it. We first made a contract with Dr. Harlan and Mr. Gustin for the District of Columbia alone, and I don't think we had anything to do with that company after it was, if that company was, organized; if it was, I don't think I had anything to do with it; at any rate, I had nothing to do with putting up that telephone.

Q. My impression is that it was stated in a circular issued by the company of which Mr. Bradley Johnson was president.—A. That was the subsequent company; he was not president of the company then.

Q. In that circular signed by Bradley Johnson and others it is stated that a telephone had been put up in the room of the Committee on Public Buildings and Grounds, as I recollect?—A. There was one there, but it was put up long before that; I was not a member of Congress in 1884; I went out in March, 1884, and that was in June, 1884.

Q. You went out in March, 1885.—A. Oh, yes; that is so.

Q. You were a member of Congress at that time, and, as I understand, a director in this company?—A. Yes; but it was in there before I had anything to do with the company; it was put there by Dr. Harlan; I would have put it up there, if necessary.

Q. Judge Ranney called your attention to a letter this morning just as I stepped out. I do not know whether it was taken up again or not. If it was the committee will call my attention to it. I refer to letter No. 94, addressed to Harry Rogers, in which occurs this expression:

"We have secured all we expected or wished, and we will soon proceed to utilize, but nothing must be said about it for a little while yet."

Was your attention called to that, and was your explanation given?—A. My attention was called to that. I spoke to one or two gentlemen about that yesterday. I have no recollection of it in the world, and I do not know what it alludes to; but the inference would be a fair one that the allusion was to the Government suit which was brought. I think it is probable it referred to that, but I have no recollection in the world. It may have referred to the patents I was here after. I do not know.

Q. Did you secure any patents at that time?—A. I had secured some previous to that time.

Q. At that time, on that trip to Washington?—A. I do not know; I was getting them very frequently; I don't know whether I did then or not; the inference is a fair one that I alluded to the Government suit, though I have not the slightest recollection of it.

Q. Then the inference is fair that you had some previous conversation with him about it?—A. I had had; there is no doubt about that.

Q. And you were conveying to him some good news, that you had got all you wished?—A. Oh, yes. Perhaps I put it a little too strong. I did not expect these letters to be published.

Q. Why did you say to him it had better be kept quiet for a little while and nothing said about it?—A. I cannot tell.

Q. You must have had some motive?—A. I presume there was, but I can't recollect.

Q. Was it not that you did not wish the matter made public until the suit was commenced at Memphis?—A. That may have been the reason; I cannot say; I expect it was.

Q. Would you not expect the action of the Interior Department to be open to everybody?—A. This had nothing to do with the Interior Department; it was the Department of Justice.

Q. The Department of Justice, I mean.—A. Yes, sir; open to everybody.

Q. A matter of that character would be very apt to become public if the officials wished it to be, would it not?—A. Yes; I think so. I don't remember now why I wrote that note at all; I have no recollection about writing it; but when I saw it, it occurred to me that that might be the fair inference, and perhaps that was what I alluded to. This seems to have been dated on September 7.

Q. And the order was given the 4th of September, was it?—A. Somewhere about that time. It was before this note was written. I think it is very probable I had reference to that suit, but I have no recollection of it.

Q. You cannot tell the committee why you wanted it kept still and not made public?—A. I don't know any reason why, because it could have been made public at any time unless, as you suggest, I thought we had better wait until the bill was filed. Perhaps I may have had some such thought in my head. I know I had talked to him about the suit, and had been here for the purpose of getting the suit brought, and I had written home to my friends—

Q. Your main purpose in coming here, as I understood you, was not so much to see that the suit was brought, for you expected that; but you wanted to see it was brought on the relation of your company?—A. Yes, sir.

Q. When you conveyed to Mr. Harry Rogers the good news that you had got all you wished, you conveyed an incorrect idea of what you wished, did you not?—A. I cannot say.

Q. Your main object was as I have stated, was it not?—A. I had not seen the direction of Mr. Goode at that time, and I did not know how he had ordered it to be brought. I know he ought to have ordered it that way. I did not think—it was a matter of opinion with me—that the Government ought to pay this expense. I thought we ought to pay it, and I am entirely willing to do it yet. I had not seen Mr. Goode's order, and I did not know what he had provided for. It is possible, in that view, I may have written this note; but that was my object all the time.

Q. That was your great object in coming on here?—A. Oh, yes; to see it was brought, and to see it was brought the way I wanted it brought. I had made up my mind we had a perfect right to bring the suit, and I had concluded that I would have it done. I had imbibed some of Mr. Van Benthuyssen's spirit on the subject, and I intended if we had any rights in the matter to enforce them; and I believe we did have clear legal rights to have the suit brought in that way.

Q. With that idea of your clear legal right, you say you did not know at that time whether Mr. Goode had ordered the suit on your relation or not?—A. No; I did not know how it had been ordered.

Q. The application of the district attorney for the western district of Tennessee did not contain any request of that character?—A. No; but I thought Mr. Goode would probably take the proper view of it.

Q. The application submitted to Mr. Goode was not in the name of your company, was it?—A. No, sir.

Q. Then, what reason had you for thinking Mr. Goode would order it on the relation of your company any more than on the relation of the National Improved Company?—A. I did not. I did not care which one he ordered it on. I would as soon have had one as the other. We had agreed to fight out the contest together, anyhow, and I didn't care which one was named.

Q. You left your home in Memphis and came up here to Washington mainly for the purpose of having the suit brought upon the relation of your company?—A. Yes, sir; to have it so brought.

Q. And you had insisted all the time, from the time you met Mr. Van Benthuyssen at Pittsburgh until this time, that it ought to be brought on the relation of your company in order that you might enjoy the benefit of the suit?—A. Yes, sir; and I think so yet.

Q. And you came clear up here to do it?—A. Yes, sir.

Q. What did you do in that line when you got here?—A. I have stated it thirty or forty times, but I have no objection to stating it again. I got here on the 30th of July, at 9 o'clock at night, or about that time. I think it was the next morning, the 31st of July, or the 1st of August, I don't remember which, that I went over to Mr. Goode's office, and asked him if those papers had come.

Mr. HANBACK. I think you are testifying to the wrong dates. Don't you mean September?

The WITNESS. Yes, sir. I went over to Mr. Goode's office, whatever date it was. I can tell the exact date by my memorandum book, probably. I asked him if he had received from Mr. McCorry, the United States district attorney for the western district of Tennessee, a copy of our letter asking him to institute suit in the name of the United States to annul or cancel the patents of the American Bell Telephone Company. He told me he had not. I said: "It ought to have reached you before now." While I was there talking to him it was either brought in or he sent out for it, I

don't remember which. I saw he had received it, and I turned around and walked out and had no further conversation with him about it at that time.

Q. You did not say a word to him about bringing the suit on your relation?—A. Not a word. I did not know whether he was going to bring it at all or not. I thought it was probable he might decline to bring it, and I intended to go to the President on the subject. If he had declined, Mr. Huntington and myself would have gone to the President, and I should have insisted on my views there; but I went to his office the next day and found that he was giving the directions. It occurred to me then to ask him to have the suit brought, as I wanted it; but as I had been unfortunate with Mr. McCorry, who had declined to do it for the reason, as he said, that we might do the very same thing we were charging the Bell Telephone Company with doing, I thought, perhaps, I had better not venture upon a discussion of that question with Mr. Goode, and allowed him to take his own course, thinking if it got back to the courts in the way we did not want it, that perhaps we would be able to correct it afterwards.

Q. And so you came on here and gave up all your cherished schemes without any effort to secure the desired object?—A. Oh, no; I did not give up all my cherished schemes. One of my schemes when I came here was to see that the bill was filed. If it had not been done, I should have staid here until it was done.

Q. But that was the main reason why you came here?—A. Oh, no; that was not the main reason; it was to have it filed, and have it filed as I desired it to be filed, for the reason that I thought it would be more beneficial to us if filed in that way. It was a selfish motive altogether on my part. I wanted to get it done solely for that reason.

Q. At the conversation between Mr. Garland and yourself, and the gentlemen who called upon him about the 1st of August, Mr. Garland absolutely refused to consider the question at all, or to have any conversation in regard to it.—A. Absolutely, unconditionally, and unequivocally, just in the language I have given you.

Q. And you gentlemen shortly after that left here, and subsequently met in Memphis, or somewhere in that vicinity, for the purpose of making another application to him?—A. Yes, sir.

Q. What reason had you to think he would grant that application?—A. We didn't have any; we knew he would not.

Q. Why did you make it?—A. So that we could go to the President. We could not go there any other way. We could not make application directly to the President.

Q. What was your idea in regard to the jurisdiction or powers of the Attorney-General setting out of view the law which you supposed to exist? Did you understand it was a matter of right which you could enforce; that the Attorney-General, on the application of any one holding a patent, would be obliged to commence a suit of this kind, or that it was a matter in his discretion and judgment?—A. We had no right we could enforce. We could not force the Attorney-General by any process I know of. I don't believe we could have mandamusd him.

Q. It being a matter of discretion, then, he would exercise that power himself, on his own motion. Do you know of any case in which an Attorney General has ever been authorized by the President to bring a suit of that kind or a suit of any kind?—A. No; I never got hold of so strong a corporation as this.

Q. Yes or no will answer that question.—A. I know of a case where the President directed one to be suspended, and I supposed that if he had that power he might direct one to be brought.

Q. Did you ever know of the President ordering the Attorney-General to commence a suit?—A. No, sir; and I do not know that he would have done it in this case; but we intended to try it. Mr. Van Benthuyzen's idea was that if the President did not do it we would have to appeal to Congress, like the Bell Company has done, and have a law passed to do it. I was out of Congress then.

Q. You say you were not certain this suit was going to be brought when the papers were sent here from Memphis?—A. I was quite certain it ought to be.

Q. Were you not of opinion that it was very likely to be brought?—A. Oh, no; I thought it was very doubtful.

Q. Is it not a fact that the bill was drawn up before the papers were sent to Washington?—A. I don't know whether the bill was completed or not before they were sent.

Q. There was a draft made of the bill, was there not?—A. I had written one before that time.

Q. And you gentlemen who went there to inaugurate these proceedings, before you completed your labors and sent off the application, drew this bill that was to be filed and that was filed subsequently, did you not?—A. I started to answer, and you kept on with your question. Are you through now?

Q. Yes.—A. I prepared a draft of a bill some time before; some two weeks, perhaps; and handed it to the other gentlemen, and they commenced to write it. Whether they finished it or not before that time I do not know. I cannot say whether it was finished or not; but it would have been a very proper thing for it to have been finished and submitted to Mr. McCorry before he decided what he would do. It would have been a very proper thing for them to have done.

Q. How long after this suit was ordered by Mr. Goode was this bill filed in Memphis?—A. I do not know when it was filed; the 9th or 10th, I think.

Q. It was ordered, as the record shows, on the 4th?—A. Perhaps so.

Q. How long would it take a letter generally to go from Washington to Memphis?—A. Two days.

Q. Then it was filed within two or three days after the order got there?—A. If the dates are correct, it was. It might have been filed in two or three hours all the same.

Q. What I am aiming at is this: You gentlemen thought it very probable when that application was drawn, that that suit would be ordered by the Government?—

A. No; we thought it was doubtful.

Q. Then why was the bill drawn and everything made ready?—A. They wanted to have it ready to submit to Mr. McCorry, I suppose. I don't know that they did finish it before he was required to file the bill, or send it to him. He ought to have seen it.

Q. Was that the reason you gentlemen had for drawing the bill?—A. That was the idea I had, and that was the reason I wrote it. I wanted to show him the character of bill we wanted him to file, and let him pass judgment upon it and decide upon the propriety of his action and know what he was doing.

Q. What reason had you to suppose that the President of the United States, without any precedent in that regard, would order the Attorney-General to commence that suit?—A. I did not suppose he would do it.

Q. Then what was the foundation of the thing; you knew Mr. Garland would not do it?—A. I was going to make an effort to get him to do it.

Q. All this trouble had been gone through with first, the papers had been withdrawn, and you gentlemen had gone down to Memphis and had a long consultation; you had drawn up this application; you had drawn the bill alluded to a few moments ago; you had come here to Washington, and Mr. Huntington had come with you, with no idea either that Attorney-General Garland would commence the suit or that the President would order it. How did you expect to accomplish it?—A. I cannot say. I had no idea he would do it. I didn't know what he would do.

Q. You did not expect it?—A. Possibly, if I said I did not expect it, I put it a little too strong.

Q. What reason had you to expect the President to interfere?—A. No reason, except I thought it was the duty of the Attorney-General to do it, and if the Attorney-General refused to do his duty I took it for granted the President would direct him to do it.

Q. Is it not a fact that the President usually consults the Attorney-General in regard to such matters instead of ordering the Attorney-General as to what action he shall take?—A. I don't believe it is with this Cabinet. I am told Mr. Cleveland does not consult them very much.

Q. Not in regard to legal matters?—A. I am told that they consult him about everything; that that is his method.

Q. About bringing suits?—A. I am told that in the transaction of Government business Mr. Cleveland is the chairman of the committee down there.

Q. Did you think he would order a suit to be brought without consulting the Attorney-General?—A. He ordered one to be stopped.

Q. That is quite true, and it was very proper.—A. In your view it was. I thought it would be just as proper to start one as to stop one.

Q. If you had had no idea that Attorney-General Garland would commence this suit or have anything to do with it, why did you say to Mr. Huntington in Cincinnati, when you learned Mr. Garland had left the city, that he was going to have his trip for nothing?—A. I did not know of any other way to get it to the President, if it went there at all, except through the Department of Justice. Mr. Garland was the Attorney-General, and I did not know of any other way to get it to the President except through him.

Q. You did not know there was anybody to act in his place?—A. Oh, yes; I knew there were other officers there, and I know, if I had thought about it, that they would have the power to act in his place. I knew enough about the Department to know that. In his absence the Solicitor-General or some one of the assistants do take his place. Just here a matter occurs to me that I wish to mention. It has been said I mentioned the name of Mr. Goode. If I ever mentioned anybody I think I mentioned Mr. Maury, one of the Assistant Attorneys-General, because he had directed the other suits to be commenced. He had directed the suits against the Torpedo Company and against the Barbed Wire Company. He had directed them, and my idea was to go to him, and I think I mentioned it.

Q. Was it not the theory upon which this application was made that came from Memphis, that the Attorney-General was obliged, under the law which you supposed had passed, to bring that suit, and when you came here if he refused to do it were you not going to the President to say, "Here is a law, and it must be carried out?"—A. Unquestionably our theory was that it was his duty to do it under that law. I

think it is the duty of every officer to obey every public law, whatever his private interests.

Q. The theory upon which you gentlemen were going was that that bill which you supposed had passed was in fact a law, and that you could demand of the Attorney-General the action you desired, and in the event of his refusal you could go to the President and demand that he enforce action under that law?—A. Yes, sir; I thought we had a perfect right to demand it.

Q. It was with that idea that this application was sent from Memphis?—A. No; I cannot say that was the idea, because I may have discovered previous to that time that that bill had not become a law. I do not remember the exact date when I discovered that fact; but I thought, and I think yet, as a lawyer, that he had the same power to bring a suit without the passage of that bill as he would have had with it, except that the bill directed the particular manner of bringing it. It was a cumulative remedy. It did not confer any more power on him than he had before. It prescribed the method, but did not confer any power he did not have before.

Q. I understood you to say that you had noticed in the papers of Memphis that Attorney-General Garland was going to leave the city, but you did not know whether he had gone or not?—A. Yes, sir; I did not know whether he had gone until I saw it in the Cincinnati papers. I had seen he was going to leave.

Q. Had there been any controversy between your company and the company which Mr. Van Benthuyzen represented in regard to priority of patents or infringements?—A. Yes, sir; there had been; hardly a controversy between the companies. There had been something of a controversy between Senator Harris and Mr. Van Benthuyzen that I learned of by correspondence with gentlemen in New Orleans; that he had claimed that the patents sold to us by Harry Rogers embraced certain patents sold to him, and that certain of those patents infringed some that he had, but there was no controversy beyond that. I heard he threatened to bring suit against some people in New Orleans if they used our patents, and I mentioned it to him when I first met him in Pittsburgh.

Q. In these agreements that you and he entered into were all these matters arranged?

Mr. RANNEY. I object to your going into the contents of that agreement.

Mr. MOFFATT. As I understand it, there was a written contract and a verbal agreement.

Mr. RANNEY. There was a verbal agreement made in Pittsburgh and reduced to writing in Washington; and that is the contract in question.

The WITNESS. I am not going to say a word about that. I am going to speak about a verbal agreement we had afterwards.

Q. That is the one as to which I am inquiring.—A. I am not going to give the contents of any contract that is in writing. Before I would talk to Mr. Van Benthuyzen about making any agreement at all I said to him "I understand you claim that you are the owner of our patents, or that our patents infringe yours, and I want to settle that question before you and I have any agreement about this matter. I do not want any lawsuit with you." That thing was decided before we made any agreement at all. He said "Very well; I will waive that. They are my patents, and you infringe me, but I have got enough without them." He still claims some infringement.

Q. When was it that the difficulty or altercation occurred between you and young Rogers?—A. I cannot give the date, and I do not think it is a proper subject of inquiry for Congress. The police court would be a better place. I am going to ask this committee to strike out of the record all that has been said on that subject.

Q. I am not asking you about the trouble, but simply the date when it occurred.—A. I ask the committee now to strike out of the record all the testimony on that subject. I do not think it is embraced in this inquiry by Congress. If it is, I would like to give my version of it. It was simply a fight between me and young Rogers, which has been paraded in the papers. I don't care about my personal affairs being—

Mr. OATES. Was not that the meeting before the last?

The WITNESS. It was the last meeting we had. The police court is a better tribunal to inquire into that than a committee of Congress. I don't know the date. The meeting is not recorded.

Mr. RANNEY. That is the trouble; those meetings were not recorded.

The WITNESS. I think it was about the 25th of January.

The CHAIRMAN. I am afraid it is too late to have the matter stricken out. It has been printed.

The WITNESS. Then perhaps I should give the correct version. The version given is wholly incorrect. I did not suppose the committee would stop to make inquiries into matters of that kind. It does not seem to me to be a proper inquiry. You brought it out by your direct examination of Mr. Rogers. I thought it was not a proper subject. When I come before the committee again I would like to tell my story about that.

The CHAIRMAN. I did not ask any question about it. It was Mr. Hanback,

By Mr. RANNEY:

Q. I asked you the other day about the date of an opinion from Mr. Marble. In looking over the papers I find that opinion of October 22.—A. That had reference to the National Improved Company.

Q. It is an opinion of Mr. Marble, is it not?—A. Yes; this is an opinion on that subject.

Mr. RANNEY. I want to put it in.

The WITNESS. I want an opportunity to explain it before it goes in. This is on another subject. I spoke of the other, and I want to speak of this, if it is put in.

By Mr. HANBACK:

Q. You were present when Mr. Joseph Pulitzer was sworn and testified, were you?—A. Yes, sir.

Q. In his testimony he uses this language:

"I had no motive, private or otherwise, than that arising from the feeling that the publication of these facts was in the nature of news, and I honestly believed in the nature of a public service."

Have you any reason to believe otherwise so far as Mr. Pulitzer is concerned that he was influenced by any other motive?

Mr. EDEN. That is not proper.

A. I want to answer it; I want to cross-examine Mr. Pulitzer when you put him back on the stand.

Mr. RANNEY. Unless the witness knows some fact about it I don't think his opinion should be taken.

The WITNESS. He is an eminent reformer; I don't know of any other reason for his action.

Mr. HANBACK. The opinion of the witness has been taken right along. He testified a few moments ago as to his opinion about the power of the Bell Company in controlling Congressmen, &c.

Mr. RANNEY. I do not object to it if the committee want to hear it.

Mr. HANBACK. It is simply touching his reason for having testified in the manner in which he did. He testified positively—

Mr. RANNEY. The quickest way is to have the question answered.

Mr. MILLARD. Has he any facts?

Mr. HANBACK. Have you any facts, Colonel Young, which you can give now?

Mr. OATES. I think you had better defer that until another time.

The WITNESS. That may come out at a later stage of the proceedings.

Mr. OATES. I do not object to your asking any questions, but we had better not do it this evening. If we go into that we will be here two hours longer.

Mr. MOFFATT. I would like to ask one question that can be answered in a moment.

By Mr. MOFFATT:

Q. Have you any of the correspondence between you and Mr. Van Benthuyzen or any other parties in regard to the commencement of these suits?—A. I may have some letters from Mr. Van Benthuyzen; one or two; when I was corresponding with him I was traveling about; I didn't have any letter file with me and I didn't keep them; he never wrote me many letters; probably half a dozen letters would cover all he ever wrote me; I have not looked carefully through all the letter files I have to ascertain whether I have got any of them or not, but I will do it between now and Monday; I have not had time; you gentlemen have kept me so busy.

The CHAIRMAN (showing paper to witness). I show you a certificate authorized to be issued by the Pan-Electric Telephone Company; state whether that is the certificate printed by direction of the company. It was proved the other day, but we did not get it on the record.—A. Yes, sir; this is the form; it was taken out of the book.

The CHAIRMAN. Hand it to the stenographer and let him include it in the record.

The following is the certificate referred to:

OFFICE OF THE PAN-ELECTRIC TELEPHONE COMPANY.

This certificate entitles ——— to ——— shares of the capital stock of the Pan-Electric Telephone Company, of the par value of one hundred dollars each, so soon as the validity of the patents is judicially determined in any litigation instituted for that purpose. But this certificate is not transferable except with the consent of the president and secretary of the company endorsed hereon.

In witness whereof the company has caused its corporate seal and the official signatures of its president and secretary to be hereto attached at its office in the city of Washington, D. C., on this the ——— day of ———, 188—.

President.

[SEAL.] _____,
Secretary.

Mr. OATES. This is a good place to have Senator Vest's deposition go into the record.

The CHAIRMAN. The deposition of Senator Vest can be put in at this time if there be no objection.

The deposition referred to is as follows:

The subcommittee of the special committee—appointed under a resolution of the House of February 26, 1886, charged with the investigation of certain matters relating to the Pan-Electric and Bell Telephone Companies—consisting of Messrs. Hale and Millard, visited the residence of George G. Vest for the purpose of taking his testimony in regard to the subject-matter ordered to be investigated by the committee, Mr. Vest stating that he had been ordered by his physician to leave the city on Friday the 12th instant, and that he desired to give his evidence before leaving.

Hon. GEORGE G. VEST, being duly sworn, says:

In June, 1884, I purchased 100 shares of stock in the Pan-Electric Telephone Company, for which I paid to Senator Isham G. Harris, treasurer of the company, \$1,000 cash, giving my check on the National Metropolitan Bank, of this city, for that amount, and which check my bank book shows to have been paid on the next day.

At the time of the purchase I received from Senator Harris the following paper:

"For value received, we, the undersigned, have this day sold, and by these presents do sell, convey, and assign, to George G. Vest an undivided interest of \$10,000 (on the basis of a capital stock of \$5,000,000 for the whole) in the hereinafter described inventions and discoveries for utilizing electricity, some of which are patented and upon the others patents have been applied for and are still pending, and also the same proportionate interest in any improvements that we may hereafter make upon the same, and in any other discoveries or inventions in the same line which we may hereafter make.

"The patents already granted are as follows:

"One numbered 130662, granted August 20, 1872; one numbered 216760, granted June 24, 1879; one numbered 210213, granted November 26, 1878; one numbered 268294, granted November 28, 1882; one numbered 269326, granted December 19, 1882; one numbered 277349, granted May 8, 1883; one numbered 281560, granted July 17, 1883; one numbered 297166, granted April 22, 1884; one numbered 297167, granted April 22, 1884; one numbered 297168, granted April 22, 1884.

"And the applications for patents filed and still pending are as follows: Serial numbers and dates as follows: One, serial No. 69966, August 22, 1882; one, serial No. 115564, December 26, 1883; one, serial No. 122965, March 4, 1884; one, serial No. 126310, April 1, 1884; one, serial No. 126384, April 2, 1884.

"And an undivided interest of one-half of one numbered 128789, April 21, 1884.

"To have and to hold to him, the said George G. Vest, his heirs and assigns, for and during the term that said patents have to run.

"In testimony whereof we have hereunto set our hands and affixed our seals on this the 4th June, 1884.

"J. E. JOHNSTON.	[SEAL.]
"JAS. HARRIS ROGERS.	[SEAL.]
"CASEY YOUNG.	[SEAL.]
"ISHAM G. HARRIS.	[SEAL.]
"A. H. GARLAND.	[SEAL.]
"J. D. C. ATKINS.	[SEAL.]

"By his attorney-in-fact:

"ISHAM G. HARRIS."

Afterwards, on the 28th day of April, 1885, I received by mail a certificate for 90 shares of stock in the Pan-Electric Telephone Company, and when I made inquiry why the certificate was not for 100 shares, I was told that 10 per cent. of the stock belonging to each stockholder had been set aside as a fund to meet the expenses of litigation which was anticipated with the Bell Telephone Company in regard to the validity of the Pan-Electric patent. The following is the certificate:

[Number 14. Shares, 90.]

OFFICE OF THE PAN-ELECTRIC TELEPHONE COMPANY.

This certificate entitles George G. Vest to 90 shares of the capital stock of the Pan-Electric Telephone Company, of the par value of one hundred dollars each, so soon as the validity of the patents is judicially determined in any litigation instituted for that purpose. But this certificate is not transferable except with the consent of the president and secretary of the company indorsed hereon.

In witness whereof, the company has caused its corporate seal and the official signatures of its president and secretary to be hereto attached at its office in the city of Washington, D. C., on this the 28th day of April, 1885.

[SEAL.]

J. E. JOHNSTON, *President*,
CASEY YOUNG, *Secretary*.

I never had anything to do with the management of the company, or any other connection with it than as a stockholder. I paid the highest price at which the stock has been sold, and I made the investment on my own judgment and without solicitation from any one. Before purchasing the stock I saw one of the instruments operate, and was struck with its superiority over any telephone I had ever seen. Upon inquiry I was told that Senator Harris could give me any information in regard to the matter, and I therefore went to him. He stated that none of the stock was on the market, and in fact that none had then been issued, but that he would see his associates in the enterprise and if they were willing he would be very glad to let me have an interest equal to one hundred shares at \$10 per share. I asked him if he had examined the legal questions involved as to the validity of the patent, and he told me that he had, and that in his judgment there was no conflict between this patent and that of the Bell telephone, but he referred me for further information on this point to Senator Garland, who was the attorney for the company. I then conversed with Senator Garland, who stated to me that he had examined the matter very thoroughly, and that he had no doubt the Pan-Electric patent was a perfectly valid one. I also inquired if there could be any contingency in which Congress would be called upon to legislate in the matter, and was told that no such contingency could arise—nor could I myself see how it was possible that Congress could have anything to do with the subject.

When I purchased the stock in June, 1884, Mr. Cleveland had not been nominated for the Presidency, and no one dreamed of Mr. Garland being made Attorney-General. I never heard of any scheme or project to have any legislation by Congress establishing a national telephone in the interest of the Pan-Electric Company until I saw it published in a New York paper some weeks ago; nor did I ever think of Mr. Garland's having any official position which could be used in the interest of the company. In fact, after Cleveland's election, when a paper was brought around on the Democratic side of the Senate to secure signatures in Mr. Garland's interest for the office of Attorney-General I declined to sign it, and, as is very well known to my colleagues in the Senate and to the Missouri delegation in Congress, I earnestly urged the President to appoint another gentleman.

I had as much right to buy this stock as to purchase a horse or a house, and if I lose every dollar of the investment, it is my business and nobody else's.

Since this matter has been agitated in the newspapers an offer has been made to me for the purchase of my stock upon terms which would prevent any loss on my part, but I declined to sell at any price, for two reasons: (1) Because I did not choose to even appear in the attitude of apologizing for what I had done, or attempting to evade the issue as presented by certain newspapers; and (2) because I do not propose to be coerced by any sort of clamor from any source into disposing of property which I had bought and honestly paid for until I thought proper on my own judgment and for my own interest to do so.

I have never advised or requested any one to purchase any of the stock, nor am I soliciting advice or sympathy myself. When I need either I shall not trouble the persons now tendering it so profusely and from such obviously unselfish motives.

By Mr. MILLARD:

Question. I understand it was a cash transaction between you and Mr. Harris?—Answer. Yes, sir.

Q. Did you have any conversation with anybody else in regard to its value?—A. I have an indistinct recollection of talking to Casey Young about it, and also to Senator Edmunds. I recollect going over to his (Edmunds's) seat and asking him about it. He told me of a decision in a telephone case, but that he had not seen the opinion, and said he would send it to me, which he never did.

Q. Did Mr. Casey Young tell you who the directors were?—A. No; he did not tell me. I knew who the original corporators were. There was a circular sent to me stating who were interested. I know all the directors personally except Mr. Rogers. I never saw him in my life that I know of.

Q. When was this conference with these men?—A. My conference was with Mr. Harris, but he said, "Go to Garland, he is our attorney, and talk to him." I am not sure but what Mr. Garland handed me his written opinion.

By Mr. HALE:

Q. Who was that written opinion given to?—A. I do not recollect. It was given to some man who was about to buy stock. I do not put absolute confidence in anybody's legal opinion; I am a lawyer myself.

By Mr. MILLARD:

Q. You purchased, as you said, one hundred shares and they delivered only ninety?—A. They never delivered but ninety. The ten shares they kept to sustain the cases, as I understand it. The mother company had undertaken to defend the subcompanies,

I suppose. I met Casey Young and asked him what they meant by only giving me ninety shares. This was Mr. Young's explanation.

By Mr. HALE:

Q. How long had the company been organized before you bought shares?—A. I do not know. It was a Tennessee company, if I understand aright. I asked Senator Harris who the stockholders were; I had supposed there were only fourteen. He told me there were a couple of ladies whom he had let in; he let them have 250 shares at \$10 per share, which was the same as I paid. Harris said they let Governor Brown in at incorporators' rates. I never heard of any other shareholders except George Howard of this city, who bought 50 shares for \$500.

By Mr. MILLARD:

Q. Did you talk to Governor Brown about it?—A. Not at all.

By Mr. HALE:

Q. Mr. Atkins was not then in Congress?—A. I believe not.

By Mr. MILLARD:

Q. Was there anything ever said to you about local companies being formed? had you any interest in the shares of local companies?—A. I have a slight, indistinct recollection that something like that was said. I think they said when they sold to home companies that they received royalties, and they proposed to sell territory. The State of Missouri was sold. I have a recollection that they paid me \$12 or \$15 as a dividend.

Q. Do you recollect when?—A. My impression is that it was the latter part of last summer. It was either \$10 or \$15.

By Mr. HALE:

Q. Do you recollect who bought Missouri?—A. I do not know all the parties; Messrs. Andrew, Lancaster, and others.

By Mr. MILLARD:

Q. When did you first hear that the suit would be brought by the Government?—A. I cannot say with any exactness. It was some time in July or August of last year. That is my recollection of it.

Q. Whom was that from?—A. My first intimation was from Mr. Casey Young, that he was trying to get such a suit brought to test the validity of the Bell telephone. The first I saw of the suit being brought was in the newspapers.

Q. Did Mr. Harris make any special inducements to you?—A. Never. He said to me that the stock was not for sale. They thought they would not put any of it on the market until the validity of the patent was sustained. He told me it was a good thing, and spoke of Rogers as a good electrician.

Q. Do you recollect when you saw Young?—A. I could not be positive when I saw Young.

Q. You say that since this matter has been mentioned an offer has been made to buy your shares. Would you have any objection to telling who offered to buy?—A. Mr. Stilson Hutchins of the Post was the person who desired to purchase my stock. On reflection I told him I did not want to sell; he said if I did that he could fix it so that I should not lose anything, or words to that effect.

Q. Do you recollect who paid you the dividend?—A. It was sent to me by mail. I think it was \$15.

Q. You spoke of your number being 14; was that stated to you at the time of the purchase?—A. No, sir; Governor Harris said that 500 shares had been sold to two ladies, each taking 250 shares at \$10 per share, the same as I paid. He also stated that George Howard had taken 50 shares at \$10 per share. I did not know then that Governor Brown was a stockholder. They told me afterwards they had let Brown have the stock at the same price the incorporators paid.

By Mr. HALE:

Q. Did Casey Young say why the case was to be tried?—A. Yes; he told me that the Bell patent had been procured by fraud; that an old man named Reis had the right to the patent. Young said, "All we want is a fair trial and an equal chance and no collusion"; that the fair way was for the United States to make a test case, and that if suit was brought in the East here it would be bought off, and they wanted it tried in the West. It seemed to me that Young had particular control of the matter after Garland went into the cabinet.

G. G. VEST.

Mr. RANNEY (resuming his examination of Colonel Young). I have looked over your letter books and I do not find a single letter written to you by your associates. The letters are all those of outside parties.

The WITNESS. Didn't you find some from General Johnston and Senator Harris there?

Mr. RANNEY. You have not kept a single letter, except from outside parties, so far as I have been able to discover.

The WITNESS. That letter book was kept while I was in Washington, and I had no written correspondence with Senator Harris and General Johnston. They were here and it was not necessary. I will try to find every letter I have.

Mr. MOFFATT. Would it not be well to put in the record the minutes of the meetings of stockholders. There are not many of them, and there is something in every meeting that we want.

The WITNESS. They would be of more service to the Bell Company than they would to a committee of Congress.

Mr. RANNEY. I do not like to lumber up the record.

The committee then adjourned until Tuesday, March 30, 1886, at 12 o'clock m.

WASHINGTON, D. C., *Tuesday, March 30, 1886.*

The committee met at 12.30 p. m.

Senator I. G. HARRIS. Mr. Chairman, I was not aware of the fact, until a few moments ago, that the committee expected to hear me to-day, and have made engagements wholly inconsistent with my presence before the committee. I shall be very glad to come before the committee at any time that may now be named.

Mr. OATES (in the chair). After we had adjourned it occurred to me that there had been no resolution or motion that you should be notified to appear. We unintentionally omitted to take that action.

Senator HARRIS. I stated to the chairman of the committee, at the first or second session of the committee, that I desired to come before the committee at such time as might be convenient.

Mr. RANNEY. Can you name a day?

Senator HARRIS. I can come with convenience on any day except to-day. I have engagements for to-day elsewhere.

Mr. OATES. Will to-morrow suit you?

Senator HARRIS. Perfectly.

Mr. OATES. I suppose that will suit the committee. What hour shall we fix?

Senator HARRIS. It would suit me better to appear at 12.30 o'clock than at any other time. My committee duties occupy most of my mornings, and I dislike to be absent during the morning hour in the Senate until I have had an opportunity of doing whatever business I may chance to have. Half-past 12 or 1 o'clock will suit better than any other hour, but I will conform to the convenience of the committee.

Mr. OATES. If there is no objection, 12.30 o'clock to-morrow will be fixed as the time for your examination.

Senator HARRIS. I will be here at that time.

Hon. CASEY YOUNG then came before the committee for further examination:

Mr. OATES (in the chair). Some members of the committee desire to examine you further, Colonel Young.

The WITNESS. I shall be very happy to entertain them.

Mr. MILLARD. I should like to ask you a few questions.

By Mr. MILLARD:

Q. Have you yet received the agreement to which reference has frequently been made?—A. No, sir; but I can oblige the committee with my own copy of that agreement, which I have found. I did not know of its existence at the time I was examined, and probably I may have been a little mistaken in my testimony on the subject. If the committee will turn to the bottom of page 175 of the record you will see that I testified to a subsequent verbal agreement that was made.

Q. Was that in regard to the Government suit?—A. Yes, sir; I said, in answer to a question by Mr. Ranney, or, perhaps, you, that subsequently a verbal agreement was made. It was my belief at that time, and I so stated, that that agreement had never been reduced to writing. I find I was mistaken. I have found the agreement, which I will hand to the committee. I found in the tray of my trunk, in looking through it, this agreement that I had forgotten all about. [Exhibiting paper.] This is the agreement I am talking about.

Mr. MILLARD. I do not ask you about that agreement now.

Mr. RANNEY. Before you put it into the record or read it we would like to look at it.

The WITNESS. One at a time. Mr. Millard is asking me questions. Let me answer his questions.

Q. What I wish to know is whether you have yet received from Mr. Van Benthuyzen a copy of that agreement?—A. No, sir; I have not. I showed you a telegram from him the other day in which he said he would bring all the papers himself.

Q. Have you any further information in regard to that agreement?—A. I had, and started to give it. I have had no information from him, but I have here before me, whenever you want it, my copy of that agreement. I have heard nothing from him since the telegram I showed you the other day.

Q. You stated, in answer to a question put by Mr. Ranney, that the conference held at the Ebbitt House was in pursuance of correspondence between you and Van Benthuyzen?—A. I think there was one letter written to me by Van Benthuyzen, either from Waukesha Springs or New York, I do not remember which.

Q. Have you got that letter?—A. No, sir, I have not. I have examined all my papers, and I have not got it. I received that letter at home, I think, and I kept none of the files of my telephonic correspondence there, and whether I tore it up or threw it aside, I don't remember.

Q. Have you produced before this committee any letters between you and Van Benthuyzen or McCorry or Gantt, or any of your associates, since the 7th of July last?—A. I am not sure whether there were any in the book I handed in or not.

Q. There are none.—A. Then I have not produced any. Those are all I have produced.

Q. You have produced no correspondence, then, since that date?—A. I don't think I have; I was traveling about all the time. I don't remember whether I received any letters. I was with these gentlemen most of the time, and Colonel Gantt lived in my town.

Q. I understood you were required to produce all the letters that passed between you and your associates?—A. Yes, sir; in reference to this matter, and I have done so, as far as I have been able to find them.

Q. I understand you are still the secretary and treasurer of the company?—A. Yes, sir.

Q. (Handing book to witness). Is this the cash book of the company?—A. Yes, sir.

Q. Kept under your direction?—A. Yes, sir.

Mr. MILLARD. I want it marked for identification.

The WITNESS. It has been marked already, as the record shows.

Mr. MILLARD. Not the book.

The WITNESS. The account which was drawn off perhaps is what I refer to.

(The cash book above referred to was marked by the stenographer "For identification, March 30, 1886.")

Q. Under date of July 8, 1885, I find the following: "Fare from Baltimore to Pittsburgh, \$13.50."—A. Yes, sir; that was when I went to Pittsburgh from Baltimore. I don't know whether that is the exact date or not.

Q. That was for your expenses to Pittsburgh, where you met Mr. Van Benthuyzen?—A. Yes, sir.

Q. "Sleeping-car fare, \$2."—A. Yes, sir; I went on a sleeping-car.

Q. "Bill at Seventh Avenue Hotel, Pittsburgh, \$10.43." That was your hotel bill there?—A. Yes, sir; I suppose so.

Q. "Fare to Memphis, \$21," under date of July 12.—A. Yes, sir.

Q. Did you go from Pittsburgh to Memphis?—A. I did, directly. I think that was the date. Perhaps in transcribing it from my memorandum book the clerk may not have got exactly the date. That was about the time. Those entries are in the handwriting of my clerk.

Q. When did you say you reached Memphis?—A. Oh, I suppose I reached there about the next day, or the second day, perhaps; I don't remember the exact day.

Q. "Sleeper to Memphis, \$3."—A. Yes, sir; I went on a sleeper.

Q. What is the entry under date of the 9th?—A. "Paid for coupons, Patent Office;" little things you buy to pay for patents at the Patent Office.

Q. Was that before leaving?—A. I don't know; I can't tell now; perhaps so. Those accounts are scattered along.

Q. "Paid United States circuit court for copying bill, \$6," under date of July 15.—A. I guess that was the bill which we filed ourselves against the Bell Company. I think I had it copied to send to General Bradley Johnson. I am not sure.

Q. Are you quite certain of that?—A. Oh, no; but I take it from the date that it must have been that. There was no other bill there to copy but that. It must have been that, I think.

Q. Under date of the 15th, "paid stenographer for writing letters for company, \$5."—A. Yes, sir.

Q. Who was that stenographer?—A. Mr. Stevens.

Q. What is his given name?—A. I can't remember. I believe it is A. S. Stevens,

Q. Where does he reside?—A. He resides in Memphis.

Q. To whom did you write?—A. It is impossible to tell. I wrote, I think, mostly to people who had written to me about the telephone, at a distance.

Q. Did you not write to parties here in Washington?—A. I may have done so; I am not sure. It is very possible I did; but I can't remember now.

Q. Do you not remember a single person to whom you wrote?—A. No. I would often let a whole pile of letters accumulate about my professional business—

Mr. MILLARD. I do not want to digress.

The WITNESS. I am explaining to you how it happened that I had a stenographer. I couldn't write. My arm was disabled, and I generally let my letters accumulate for a month or two weeks, and then got a stenographer and dictated replies to him. I can't tell to whom I did write.

Q. July 20, 1885, paid for printing bill \$36?—A. Yes, sir.

Q. Where was that done?—A. In Memphis.

Q. What bill was that?—A. That was a bill we filed against the Bell Telephone Company.

Q. You are quite positive of that?—A. Oh, yes; I know there was no other bill filed.

Q. Coming down to July 27, "Started to Washington with Colonel Gantt on business of company."—A. Yes, sir. That was the time I came here when we went to see the Attorney-General. You say "started." I am not sure about the exact day. I suppose that is the correct date. I got here on the 30th, and so probably started a day later than that.

Q. The company not only paid your expenses, but they paid the expenses of Colonel Gantt also?—A. Oh, yes; we both came on business of the company.

Q. July 27, "tickets for two, \$52.50."—A. Yes, sir.

Q. Yourself and Colonel Gantt?—A. I suppose so; that is about what it would cost.

Q. "Bill at Ebbitt House, \$16."—A. I suppose that is right; I don't know.

Q. "Paid bill for Colonel Gantt, \$26.25."—A. I suppose so.

Q. What is the entry on the date of August 4?—A. My bill at Mrs. Banes, it looks like; it ought to be "Ryan." The clerk has got it wrong.

Q. In Washington?—A. Yes, sir; 1227 G street. It is not Banes; it is Ryan.

Q. Ticket back to Memphis, how much?—A. Twenty-six dollars.

Q. That was for yourself?—A. Yes, sir.

Mr. HALE. I would like to make a point on this testimony. I do not understand that we are investigating the private accounts between Mr. Young and this company. I do not think the testimony is pertinent to the inquiry at all.

Mr. OATES. I do not know what the gentleman's purpose is. I do not see any relevancy at all.

The WITNESS. There was never any complaint made by the company, that I know of.

Mr. MILLARD. I think Mr. Hall recognizes the materiality of the evidence.

Mr. HALL. It can all be developed by asking the witness the direct question. There is no controversy about it all.

Mr. MILLARD. I think if you will look at the evidence you will see there is.

Mr. HALL. The witness has testified a dozen times that they all came here for the same purpose and were operating together; that that was the agreement.

Mr. MILLARD. It cannot do any harm.

Mr. HALE. It will consume a great deal of time.

Mr. OATES. I do not think we ought to go into anything because it may not do any harm. If you have any point to make, that is another thing.

Mr. MILLARD. Whatever Colonel Young and whatever Colonel Gantt did, they did for the company. They came on here to have a conference and appeared before Goode and before Garland—

The WITNESS. I have testified that we did come for that purpose and did all we could to have this suit brought; that we did everything proper and lawful to be done—

Mr. MILLARD. Hold on.

The WITNESS. I want to satisfy you about that matter.

Mr. HALE. I want the matter passed on. If we are going through this private investigation I would like to understand it. The witness says he will state generally, if necessary, that he was acting for the company.

The WITNESS. And did everything I could; and employed lawyers to help me.

Mr. HALE. This seems to be an investigation of private accounts between the witness and his company.

Mr. OATES (in the chair). Objection is made to the further examination of the witness as to the accounts shown on this book, about which questions are being put. Is the committee ready for the question?

Mr. RANNEY. I understand the book is in evidence, and these items appear upon it. We cannot fully tell what the importance of this examination may be. It seems me it would be better to have the particular items referred to than to have the

whole book copied into the record. These items are important in one aspect in my view—as to the dates about which I inquired. They serve to fix those dates, and so are important in connection with the facts and circumstances surrounding the bringing of the suit.

Mr. OATES. I thought a part of the books was to be put in; not the whole.

Mr. MILLARD. These items established the fact that whatever Colonel Young did in this matter, either in Memphis or here in Washington, before Solicitor-General Goode or Attorney-General Garland, or subsequently before the Interior Department was the act of this company.

The WITNESS. Unquestionably.

Mr. RANNEY. We want to find out by whom these expenses were paid.

The WITNESS. The company paid all the expenses.

Mr. RANNEY. And whether this suit brought in Tennessee, under the order of Mr. Goode, was brought for the general public welfare, or whether it was brought for individual benefit with the help of the Government.

Mr. HALL. We were not directed to take an account and find out how much money had been spent as far as the company is concerned.

Mr. RANNEY. The resolution comprehends that.

Mr. MILLARD. I do not want to lumber up the record by putting the whole book in.

Mr. OATES. I think it is better not to put the whole book in. You want to select parts of it.

Mr. MILLARD. That is all.

Mr. EDEN. Any part that is material might be put in.

Mr. MILLARD. That is what I am after. I am simply calling the attention of the witness to certain expenditures at certain times.

Mr. EDEN. How does it bear upon the matter we are called upon to investigate to inquire of the witness the details of the money he spent?

Mr. RANNEY. One of the claims here is that this Government suit was brought ostensibly in behalf of the public, while, as a matter of fact, it was for the benefit of these interested individuals. We want to know what the expenses were, and by whom.

Mr. MILLARD. That is the precise issue here.

Mr. RANNEY. We want to know if there was any false pretense or cover.

Mr. OATES. I do not object to any evidence to show that fact.

Mr. HALL. I suggest that the question how much the company paid to counsel is purely a private question. It is competent to ask whether expenses were incurred on behalf of this enterprise and who was being represented.

Mr. RANNEY. I think the evidence is competent and material.

Mr. OATES. The question is whether the examination should include particular items of expenditure for Colonel Young and Colonel Gantt, after the witness has already testified that these expenses were paid by the company to which they belong, and that they were interested parties, trying to have the suit brought, as he says, for the benefit of their company. He has testified to that several times.

Mr. RANNEY. Considerable latitude has already been allowed.

Mr. MILLARD. Is it conceded that the Government suit was brought for the purpose of benefiting the Pan-Electric Company?

Mr. OATES. Colonel Young has testified that his efforts were for that purpose, and it seems to me the inquiry should stop there.

Thereupon the question was put upon the motion of Mr. Hale to restrict the inquiry, and resulted as follows:

Ayes—Messrs. Oates, Eden, Hall, and Hale; noes—Messrs. Ranney, Millard, Hanback, and Moffatt.

So the motion was not agreed to.

Q. When was that conference held at the Ebbitt House?—A. I have not got my memorandum book here, and I cannot tell the exact date.

Q. Was it on the 30th or 31st of July?—A. I think it was on the 31st, and from there on, up to the time I left. We met every day. We were all stopping there.

Q. Under date of July 27 is an entry, "Tickets to Washington for two, \$52.50." Was that for yourself and Colonel Gantt to attend that conference?—A. That was what we came for.

Q. And the expense was paid by the Pan-Electric Company?—A. It has been charged to them. I am not sure whether that is the exact date. I think probably we started a day or two later. The clerk has probably made a mistake, or I may have got the tickets a day or two before we started; I don't remember.

Q. Under date of August 30, "Ticket from Jackson to Washington, \$25.40." For whom was that?—A. For me.

Q. How came you to be in Jackson?—A. I went to see Mr. McCorry, the district attorney, about this suit.

Q. In regard to bringing the Government suit?—A. Yes, sir. I stated all that in my testimony before.

Q. And the company paid your expenses?—A. Yes, sir; I charged it to the company. I have had no settlement with them.

Q. Did Gantt go to Jackson also?—A. No; I thought one lawyer was enough for that.

Q. Do I understand that Gantt appeared before the Interior Department at the hearing there?—A. Yes, sir.

Q. Who paid his expenses?—A. I did.

Q. The company paid them?—A. Yes, sir; he was an employé of the company, and I did it without consulting them. They would have sanctioned it, no doubt. It was for the company.

Q. They also paid your expenses?—A. Yes, sir.

Q. And they are charged on this book, are they not?—A. They are; or if they are not, they ought to be. Sometimes I forgot to make charges. They have got the best of me a good deal in that way, I suppose. All the items are down, unless I have forgotten some of them.

Q. You spoke of the National Improved Company having obtained certain evidence abroad that had cost them \$75,000?—A. No; I don't think I said \$75,000.

Q. Then it cost them a good deal of money?—A. Yes, sir. I don't think it cost that much.

Q. What was the character of that evidence?—A. It was in the nature of publications and correspondence and the proceedings of scientific bodies; quite a library. I did not read it all. A good deal of it is set out in the exhibits of the bill.

Q. How was it to be used?—A. It was to be used in these suits to establish the priority of inventions and to establish a good many facts about this controversy, questions of currents, air-waves, and all that sort of thing; an immense amount of it.

Q. If the Government suit that was ordered by Goode had come to trial would that evidence have been used in that trial?—A. We should unquestionably have furnished it to the Government, and they could have done as they pleased with it. We have done it already, though whether or not they think it worth anything I don't know.

Q. That was to be furnished by the National Improved Company?—A. There was no agreement about that except in that paper. I have no doubt they would have done it.

Q. I think you have so testified.—A. If I did, let it go. I testify now, if I did not then, that they would have done it.

Mr. EDEN. Judge Ranney objected to any statement about that contract.

Mr. MILLARD. I am not going into that.

The WITNESS. If I did not testify to it, I will now. They would have furnished it.

Q. You stated that Mr. Van Benthuyzen made a proposition to you to join forces in litigating against the Bell Company, and that he had gathered a large amount of evidence abroad.

The WITNESS. That was at Pittsburgh, was it not?

Mr. MILLARD. Yes.

A. Certainly we did make that agreement.

Q. And he did make that statement to you?—A. Yes, sir; in reference to these suits pending. We had two suits pending at that time, and it was about those suits we were talking.

Q. I understood you to say that that evidence was to be used upon the trial of any case to be brought by the Government?—A. I don't know whether that was in the agreement or not.

Q. Was that the intention?—A. If it was not, it ought to have been, and if I had thought of it it would have been. There was nothing about the Government suit in one paper. I will look at the other. It will be furnished to the Government now. I saw a telegram from Mr. Van Benthuyzen to his partner, who sits behind you, telling him to give to the Government all the material, the evidence, the models, and everything of that sort that we have and he will furnish them.

Q. Were you to compensate the National Improved Company in money for that evidence?—A. No, sir.

Mr. EDEN. I object to going into that inquiry.

The WITNESS. I have no objection to answering.

Mr. EDEN. Judge Ranney would not let the witness tell a word about that, and it is not fair that he should do so now.

The WITNESS. I do not object to telling anything they want to know.

Mr. MILLARD. I am not asking for the contents of any agreement.

The WITNESS. That was only a verbal agreement.

Q. Would the Pan-Electric Company have paid any money for any portion of that evidence?—A. No; that was only a verbal agreement at that time. We had accumulated a good deal ourselves. We had a book very carefully prepared, and had a good many models made. Nothing like \$75,000; and I don't think they had, either. I don't think I stated that.

Q. Mr. Ranney asked you to state the persons who were present at the conference at the Ebbitt House.

The WITNESS. Do you want me to state again?

Mr. MILLARD. I want to call your attention to a circumstance. Whom did you state was present at that conference?—A. I stated, or if I did not I will state now, that I was present, Mr. Van Benthuyzen was present, Mr. C. P. Huntington was present, Col. George Gantt was present, and Mr. Von Briesen was present. Other gentlemen, perhaps, came in and out during the time we were there. I don't remember now. Those were the—

Q. Did you not—A. Allow me to finish my answer. There were other people possibly coming in and out; I don't remember how many or whether there were any; those I have named are the gentlemen whom I was conferring with, and those are the gentlemen I had business with.

Q. Did you not have business with another person who was there?—A. I don't remember that I had business with any others; there may have been other gentlemen there, and no doubt there were.

Q. Was Mr. Zenas Wilbur there?—A. Yes, sir; I saw him there; he held no conference with us.

Q. What business had he there?—A. He did not come to see me, and I cannot tell; Mr. Von Briesen introduced him to me.

Q. Don't you know why he was there?—A. I only know from hearsay; I do not know otherwise. He came there, I understood, to make an affidavit which Mr. Von Briesen asked him to make.

Q. Did he make it?—A. I do not know.

Q. Was it not prepared there?—A. I cannot say; I did not prepare it. I saw it there. I don't know whether it was written there or not. He was there. I saw him there twice, I think, but I did not talk with him any myself.

Q. Was his affidavit that was made there used before McCorry?—A. I think it was. That record will show.

Q. Was it made for that purpose?—A. I cannot say what purpose it was made for; Mr. Von Briesen took it. I do not know.

Q. Let me read you something to refresh your memory:

STATE OF TENNESSEE,
County of Shelby, ss:

W. Van Benthuyzen, being duly sworn, deposes and says: I reside in the city of New Orleans, State of Louisiana, and have resided there for nearly forty years; my occupation being president of the New Orleans and Carrollton Railroad Company, and other corporations. On or about the 30th day of July, 1885, I was in the city of Washington, D. C., occupying rooms at the Ebbitt Hotel, and on that day Zenas Fisk Wilbur, esq., formerly an examiner in the Patent Office at Washington, called at my rooms by appointment with Arthur von Briesen, esq., patent attorney, of New York, for the purpose of making affidavit to the course pursued by him, the said Zenas Fisk Wilbur, in examining and allowing patent No. 174465, issued to A. Graham Bell, dated March 7, 1876. Mr. Von Briesen had ascertained that in examining and allowing the said patent the examiner had, contrary to law, notified the said A. Graham Bell that a caveat filed by Elisha Gray, the same day with Bell's application (*i. e.*, February 14, 1876), interfered with the same in some of its claims, and also that an amendment had been made to said Bell's application about fifteen days after said application had been filed, which amendment had not been called for by the Patent Office, and was unsupported by oath; and that the said Zenas Fisk Wilbur, esq., was the examiner having charge of the said caveat and application.

After the said Zenas Fisk Wilbur had made an affidavit reciting the above facts, he stated, in the presence of Hon. Casey Young, of Tennessee, and Charles P. Huntington, of Mississippi, who were present with myself, that he had made known the contents of the Gray caveat to A. G. Bell, or his attorneys, at the time of suspending the Bell application, or while it was in suspension, notice of which suspension being given on the 19th of February, 1876, as appears in the records of the Patent Office, and that he did not realize that he had acted contrary to law until his attention was called to the fact by Mr. Von Briesen.

W. VAN BENTHUYSEN.

Sworn to and subscribed before me this 28th day of August, 1885.

[L. S.]

SAM. RICHARDS,
Notary Public.

Did Mr. Wilbur make that statement to you as stated in that affidavit?—A. If you want to impeach a witness, hadn't you better have him here. The object of the question seems to be to ascertain whether Mr. Van Benthuyzen has sworn falsely or not.

Q. Not at all.—A. I cannot see any other purpose in it.

Q. I simply want to know whether he was there and made the statement.—A. He was there.

Q. Did he make the statement that Van Benthuyssen swears to?—A. You had better ask Mr. Van Benthuyssen that.

Q. You were there?—A. Oh, yes; but your purpose is to impeach the truth of Mr. Van Benthuyssen's affidavit by me.

Q. Not at all.—A. I will state all the circumstances about the matter. Mr. Van Benthuyssen spoke to me about that afterwards, when the affidavit was made, and I was asked to make an affidavit to that effect, and could not do it because I did not remember it. I don't remember whether Mr. Wilbur made that statement. I think he did. My impression is pretty strong that that affidavit of Mr. Van Benthuyssen is correct; but I don't remember distinctly and did not remember distinctly enough to make my own affidavit.

Q. He also states that he "called at my rooms by appointment." Do you know how he came to come?—A. I know nothing about the appointment with him. He was there. I don't know who brought him there. I did not. I think he came there to talk to these gentlemen about that affidavit.

Q. Had you seen him before he came there?—A. Oh, no; I had never seen him in my life. Perhaps I did know him twenty years ago; I think it is likely I did; but I had not seen him for years, and didn't know he was here. I don't know who brought him. I saw that affidavit and read it at the time. That was the one they wanted to read to Mr. Garland, and he would not hear it.

Mr. MILLARD. I offer the affidavit of Wilbur, made on the 30th of July, 1885, which Mr. Young says was used before McCorry.

The WITNESS. The record shows whether it was used before McCorry or not.

Mr. MILLARD. At the end of the affidavit is the following:

"The first affidavit given by Mr. Wilbur, as above, was made on the 30th day of July, 1885, and on the 3d of August he made three or four more as above, except the date."

Mr. EDEN. What are you reading from?

Mr. MILLARD. From the certified copy of the proceedings before the Commissioner of Patents.

Mr. HALL. I do not see the propriety of introducing the paper at this time as a part of Mr. Young's testimony.

Mr. MILLARD. It is a part of the transaction.

Mr. HALL. It does not follow that it is a part of his testimony.

Mr. MILLARD. I think the whole affidavit is material and should go in.

Q. Who took this affidavit of Wilbur to Memphis?—A. I do not know.

By Mr. HALL:

Q. Was it taken there?—A. I don't know anything about it.

Mr. MILLARD. It was taken there, and the proceedings show it.

The WITNESS. I presume it was taken there; I don't know.

Mr. HALL. What proceedings do you allude to; the record there?

Mr. MILLARD. Yes.

The WITNESS. I would have taken it if anybody had asked me; but I did not.

By Mr. MILLARD:

Q. Did you or Gantt or Van Benthuyssen or Von Briesen take it?—A. I did not; I can't say whether they did or not. I would have taken it if it had been necessary, or if I had had it. As a matter of fact I did not.

Q. Tell us, if you know, why three other affidavits were made within three days and of a similar character?—A. I have no idea in the world. I did not take any of them.

Q. Before it was taken to Memphis, was it not taken over to Garland?—A. Yes, sir; of course it was. That was the one Mr. Von Briesen wanted to read him and he wouldn't hear it.

Q. Was it not on that day or the day following that the letter of Van Benthuyssen was taken out of the Interior Department?—A. I do not know when it was taken out, as I have testified several times. I found it there when I came back in October, and I didn't know it had ever been taken out; but I have learned since from Mr. Seixas that Mr. Van Benthuyssen did take it out and carry it to New Orleans and make that indorsement upon it and send it back. I did not know that.

Q. That was on the 31st of July, was it not?—A. I don't know; the record shows. I did not know anything about it at the time; I did not advise the withdrawal of it. I told him I did not think it was a proper form of suit, and Mr. Von Briesen told him he could not bring it in that way; he would have to go through the local attorneys.

The affidavit of Mr. Wilbur, previously referred to, is as follows:

CITY OF WASHINGTON,
District of Columbia, ss:

Zenas Fisk Wilbur, being duly sworn, deposes and says:

I reside in the city of Washington, in the District of Columbia, and am forty-three years of age, and am by occupation a solicitor of patents.

In the year 1876 I was employed by the Government of the United States as principal examiner of the Patent Office, in charge of the class of electricity. The application of Alexander Graham Bell for a patent for improvements in telegraphy, which was filed February 14, 1876, which patent was issued on the 7th day of March, 1876, and numbered 174,465, was put in my charge as examiner, and was passed to issue by me.

I reached the said application for examination on the 19th day of February, 1876, and found on that day a caveat had been filed by one Elisha Gray, on the 14th day of February, 1876, for a new art of transmitting vocal sounds telegraphically, which caveat, in my opinion, interfered with the first, fourth, and fifth claims of Bell's said application.

On said 19th day of February, 1876, I notified Messrs. Pollok & Bailey, Bell's attorneys, that the first, fourth, and fifth clauses of claims in said application relate to matters described in a pending caveat. Afterwards, to wit, on or about the 24th day of February, 1876, the said attorneys, Pollok & Bailey, addressed a letter to the Commissioner of Patents, wherein they stated that they had "inquired the date of filing the caveat, inasmuch as we are entitled to the knowledge," and protested against the delay, which the notice to the caveator would subject them to. They thereupon made a special application to the Commissioner of Patents, under whose instructions I afterwards, to wit, on the 24th day of February, 1876, withdrew the suspension of the application.

I have since carefully examined the law on patents, and am satisfied that the notice to the attorneys of Bell of February 19, 1876, is not warranted by law, and that their ascertainment of the date of filing Gray's caveat is also contrary to the letter and spirit of section 4902 of the Revised Statutes.

To give such information to applicants for patents had, to an extent, become a custom in the Patent Office; but I now clearly perceive that the law did not contemplate the giving such information to an applicant for a patent, as it distinctly requires the caveat to be kept secret and the caveator alone to be notified.

On the 29th day of February, 1876, an amendment was filed by said attorneys for Bell and incorporated in the application, but to said amendment Bell did not make oath nor did he subscribe to the same, as I verily believe.

ZENAS FISK WILBUR.

Sworn and subscribed to before me this 3d day of August, A. D. 1885.

[SEAL.]

JOHN E. BEALL,
Notary Public.

The WITNESS. Gentlemen, as I am a party as well as a witness, I would like to inquire whether I am trying the Bell telephone lawsuits over again here. I tried all this in the Interior Department, and I expect to try it in court, and I don't want to divulge anything here that will benefit them in court. I would like to inquire what the nature of this proceeding here is.

Mr. MILLARD. I will ask no question that I do not think is proper and material.

The WITNESS. I have a right to judge whether it is, if it affects me as a party to the proceedings, and I do not understand that this inquiry is in the nature of public interest. It does not look that way to me; perhaps I am mistaken.

Q. Do you know of any affidavits made after you reached Tennessee, by Van Benthuyzen or Huntington or Gantt that were used before McCorry?—A. I think that record shows some, but I don't think I was present when they were made.

Q. In connection with this Wilbur affidavit?—A. I think the record shows some. I don't know of any others except what the record does show. I know they talked about it, and I was asked for one, and I couldn't remember distinctly enough to venture to swear to it. I have a distinct impression that such a conversation did occur, but I couldn't swear to it.

Q. Was not this particular affidavit, which I have read, made by W. Van Benthuyzen, also the affidavit of Charles P. Huntington, also another one of Van Benthuyzen, under date of August 28, 1885, also an affidavit on page 21, made by Randall, Gantt, Huntington, and Sigler, used before McCorry?—A. The record shows it. What is the use of asking me the question?

Q. That is the only way I can put it into the case.—A. If the record shows it that is better than for me to prove it. You can't prove by me what the court record is.

Mr. HALL. There is a comment here in reference to this affidavit of Wilbur, as if it were a part of the certified record. It is hardly possible that can be so.

Mr. MILLARD. It is a part of the record, for the certificate follows.

Mr. HALL. It purports to certify to copies of papers on file. It is not competent, it seems to me, to insert such a note.

Q. Have you stated all the persons in the Interior Department that hold stock of the Pan-Electric Telephone Company?—A. Nobody in the Interior Department holds any stock that I know of. I never heard of anything of that sort.

P. Or in any of the subordinate companies?—A. I don't know of anybody in the Interior Department who has any stock of any sort except Upshaw. I heard he held some stock in the Alabama Company.

Q. General Atkins is in the Interior Department?—A. Oh, yes; he is among those I stated,

Q. And General Johnston?—A. Yes, sir.

Q. What position does Mr. Upshaw hold?—A. I understand he is a clerk in the Indian Bureau. He owns some stock I understand (I have no doubt it is so, though I don't know it certainly) in the Alabama Company. He does not own any stock in this company.

Q. Are there any other parties, to your knowledge, holding any stock in any of the companies?—A. None in the world. Every man who has any interest in those companies is on that list that I know anything about. If there is anybody else I don't know anything about it at all. I don't know an individual in the world who has the slightest interest except those whose names appear on this stock book. Dr. Rogers may have given somebody else an interest in it that I know nothing about and that has never been reported to me.

Q. Have you stated the names of all the persons that hold stock in the Pan-Electric Telephone Company or any of the subordinate companies?—A. Oh, no; I don't know who holds it in the subordinate companies. They are all scattered around. I have no means of knowing at all.

Q. (Handing letter to witness.) Did you receive that letter from Harris Rogers?—A. Yes, sir. That is one of the letters I handed to the committee.

Q. Did you receive it at the time it bears date?—A. I suppose I did. I can't remember, except by the circumstance—

Q. Do you not recollect the fact of receiving it and giving the stock?—A. No; I do not. I recollect receiving two or three letters from Mr. Dwyer himself about it, and we had some little controversy over it. I received more letters than I cared to answer. People complained that I did not answer, and complain to this day. The stubs of the book of certificates I handed in will show all the stock and when it was issued. Dr. Rogers sold Mr. Dwyer that stock; I hadn't anything to do with it. They say he is an officer of the Government. If he is I never heard of it.

By Mr. HALE:

Q. Was this one of the transfers of stock Rogers made?—A. Yes, sir.

Q. Out of his own interest?—A. Oh, yes. I had nothing to do with it. I think this \$100,000 was to come out of that \$170,000 which Dr. Rogers reserved the right to dispose of in the original contract, and that is the reason I was led into the mistake of not issuing enough. It is just an order on me for some stock.

Mr. MILLARD. I offer the letter in evidence.

The letter is as follows:

315 FOUR-AND-A-HALF STREET,
Washington, D. C., March 10, 1884.

Hon. CASEY YOUNG:

DEAR SIR: This will be handed to you by my friend, Philip N. Dwyer, the gentleman entitled to \$100,000 of the telephone stock, which I will thank you to have signed and deliver to him.

He is an architect of eminence, and continually traveling from city to city, is an officer of the Government, and can be of great service to the enterprise.

Respectfully,

J. HARRIS ROGERS.

By Mr. MILLARD:

Q. Are you attorney for any other company than the Pan-Electric Company?—A. Yes, sir.

Q. What company?—A. I decline to answer that question. It is an inquiry into my private business that this committee has no right to make at all.

Q. Did you, before the bringing of the Government suit, or since, have any conversation with Elisha Gray, the author of the Gray caveat?

The WITNESS. In respect to what?

Mr. MILLARD. In respect to your company or his caveat or his interest.

A. I had a conversation with him in respect to the inquiry pending before the Interior Department.

Q. When and where was that?—A. It was in my room and Colonel Gantt's room.

He was a witness in the case. He filed an affidavit; I talked with him and was present when his affidavit was prepared.

Q. Where was that?—A. It may have been in my room or in Colonel Gantt's room or in his room; I saw him in all those rooms. I don't remember where that affidavit was prepared; I think it was prepared in Professor Gray's own room; that is my recollection.

Q. Was it here in Washington?—A. Yes, sir; here in Washington; he was here.

Q. Has there been any arrangement or combination between the Pan-Electric Company and Mr. Gray?—A. I decline to answer that question. It is a private matter the committee has no right to inquire into at all.

Q. You decline to give any evidence of any combination between yourself or the Pan-Electric Company and Mr. Gray and the company he represents?—A. Yes, sir; unless it can be shown in some way that it is pertinent to this inquiry.

Mr. MILLARD. That is not for you to say.

The WITNESS. It is for me to say; I am to judge whether I will answer a question or not; it is for me to say.

Q. Have you had any correspondence —

Mr. RANNEY. I think we had better have this matter passed upon.

Mr. HALL. I suggest that the question be put in some direct, intelligible way, right to the point.

Mr. MILLARD. He understands the question.

The WITNESS. I understand the question.

Q. Let me put this question: Has there been any combination between the Pan-Electric Company and Mr. Elisha Gray, the author of the caveat that was filed in 1876?—A. No, sir; no combination between him and the Pan-Electric Company.

Q. Any agreement or understanding?—A. Not between him and the company.

Q. Between him and you?—A. I decline to answer that question; I am not required to disclose the secrets of my clients.

Q. Have you had any correspondence in regard to the Gray caveat with Senator Harris?—A. I think it is likely I had. I have talked with him about it frequently.

Q. Have you not had correspondence with him?—A. I don't remember. It is possible I have written to him. I think perhaps I have.

Mr. EDEN. I do not see the necessity for this.

The WITNESS. I will state this to the committee to prevent any misapprehension: If Professor Gray will consent for me to disclose my communications with him as a lawyer, I haven't the slightest objection in the world.

By Mr. RANNEY:

Q. You can state whether you are his counsel.—A. No; I will not state that. It is not an inquiry pertinent here.

By Mr. MILLARD:

Q. Do you decline to state that?—A. Yes, sir; because it is not an inquiry pertinent to this investigation.

By Mr. MOFFATT:

Q. I understood you to decline to answer a previous question because you were his counsel?—A. I don't believe I stated I was his counsel.

Q. I understood that was the objection you made to answering the question?—A. I will state, if the committee is anxious to know it, that I am his counsel in some respects; and I will disclose in what respects and to what extent, if Mr. Gray will consent for me to do it.

By Mr. MILLARD:

Q. When did your relations as counsel to Mr. Gray first commence?—A. I decline to answer that question.

Mr. EDEN. Unless it can be shown to be material, I do not think it ought to be put.

Mr. MILLARD. The affidavit of Mr. Wilbur makes it material.

Mr. EDEN. The fact of Colonel Young having transactions as an individual with Mr. Gray, or as an attorney for Mr. Gray?

Mr. MILLARD. No such question has been asked.

Mr. EDEN. That was my understanding of your question.

Mr. RANNEY. I understand it is competent for us to inquire who were active to get the Government to bring that suit.

Mr. EDEN. I do not see what the Gray caveat has to do with it.

Q. Have you had any conversation with Mr. Gray in regard to the Government suit?—A. Oh, yes.

Q. When was the first conversation?—A. I think it was when he came on here in October or November, about the time the inquiry was going on. That was the first time I ever saw Professor Gray.

Q. Had you not had correspondence with him prior to that?—A. I never saw him in my life.

Q. Who introduced him to you?—A. I think Mr. Von Briesen, perhaps; I am not sure.

Q. Where?—A. I think here was the first time I ever saw him.

Q. At what place?—A. I think at Willard's Hotel, or perhaps at the Ebbitt House I am not sure which. I met him frequently at both places.

Q. Did you meet him in company with Senator Harris?—A. No, sir.

Q. Or General Johnston?—A. No; I don't think General Johnston ever saw him. I don't know that he did. I have no recollection of his ever seeing him.

Q. When did you first talk with Senator Harris about that?

The WITNESS. About what?

Mr. MILLARD. About your relations with or any interviews you may have had with Professor Gray.

A. I don't remember distinctly. I think I mentioned it to him shortly after I saw Professor Gray. Professor Gray and I had a conversation about business matters that did not relate to this matter at all, and I think I talked to Senator Harris about it—a separate and distinct transaction that had no relation to our company. We have had no agreement with him at all.

Q. Where is the correspondence with Senator Harris in regard to that matter?—A. I don't know that I ever corresponded with him about it at all. I talked with him.

Q. You said you corresponded with him?—A. No; I did not. I said it was possible I may have written to him, but I don't remember that I ever wrote a letter. I was here all the time, and didn't have occasion to write him.

Q. Where does Professor Gray reside?—A. In Chicago, or near Chicago, at Highland Park, a suburban town, I don't know how far from Chicago.

Q. He made an affidavit that you used before the Interior Department?—A. Yes, sir; it is in that record. I did not prepare it.

Q. It was in your behalf, was it not?—A. I cannot say in my behalf.

Q. In behalf of your company?—A. Read it and you will see.

Q. I ask you.—A. I can't say whether it was or not; you may read it and construe its purpose and effect; it was made in support of the inquiry or the application made to the Secretary of the Interior to institute proceedings to annul the Bell patent; it was made in support of those proceedings; whether it is in behalf of our company or in behalf of the public you can determine by the document; there it is; you might say it was in behalf of the Board of Trade of the city of New York; their resolutions are there also.

Q. Who procured him to make the affidavit?—A. I really do not know; I think it is probable Colonel Gantt may have prepared it; I am not sure about that.

Q. Colonel Gantt, your counsel?—A. Yes, sir.

Q. Counsel for this company?—A. Oh, yes.

Mr. HALL. I hope you will get the matter in a satisfactory shape for you.

Mr. MILLARD. You seem to be extremely nervous about it.

Mr. HALL. I am not conscious of it.

The WITNESS. There is no occasion for anybody to be nervous.

Q. (Handing paper to witness.) Did you receive those letters from Mr. Rogers?—A. I expect I did. I think they are those I handed in the other day, which I found among my papers.

Mr. HALL. Be sure about that.

The WITNESS. I cannot be sure now. They are in his handwriting and they are directed to me, and I take it for granted I received them.

Q. And delivered the stock in pursuance of them?—A. Oh, yes; I reckon I did. No, I did not deliver any stock.

Q. It was not delivered?—A. No, sir.

Q. A certificate was delivered?—A. There was a paper delivered showing that the party was entitled to the stock when it was issued. None of the stock has been issued. I presume they got such a paper.

Q. Was such a paper given to Mr. Marble?—A. I take it Mr. Marble got it.

Q. Under date of May 24 and 25?—A. I expect those are the dates.

By Mr. OATES:

Q. Was Marble in any way connected with the Government?—A. Not that I know of.

By Mr. MILLARD:

Q. He had been; and after he received this stock, or after those transactions, he delivered this opinion?—A. Oh, no; he did not. He delivered the opinion in 1884, and these papers are dated in 1885.

Mr. MILLARD. Please read the letters.

The WITNESS (reading): "No. 315 Four-and-a-half street, Washington, D. C., May

24, 1884. This is to certify that E. Marble, esq., is entitled to \$10,000 of the stock, when issued, of the Pan-Electric Company, to come out of my stock and to be charged to me. This stock will not embrace the telegraph or telephone stock which originally belonged to the Pan-Electric Company, \$10,000 of exchange having been already delivered to E. N. Marble in certificate by Colonel Young, secretary."

Mr. RANNEY. As a part of my examination I put in the opinion of Mr. Marble.

The WITNESS. Which one? He gave two.

Mr. RANNEY. The one I put in is dated October 22, and it is wrong.

Mr. MILLARD. It should be October 21, 1884.

The WITNESS. Let me see the paper.

Mr. MILLARD. I will come to that directly.

The WITNESS. You had better let me see it first.

Mr. HALL. Show it to him.

The WITNESS. I want to see the paper you are asking about.

Mr. RANNEY. I put in that opinion at the last hearing, and it is wrong in the record.

The WITNESS. If the committee will allow me, I will explain that there are two separate opinions. I was speaking of the opinion that he gave in reference to the validity of our patents as against Bell's patents, and that was a different subject altogether. The opinion of October 21, 1884, is in relation to the National Secret Telephone Company, which claimed that we infringed their patents.

Mr. MILLARD. I am not asking you about that.

The WITNESS. I would like to see the opinions. (Paper handed witness.) This is the opinion of October 21, 1884. There was another opinion. I would like to see the one I have been talking about all the time.

Q. You have possession of it, have you not?—A. Oh, no; I handed it to the committee.

Q. You have read the letter of May 24. Now read the next letter dated May 25.—A. I suppose it is the 25th, but I can hardly make it out. It looks more like the 20th.

DEAR COLONEL: Please give to E. Marble, esq., the usual certificate for \$10,000 in each of the above companies.

Respectfully,

J. HARRIS ROGERS.

Col. YOUNG,

*Secretary Pan-Electric Telephone Company,
and of the Pan-Electric Telegraph Company.*

Q. What companies were those?—A. The Pan-Electric Telephone and the Pan-Electric Telegraph.

Q. And the date is May 25?—A. May 25, 1884.

Mr. MILLARD. I now offer the opinion, under date of May 21, 1884, addressed to Senator Harris.

The WITNESS. Let me explain how that was first. This is an opinion that was given to us by Mr. Marble.

By Mr. RANNEY:

Q. Given to whom?—A. Given to our company.

Q. Which company?—A. The Pan-Electric Telephone Company, by Mr. E. M. Marble, a patent lawyer of this city, upon our application to him for his opinion as to whether or not the patents that Harris Rogers had transferred to us were either embraced in the transfer previously made to the National Secret Telephone Company, or whether they infringed the patents that were transferred to them. Mr. Van Benthuyzen had threatened to sue us at New Orleans about these instruments; and the moment we heard there was any possible conflict between our company and his, we asked Mr. Marble to examine the records of the Patent Office and give us his opinion, and that is his opinion.

Mr. RANNEY. I will put it in now.

The opinion is as follows:

[Offices of E. M. Marble, 27, 28, 29, and 30 Le Droit Building.]

WASHINGTON, D. C., October 21, 1884.

Hon. ISHAM G. HARRIS,

Vice-President of the Pan-Electric Telephone Company.

DEAR SIR: In compliance with your request for my opinion as to whether any of the patented inventions of James Harris Rogers, now owned and used by the Pan-Electric Telephone Company, infringe any of the patents of said inventor owned by the National Secret Telephone Company or its assignors, I have to submit the following:

Upon examination of the records of the United States Patent Office, I find two patents

owned by the National Secret Telephone Company, by mesne conveyance from said Rogers, which I understand and am informed are the patents referred to in your request, viz, No. 252255, dated January 13, 1882, and No. 252521, dated January 17, 1882. These, at least, are the only patents issued to said Rogers which can be said to have any reference, even the remotest, to the instrument owned and used by the Pan-Electric Telephone Company, and covered by patent to said Rogers, No. 281560, dated July 17, 1883. I inclose copies of said patents.

The first in date, No. 252255, covers an instrument, consisting of a diaphragm, a mercury-holding cup in close proximity to the diaphragm, a quantity of mercury in said cup, one or more free-floating carbons in contact with the diaphragm, and electrical connections.

In this instrument the current of electricity passes from the battery up through the mercury to the carbon or carbons and out to line. Vibrations of the diaphragm caused by sounds uttered in its vicinity cause variations of contact between the diaphragm and the floating carbons, and between said carbons and the mercury, and thus vary the electric current by which such sounds are transmitted. The distinguishing feature of this instrument is the "free-floating carbon or carbons" on the surface of the mercury held in a cup in close proximity to the diaphragm, and to this feature the inventor expressly and distinctly limited himself in said patent.

In patent No. 252521 the electric current is varied by the variations of the fluid held in the cup, caused by the vibrations of the diaphragm, which are communicated through a tube at a point near the bottom of the cup, where the electric current passes through it.

The fluid in this instrument in effect forms an elastic electrode, through which the electric current is varied by a changing resistance produced through the tube by the vibrations of the diaphragm.

Patent No. 281560 covers an instrument consisting of a diaphragm, which forms one pole of the electric circuit, a flattened plate or button lying loosely and by its own weight on the diaphragm and forming the other pole of the circuit, which button may or may not be adapted to hold a small quantity of mercury and electrical connections.

The distinctive feature of this instrument is the carbon plate or button lying loosely and by its own weight on the diaphragm, making a delicate and sensitive contact between the electrodes, whether mercury is or is not used.

The mechanical construction and the operation of the instrument are entirely different from either of the other instruments mentioned, as may be readily seen by an examination of the patents.

It is well settled, and a citation of authorities in support of the proposition seems unnecessary, that a mechanical patent is infringed only when one without rightful authority makes, uses, or sells a machine, instrument, or device which embodies the same elements, or their known equivalents, combined and operating in the same or in substantially the same way as those shown, described, and claimed therein.

The fact that an instrument produces the same or similar results as one covered by a patent and employs and uses some or all of the elements described and claimed in said patent, does not establish infringement. The elements may be used in an entirely different way from that described in the patent, both in construction and combination, necessitating a different operation, although producing the same or a similar result.

When so used and operated there is and can be no infringement. No better illustration of the truth of the foregoing statement can be given or cited than the class of instruments now under consideration.

Microphones, or contact telephones, of necessity employ elements or their equivalents common to all such instruments. If such elements are properly brought together and electrically connected, the instrument, the unit of which they form parts, will transmit speech. The result will be the same, although the manner of combining said elements may be as various as the forms of the human face.

If instruments have been or shall hereafter be constructed in accordance with the directions given in patents numbered 252255 and 281560, while they do or will employ elements common in part to each, these elements are so differently employed and operated that there can be no infringement.

In 252255 the contact between the electrodes is made and sustained by the elasticity of the fluid which supports the "free floating carbon." If this floating carbon were supported and sustained by a spring, coiled or otherwise, instead of by a fluid, no one would think of claiming that the spring was in a patentable sense the equivalent of the fluid, although in a certain sense the spring and the fluid would perform the same functions.

In 281560 the contact between the electrodes is made by placing one loosely upon the other and having it kept in position by its own weight and the electrical connection.

The fact that a small quantity of mercury may be used in the upper part of the

button to give the instrument through such connection greater delicacy and sensitiveness, does not affect the mechanical construction of the instrument. It may be used without the mercury, which is only incidental and not material in its construction. But if such use of mercury as a connection between one of the electrodes and the wire were material, or is or shall be found necessary, the inventor had a right to use it irrespective of his former patent, because its use for such purpose in other combinations was old, in fact older than the telephone in this country.

I have also been requested to examine the records of the United States Patent Office to ascertain if in any assignment or instrument there recorded it was agreed by said Rogers that the National Secret Telephone Company, or those from whom it acquired title in part to a portion of Mr. Rogers's inventions, should own and control any of his inventions not expressly and definitely mentioned in the instruments executed between said Rogers and said assignors, or between Rogers and said company.

I have made a thorough examination of the records of said office, and find no such instrument of record, nor anything in any instrument recorded indicating an intention to convey to said assignors or said company any of his future inventions nor any of his inventions not therein expressly mentioned.

I am informed by Mr. Rogers that he never executed an instrument which would prevent him from selling his future inventions to the highest bidder, although he was asked so to do several times and refused.

I am also requested to give an opinion as to whether the receiver used by the Pan-Electric Company infringes a patent issued to one McTighe (original No. 193405—reissue No. 8248).

Without describing the instrument used by the Pan-Electric Company, because an application for a patent on the same is still pending, I may say that if the instruments used are constructed in accordance with the description given by Mr. Rogers in his application, they do not and will not infringe said McTighe patents.

Very respectfully,

E. M. MARBLE.

By Mr. MILLARD:

Q. I call your attention to Mr. Marble's account on the old ledger. Is this one of the books of the company?—A. Yes, sir.

Q. Read the account on page 112, so that it may go on the record.—A. (Reading:) "The Pan-Electric Telephone Company, Dr., in account with E. M. Marble, Cr. 1884, May 25. To one hundred shares of capital stock transferred by order of J. Harris Rogers, \$10,000. May 25, 1884. By certificate issued showing amount of stock transferred by order of J. Harris Rogers, \$10,000. October 3. To one hundred shares of capital stock transferred to George Brodt, \$10,000." That is the same account that was given him, leaving no balance to Mr. Marble's credit. The reason he does not appear on the new stock book is because he transferred his stock before the new book was made out.

Q. Did he ever pay any money for the \$10,000 of stock issued to him?—A. I don't know. That was Dr. Rogers's stock. He did not pay any money to our company.

Q. You do not know of his paying for it?—A. I do not know anything about it. It was a transaction of Dr. Rogers. We had nothing to do with it. That was one of the things I was opposing all the time.

By Mr. EDEN:

Q. The company had nothing at all to do with that?—A. Nothing in the world. The company never sold a dollar's worth of stock, except to four individuals.

By Mr. MILLARD:

Q. Was there a local company established at Saint Louis?—A. Yes, sir.

Q. Who was the president of the company?—A. Mr. E. L. Adreon, the city controller.

Q. Did the Bell Company threaten that local company with suit?—A. It did. I would like the committee to stop right here and let me put in some evidence. Here are the papers connected with it.

Mr. MILLARD. I simply want to ask you a single question.

The WITNESS. I simply want to put the facts in right here.

Mr. EDEN. I do not wish to raise any objection further than this: I understood Mr. Ranney had covered all these questions.

Mr. MILLARD. I do not want to go into it further than a single question.

The WITNESS. But I do. I want to get the facts in.

Mr. EDEN. He told all about the Saint Louis Company, who the officers were, and that they had established an exchange. If there is anything new I have no objection.

The WITNESS. I have a bundle of papers that embrace all those facts about the Saint Louis business. I had them, but I do not find them now. I want to put them into

the record. I suppose they have got mislaid. I want to put them in right at this point. They tell all about the Saint Louis suit.

Mr. HALL. Are they letters?

The WITNESS. Some letters and circulars. I can state exactly what it was. It was a correspondence between me and Senator Harris, and an opinion given by Senator Garland. I would like to put the papers in if I can find them. I do not find them.

By Mr. OATES:

Q. To whom was that opinion given?—A. It was written by Mr. Garland to Mr. Adreon. I would like to get those papers and put them in the record.

By Mr. HALL:

Q. Is there any evidence of a suit brought by the local company?—A. No; they did not bring any.

Mr. MILLARD. Suit was threatened and notice was served?

The WITNESS. I will state to the committee how that was: We had a local company in Saint Louis—

Mr. MILLARD. I simply want to call your attention to a certain fact, and that is all.

The WITNESS. What is that fact?

Mr. MILLARD. As to whether you were threatened with a suit there.

The WITNESS. We were; now let me tell it all.

By Mr. MILLARD:

Q. Was that before the commencement of the Government suit by McCorry?—A. Months before.

Q. Who directed the manner of the defense of the suit?—A. I did.

Q. Did not Mr. Garland?—A. I was going to state, if you will—

Q. I want the fact.—A. I will give you the fact if you will give me a chance to do so. That is exactly what I want to give, and if you gentlemen will not be impatient you will get it all. Just let me state it in my own way and you will save time, because I will state it in my own way if I state it at all. We sold to a local company in Saint Louis the right to use our telephone in the State of Missouri. The company was organized, and Mr. E. I. Adreon was elected president of the company. They commenced to put up telephones and to establish an exchange. When they had put up probably a hundred or two hundred telephones—I don't know how many—a notice was served on them by Mr. Hotchkiss, who was the president of the local Bell Company there, that he would bring suit if they did not desist from using his telephone. That notice was sent to me and I sent it to Senator Garland, who was at home, I think, at the time, over in Little Rock. I wrote back to Mr. Adreon to tell the gentlemen to go ahead and bring the suit, and that we were ready to defend it. Mr. Adreon wrote to me again saying Senator Garland had not come (I had written to him Senator Garland would attend to it), and the matter was being pressed, and he asked me to come to Saint Louis. I went to Saint Louis and staid there for a week, employed counsel there. I saw the notice. Mr. Hotchkiss, I think his name is. [To Mr. Millard:] You have got all the papers there, and it would have been a much fairer method of examining me if you had given them to me. Those are the papers you have in your hand.

Mr. MILLARD. These are only copies of the papers.

The WITNESS. They are the copies I furnished. They are the very papers.

Mr. MILLARD. I propose to put them in.

The WITNESS. Why didn't you give them to me when I asked for them.

Mr. HALL. I did not know you referred to those papers.

The WITNESS. Those are the very ones I was looking for. - [Papers handed to witness.] Here is all the correspondence. Here is the notice, and here is Mr. Adreon's letter. If the committee pleases I will read all these papers.]

Mr. HALL. Don't they tell the story themselves? Why not put them in evidence?

Mr. RANNEY. Are they of such materiality that we need to encumber the record with them?

The WITNESS. I think it is a fair thing, gentlemen, to let me have papers I am being examined about.

Mr. RANNEY. You had better not stop to lecture the committee. You have done quite enough of that.

The WITNESS. So have you, and I propose to do a little myself. I have submitted with great courtesy, patience, and forbearance to you, and I do not propose to submit any more. I will be courteous to the committee, nothing more.

Mr. RANNEY. What are those papers?

The WITNESS. They are the correspondence in the case. Here is a copy of the letter from E. I. Adreon to A. H. Garland—

Mr. HALL. I understand that whilst the local company at Saint Louis was engaged in putting up its telephones another company threatened it with an injunction. The parent company, under the articles we are all familiar with, had agreed to defend the

local company; and when the suit was threatened, the company here was notified of the fact and was called on to take charge of the litigation. Letters were written by Mr. Garland telling what should be done if that suit was instituted.

Mr. MILLARD. I think we ought to wait until Mr. Garland is called before we introduce his letter. I want the fact to appear, and it seems to me it is very important in this investigation, that here was a suit threatened by the Bell Telephone Company just prior to the commencement of this Government suit, and Mr. Garland was acting as attorney for the Pan-Electric Company and directing the defense.

Mr. EDEN. It must have been some time prior.

Mr. MILLARD. It was in 1884.

Mr. EDEN. Long before he was Attorney-General.

Mr. RANNEY. Is it not the fact that there was a suit threatened, that the parent company was to defend it, and that Garland gave the directions; and is not that all?

Mr. MILLARD. That is all I ask about.

Mr. HALL. Nobody denies he was counsel. There is no question about it.

The WITNESS. I guess you had better put all the papers in.

Mr. OATES. It seems to me it is unnecessary to put them all in.

The WITNESS. I think it is necessary. If any of it goes in I think the whole of it ought to go in.

Mr. OATES. It seems to me this inquiry is not material.

Mr. MILLARD. Perhaps you think the whole investigation is immaterial.

Mr. OATES. By no means; but that which is not covered by the resolution is immaterial. I have no objection to the proposition just as Mr. Ranney states it. This evidence amounts to very little or nothing. It is a fact that there was a suit threatened by this offshoot in Missouri—

Mr. HALL. No; by the Bell telephone people.

Mr. OATES. A suit was threatened against that offshoot, and the parent company, under its obligation to defend such suits, did do it, or were prepared to do it. I believe the suit was not brought. That is all there is of it.

The WITNESS. I will ask as a part of my testimony to put those letters in the record. They explain the whole matter without any statement from me.

Mr. MILLARD. They are not original letters. I think they would be important evidence if they were properly authenticated. Mr. Garland, when he comes on the stand will be able to explain them.

The WITNESS. Here is my own letter. That is properly authenticated.

Mr. OATES. I have no doubt they are genuine; that the copies are correct, but the only question is whether there is any use having them in the record.

Mr. HALE. I think they ought to go in if they are admitted to be genuine copies of the originals. Our resolution of inquiry includes the contracts with subcompanies.

Mr. OATES. I suppose it will be the shortest way to let them go in.

Mr. EDEN. I suppose they are a part of the transaction. I have not examined them.

Mr. MILLARD. If they go in, they should go in regular order; the notice should go first, then the letter from Mr. Garland to Mr. Adreon, and the letter from Mr. Adreon to Mr. Garland in reply.

The WITNESS. And then Mr. Adreon's letter to me and my letter.

Mr. MILLARD. Yes, I have no objection to your letter going in also.

Mr. OATES. It is the shortest way to let them all go in, unless objection is made.

The following are the papers referred to:

Copy of "Bell's" notice of infringement.

SAINT LOUIS, October 29, 1884.

To the Missouri Pan-Electric Telephone Company, E. L. Adreon, esq., president:

SIR: The attention of the directors of the Bell Telephone Company of Missouri has been called to the fact, announced in the public journals, that your company has applied for and obtained permission to string wires for telephone purposes on the electric light poles erected on Ohio street in this city, by the Brush Electric Association. Information has also been given to the undersigned that your company are placing such wires on said poles, and are making or arranging for contracts with various persons for telephones to be operated by you by means of said wires.

Your attention is respectfully called to the fact that this company, as exclusive licensee of the American Bell Telephone Company, is alone authorized to use, for the purposes of a telephonic exchange in this city, telephone instruments constructed under the various patents owned by said company last named, and of which we are informed that the telephones or other instruments, or parts thereof, which you contemplate using are infringements. A list of said patents is handed you herewith, viz, Nos. 174465 and 186787, and you will please take notice that any person or corporation infringing the same, or either of them, by making, vending, or using any of said

inventions in this city, will thereby become liable to legal proceedings for preventing infringement and for the recovery of damages therefor, and that such proceedings will be instituted for that purpose.

Respectfully, yours,

E. A. HITCHCOCK,
President of the Bell Telephone Company of Missouri.

Copy of A. H. Garland's letter to E. L. Adreon.

UNITED STATES SENATE,
Washington, D. C., November 10, 1884.

MY DEAR SIR: Your letter of 29th ultimo to General Johnston has been sent to me for reply, and after going to Little Rock it came back here and reached me yesterday.

In defending against the suit for injunction, exhibit the instrument, and have affidavits of experts, in detail, showing the difference between the two supposed conflicting inventions.

A statement from Rogers, the inventor, should be with you, and I suppose it is; if not, get time to have his affidavit in full. The law holds the plaintiff to a strict showing, a showing beyond all cavil, and will not permit injunction on trivial infringement.

If you have Walker on Patents, look under titles Injunction and Infringement, and you will find the whole law discussed and explained. If you have it not, then telegraph at once for it to some Eastern book-store; but I presume it can be had in Saint Louis. Of course you have the United States Revised Statutes there, containing the law of Congress on the subject. The contest, however, will turn chiefly on the testimony of experts. In answering an explicit denial must be made wherever it can; that is, unless the allegation is strictly and plainly true.

These general suggestions, with the book referred to examined by your attorney, will give you all that I can now contribute without seeing the complaint. But, save and except the scientific technical matters in inventions to be set up and proved, the practice is different in these cases and other proceedings for injunctions.

Very truly, yours,

A. H. GARLAND.

Copy of letter of E. L. Adreon to A. H. Garland.

SAINT LOUIS, *November 13, 1884.*

Senator A. H. GARLAND:

DEAR SIR: Your letter of the 10th instant received. From it I judge you misconstrue the purport of my letter of the 29th ultimo.

As I understand it, your answer proceeds upon the theory that we assume the defense, and advises us accordingly, whereas your company must provide for and conduct the legal proceedings for defense. My letter asked advice as to what steps we could take, at your expense, to aid your company therein. Our contract with your company requires the latter to provide attorneys and defray all expenses in protecting us in litigation involving any question of infringement. We have no attorney, nor is it proper that we should incur that or any other expense in defense of our patents. We are now prepared and intend to force the fight, and wish to know if you have any special instructions or advice to give us, to the end that we may appear in court in the best possible shape to suit your line of defense, and if any steps are to be taken by us under the direction and at the expense of your company (employing attorney, securing affidavits of parties here, &c.), as preliminary, or in aid of your plan of procedure.

We desire that your company at once place itself in a position to defend, as we wish to precipitate the litigation, if there is to be any, but cannot do so until we know that you are ready.

You say that the case will turn on expert testimony touching the difference in the respective inventions. We think, from our information, that the strongest defense lies in attacking the Bell patents on the ground of prior invention and invalidity of generic claim. I think it very important and would urge that counsel of your company come here to consult and view the field in detail. We have no affidavit of Rogers.

Very respectfully,

E. L. ADREON,
President Missouri Pan-Electric Telephone Company.

[Missouri Pan-Electric Telephone Company. For the State of Missouri and county of Wyandotte, Kansas. Capital, \$1,000,000. Office, 417 Pine street. Room No. 6.]

SAINT LOUIS, November 12, 1884.

Hon. CASEY YOUNG:

DEAR SIR: Yours of 10th instant received.

Senator Garland has not been in Saint Louis; I received a letter from him this morning, of which I inclose you copy, together with copies of my reply, notice of "Bell Company," and letter of one of our patrons.

The sooner you put an end to this intimidation the better.

The inclosures indicate our position, and we desire prompt action by your company.

Very respectfully,

E. L. ADREON.

President Pan-Electric Telephone Company.

[Law office of Young & Martin, 254 Second street.]

MEMPHIS, TENN., November 15, 1884.

DEAR SIR: I received this morning a letter from Mr. Adreon, inclosing copies of notices served on him and some of his subscribers by the president of the Missouri branch of the American Bell Telephone Company, warning them against putting up and operating any other telephone, and threatening immediate suit in case they should undertake to do so. He also inclosed me a copy of correspondence between him and Senator Garland, all of which I inclose to you.

It seems to me, from Senator Garland's letter, that he not only misapprehends the terms of our contract with the Missouri Company but that he has no adequate appreciation of the importance of this matter to us. I think, therefore, that you had better impress it upon him, if you can, more forcibly than he now seems to feel it.

It is a consideration of the most vital concern to us that the first litigation should result in our favor, and we should spare no exertion to bring about that result. If we can do this our enterprise is a success of great value. I have been examining the question some, and feel confident that we can defeat any application that can be made for injunction against us, and we should make every preparation to do so. I need not suggest that you get copies of our telephone patents and specifications, and also of the patents referred to by numbers in the inclosed letter of Mr. Hitchcock to Mr. Adreon, and also all the evidence you can find that Bell is not the original inventor of the telephone, for I agree with Mr. Adreon that this latter is our most certain ground of defense. I am still quite unwell, or I would go to Saint Louis to-night, and would do so anyway, if I knew certainly that you or Senator G. had not already gone. I think it all important that some of us should go at once, and I think you and Senator had both better go. I will meet you there if you desire it, or, if neither of you can go, I will go alone. I telegraphed you this morning; suppose I shall get an answer during the day. Let me hear from you.

Yours, truly,

CASEY YOUNG.

Hon. I. G. HARRIS,
Washington, D. C.

By Mr. RANNEY:

Q. I desire to put one more question to Colonel Young. Mr. Millard inquired of you about some affidavits that were being prepared in July or August, at the time you were here in the conference, and that embraced the period from the 31st of July to the 7th of August, when you returned.—A. Well, about that time; I don't remember the exact date I left.

Q. You were here from the 31st of July to the 7th of August, and during that time certain affidavits were being prepared to be used subsequently. I want to know if you were not, during that time, engaged in drawing the bill in equity that you speak of?—A. No, sir; I did not write a line of it in Washington.

Q. You were preparing for it?—A. No, sir; not in Washington.

Q. Were you not getting this proof?—A. No, sir; I had nothing to do with the getting of the affidavits. I do not know whether Mr. Van Benthuyzen got them to use in the prospective Government suit or to use in his own suit pending.

Q. This contract or agreement that was left open between the company and Mr. Van Benthuyzen, this agreement between your company and his, have you got that now? the one that Mr. Van Benthuyzen kept and that he was to send here?—A. No, sir; I stated that he sent me none.

Q. Has he not a man attending to this business pretty regularly who is here in the committee room?—A. Yes, sir.

Q. Who is he?—A. Mr. H. O. Seixas.

Q. Representing Mr. Van Benthuyssen?—A. I cannot say that he represents him. He is interested in that telephone company. Mr. Van Benthuyssen represents himself as a general thing.

Q. You spoke this morning about finding some paper?—A. Yes, sir; I have it here.

Q. I want to see what you have found.—A. I handed it to the chairman.

Q. (After examining the paper.) This paper purports to be a supplemental agreement. I want the original, not the supplemental one; I want that to which this is a supplement.—A. I have explained to you so often where it is and all about it that it is not necessary for me to do it again.

Q. I want to know if that is the one?—A. No, sir; that is not the one, as I tried to tell you a while ago.

Q. Is this the original paper?—A. Yes, sir; it is an original paper.

Q. The one you have testified to, that you and Senator Harris signed?—A. I think I signed it and Senator Harris says that he did. I think he is mistaken, but I may be mistaken instead of him.

Q. You swear that this was the paper signed at that date by Mr. Van Benthuyssen for that company?—A. I have no doubt it was. I had forgotten all about the paper until I found it in my trunk.

Q. I have not read it, and will thank you to read it. First give us the date of it for identification.—A. This is dated the 27th of August, 1885.

Q. And is signed by Mr. Van Benthuyssen?—A. It is signed by W. Van Benthuyssen. Mr. OATES. Read the paper.

Mr. RANNEY. If the Chairman will excuse me, I want to know about the signature I want to know by whom it is signed.

The WITNESS. It is signed "The National Telephone Company, by W. Van Benthuyssen, president."

Q. You know that to be his signature?—A. I do.

Q. In whose handwriting is the paper itself?—A. I think it is in the handwriting of Mrs. H. W. Miller, a lady in Memphis doing writing for us at that time.

Q. Was it delivered to your company?—A. No, sir; it was not.

Q. Where did you get it?—A. If the gentlemen want me to read it, I will read it.

Q. I want to see what bearing it has. Was it a paper signed by him and delivered to your company?—A. It was delivered to me.

Q. As representative of the company?—A. Oh, I found it in my trunk.

Q. When?—A. I found it Saturday evening.

Q. When did you receive it?—A. At the time it was written, I suppose; I have forgotten.

Mr. RANNEY. I do not object to your reading it.

Mr. OATES. Read it and explain it as you want to.

The witness read as follows:

Supplemental agreement between the National Improved Telephone Company and the Pan-Electric Telephone Company.

In addition to the agreement made and entered into between the above-mentioned companies at the city of Washington, D. C., on the 4th day of August, A. D. 1885, it is hereby further stipulated and agreed by and between the same, as follows, viz:

That the officers and agents of said two companies shall co-operate in the use of all lawful means to secure the cancellation, recall, or modification of the Letters Patent granted to Alexander Graham Bell on the 7th day of March, 1876, and on the 30th day of January, 1877, and numbered respectively 174465 and 186787, and that for the purpose of accomplishing the same, they shall obtain if possible the action of the Government of the United States by direct proceedings in its own name or at the relation of some agent or officer of one of the above-named companies to be hereafter selected.

And it is further agreed that the business management of any litigation so instituted shall be under the joint control of W. Van Benthuyssen, representing the National Improved Telephone Company, and ———, representing the Pan-Electric Telephone Company; and no costs or expense in connection with the same shall be incurred and no money paid out or expended without their mutual consent and approval; and all costs and expenses thus incurred shall be equally borne by the two companies except counsel fees, it being understood that each company shall employ and pay its own lawyers. In case of the death or disability of the said W. Van Benthuyssen or of the said ———, then and in that case the company whose representative shall die or become disqualified to act shall select a substitute.

It is further stipulated and agreed that each company shall furnish for use, in the litigation here provided for, all the material, models, and information possessed by

them, their officers or attorneys, and each company shall exert itself to bring said litigation to a successful issue.

And it is further specially stipulated and agreed that neither of the contracting parties nor their agents nor attorneys shall use or exert any influence whatever to bring about a discontinuance or termination of said litigation before final decree shall be had therein, except after full conference and mutual agreement upon the terms thereof; it being the understanding that both companies must agree to settlement, dismissal, or abandonment of the suit herein provided for.

It is further agreed and understood that each company shall use its best efforts and influence to secure the appointment by the Department of Justice at Washington of one or more of the attorneys of each company as special assistant counsel and assigned to this particular case, as provided by the laws of the United States providing for the appointment of special counsel by the Department of Justice.

The said W. Van Benthuyzen and ——— shall have the power to secure the court cost of the proposed litigation in any way they may see proper for their own protection or the protection of any one else who may become responsible for the same.

In witness whereof, the proper officers of the two companies hereunto affix their hand and seal this twenty-seventh day of August, A. D. 1885.

THE NATIONAL IMPROVED TELE. CO.,
By W. VAN BENTHUYSEN,
President.

Mr. RANNEY. Please hand that to the reporter and have him mark it for identification.

The WITNESS. I can explain in regard to that if you want me to.

Mr. RANNEY. You received that from Mr. Van Benthuyzen at that time?

The WITNESS. I really cannot recollect.

Q. Did you show it to Senator Harris?—A. No, sir; I never have shown it to him at all.

Q. That was in August, 1885?—A. Yes, sir.

Q. Did you show it to any other of your directors?—A. No, sir; I never thought of it until I found it by accident in the tray of my trunk. I didn't know such a paper was in existence.

Q. Can you remember whether you showed it to your co-directors?—A. I know I did not.

Q. Can you explain why you should make such an agreement and keep it secret?—A. I did not keep it secret; I can explain it exactly.

Q. I understand you to say that you remember now you did keep it secret?—A. Yes; I did not know of it myself, or did not remember it, and did not show it to anybody, so that I must have kept it secret. We had entered into a verbal agreement at Pittsburg, and that agreement was reduced to writing at Washington.

Q. You need not go into the contents of any other paper.—A. I am not going to. That paper seems to be drawn up to carry out some additional agreement that the parties had, and was signed by Mr. Van Benthuyzen, and I am sure was handed to me to bring here and get the sanction of our company to it. I see the blank left there, but it was not signed. I think that was the purpose of it. It passed out of my mind altogether until I found it in the tray of my trunk, and I assume that when I left home on the 27th of August I threw it in there so as to get General Johnston and Senator Harris to sign it, but I haven't thought of it since. I was asked the other day why this contract was not put in the contract book. That book was to record our contracts with subcompanies. I have two contracts very similar to that one, which are not recorded. No contract was put in except for the sale of rights.

By Mr. MOFFATT:

Q. Are you positive you did not sign a duplicate of that?—A. No, sir; I cannot say.

By Mr. RANNEY:

Q. You cannot tell that you did not?—A. No, sir; I cannot. Mr. Van Benthuyzen can doubtless explain it better than I can. I have no recollection of it; I had forgotten all about it.

Q. This date, the 27th of August, 1885, was the very time when you and Mr. Van Benthuyzen and his counsel were in Memphis engaged in preparing for this application to the Attorney-General?—A. Yes; and that was what it is made for, too; there is no doubt.

Q. Then if you were there representing your company, and Mr. Van Benthuyzen was there representing his, and Colonel Gantt was there representing yours, and this was drawn and copied by his clerk, Mrs. Miller ——.—A. Not his clerk, but a lady who was doing some copying there.

Q. Well, some one doing his copying. Can you conceive of any reason why you

should not execute the duplicate of it right there?—A. Well, I expect I did sign the original. I can conceive why I should bring this here to get the company to sign it.

Q. I understand in the original agreement you undertook the responsibility of executing in behalf of the company. You are not confident that you ever showed that to any members of your company?—A. I think I signed it, and I think Senator Harris says he signed it. After my statement the other day I asked Senator Harris what his recollection was, and he said he thought I had brought a paper to him, and that he signed it.

Q. Your recollection is that you signed it yourself, that you took it upon yourself to sign it, expecting that the company would approve of it?—A. Yes, sir.

Q. Is it not your recollection that you did the same with the supplemental one?—A. It would appear that I did take this one to show it to them, but did not do it, for I see this blank in it. I think I probably should have had some delicacy in filling out this blank with him at the time to represent our company. It provides here that Mr. Van Benthuyzen and the blank shall represent the two companies, and I think I should have felt some delicacy in putting my own name in that blank without consulting some of the officers of the company.

Q. But this is true, that after the 27th of August, your company, or yourself, representing your company, and Mr. Van Benthuyzen, representing his company, did go on and act in conjunction in regard to that suit?—A. Undoubtedly, and there is no doubt what that paper was drawn up for.

Q. Then, as a matter of fact, following the date of that paper you did go on and act in conjunction?—A. Oh, yes, and I have no doubt that paper was drawn in view of it.

Q. And you have no doubt you acted in view of this paper, have you; that your subsequent action was in view of that paper?—A. I do not know that I ever thought of that paper. This paper was doubtless intended to secure the costs of the case which we proposed to bring.

Q. Was there anything subsequent to the date of that paper which was not in exact conformity to it; if so, state?—A. Yes; we proposed in this to be responsible for the costs, and that has not been done; the Government has relieved us of that. This paper contemplates that the suit shall be brought upon the relation of some officer or agent of the company, and that has not been done. This paper contemplates that an attorney of each one of these companies shall be appointed to conduct this Government suit, and that has not been done. So that hardly anything actually contemplated in this paper has been done.

Q. But whatever you did do was in conformity with it?—A. I presume so. So far as it was done, it was in pursuance of this paper. I take it that this paper was drawn in view of our coming here and trying to get the Government to institute this suit.

Q. Then, as a matter of fact, you did come to an agreement to act in conjunction with each other?—A. Yes, sir. It is put in writing here. I would not have put it in that paper if he had not.

Q. And you never communicated that fact to Mr. Garland?—A. I say I never thought of that paper until I found it in my trunk the other day.

Q. I understand that you withheld from Mr. Garland all information of that agreement, either verbal or written?—A. I did not withhold it. I did not tell him. I withheld it from him as I would from you or anybody else in the country. I did not communicate it to him.

Q. I go upon the assumption that where there are a certain number of directors acting for a company, it requires the action of a majority of those directors to transact business, and if you do not communicate what you do in behalf of or on the part of them, you withhold it.—A. I would not consider it my duty, after a board of directors had met and a majority of them were present, and I had communicated to them any particular action of mine, to go around and hunt up the individual members who did not attend the meeting of the board of directors and communicate it to them.

Q. Do you mean to say that a majority of the directors had consented to that arrangement?—A. I never mentioned it to one of them that I remember.

Q. Then I will finish the question which I began. Corporate action requires the action of a certain number of the directors, does it not?—A. Yes, sir.

Q. Now, if you assumed to do an act without the conjunction of a majority of them, would you not have considered it your duty to communicate to them afterwards what you had done?—A. If I had thought of it I doubtless should have done it; but that paper passed out of my mind, and I had forgotten all about it; I attached no importance to it, because I had become satisfied in the meantime that Mr. Van Benthuyzen was a man of means, and I could safely risk him to pay his part of the expenses.

Q. You do say that in that paper, or in some other way, you had made an agreement with Mr. Van Benthuyzen by which you were to act in conjunction in this matter?—A. Yes, sir.

Q. And you had done it for yourself?—A. Yes, sir.

Q. Now, what I want to know is whether, having done that, having made such an

arrangement as that, verbal or in writing, yourself, without previous authority from the directors, and without their present concurrence, would you not consider it your duty to communicate what you did do to your co-directors for their sanction or rejection?—A. Undoubtedly.

Q. Don't you think you did do it?—A. Yes; to those I saw. But we had no meetings of the board of directors. I know I communicated it to Senator Harris, to Dr. Rogers, to General Johnston, and to everybody I saw.

Q. Did you communicate it to a majority of the directors?—A. I do not know; I did to all I saw.

Q. To make it an authority it would require a record of it?—A. Yes; I think it would as a matter of law, that we should call a meeting of the board of directors to ratify it. But there was no ratification.

Q. You think, having an important agreement like that in the first place, you did not communicate the fact to a majority of your board of directors?—A. There was no meeting of the board of directors, and I could not do it; but I did to all I saw. There was only Dr. Rogers, Senator Harris, and General Johnston that I am certain I talked to about it.

Q. That was not a majority?—A. No, sir; but a majority of those that I saw. Governor John C. Brown lives in Saint Louis, and I could not go there and tell him.

Q. Suppose you had gone on acting under this combination and there had been a matter of expenses and compensation to be paid by the parties connected under the agreement, and your company had been sued for it, you could have repudiated it, could you not?—A. Oh, I would have paid it out of my own pocket at once.

Mr. EDEN. I do not think that is important.

Q. It is not very likely that a lawyer of your experience would have made an important agreement like that without the sanction of your directors, is it?—A. That is your surmise about it; it doesn't hurt me; I state the facts.

Mr. EDEN. I do not see that this has any relevancy to the subject-matter of the investigation, the inquiry as to whether it was his duty to communicate the fact to his co-directors that he had made this sort of an agreement, or whether they would be liable for the expenses if he did not communicate it to them. I do not see what it has to do with the matter or how it is important.

Mr. RANNEY. I have a very clear idea of how it may be important.

The WITNESS. I am ready to state if you want to know.

Q. You do say that you consider it your duty to make it known when you make an agreement of that sort. You would not tell this committee that you would not have considered it your duty to make known to your board of directors an important agreement like that which you had made as an individual without prior authority?—

A. I mean to say that I would tell to this committee, or to you, or to anybody else, anything I saw proper to tell, provided I think it is proper and it is the truth. I do tell the committee that if the board of directors had met and I had met with them I should have communicated to them this arrangement; but I do tell you again that those of the board of directors I did see I did communicate it to them, but I did not hunt up Governor Brown, who lived at Saint Louis; I did not go to the Department of Justice and hunt up Mr. Garland, but I did see Dr. Rogers, Senator Harris, and General Johnston, and communicated that fact to them.

Q. You would not have been very likely to conceal that important fact from Mr. Garland when he was your co-director and attorney, would you?—A. I would have been very likely to have concealed that fact from any man whom I did not meet. Mr. Garland was at the Department of Justice, and I could have gone over there and seen him if I had thought proper.

Mr. EDEN. If you ask the witness if he communicated this fact to Mr. Garland or not, I have no objection; but if you want to discuss here the reason why he did not do it, I do object.

Mr. RANNEY. I put a proper question, and I propose to insist upon an answer. I have put a question in virtue of my right as a member of this committee, and it is objected to, and I want the objection sustained or overruled by the committee.

Mr. EDEN. If you desire to ask the witness simply the fact as to whether he communicated it to Mr. Garland or not, I withdraw the objection.

Mr. RANNEY. I am trying to find out whether he did or not.

Mr. EDEN. It would be easier to find out by asking the question whether he did or not. I will withdraw the objection.

The question was then read by the stenographer as follows:

Q. You would not have been very likely to conceal that important fact from Mr. Garland when he was your co-director and attorney, would you?

The WITNESS. Is that an opinion of Mr. Ranney's or a question to me?

Mr. RANNEY. I do not propose to discuss it.

The WITNESS. I don't care whether you do or not. I ask for information about a question I propose to answer. If you do not choose to discuss it, I will let it alone.

Mr. RANNEY. Let the question be read by the reporter.

(The question was again read.)

The WITNESS. I think I would, very likely, if I had not seen him. I did not think it was my duty to go about and hunt him up unless he had attended a meeting of the board.

Q. Did you regard it any more your duty to tell any other one of the directors than to tell him?—A. Not a particle.

Q. How far was it from where you were boarding to where Mr. Garland's particular office was?—A. It was about two squares or two squares and a half. I was at the Ebbitt House.

Q. It would only have taken you two minutes to go and see him?—A. It would not have taken five minutes.

Q. Would not Mr. Garland's assent, in addition to those you did get, have made a majority of the board of directors?—A. It is possible it might. Let me see whether it would or not. There was myself, General Johnston, Senator Harris, and Harry Rogers—yes, there was a majority.

By Mr. HALL:

Q. State how many made a majority.—A. There were seven directors, and four would be a majority. If I had seen him, it is possible I might have mentioned it to him, but I never saw him during this time at all.

By Mr. RANNEY:

Q. You could have gone and seen him in a two minutes' walk?—A. Yes, sir.

Q. And you could have written him a letter, or sent him the contract?—A. Yes, sir; exactly.

Q. Don't you think you did one of those things?—A. No, sir; I don't think anything of the sort.

Q. Can you give any reason why you did not?—A. I have given you all the reason I am aware of why I did not see him.

Q. Can you give any reason why you did not communicate it to him?—A. Yes; I can give you a reason for everything I saw fit to do, and I have just given it to you, if you are capable of understanding it.

Q. If you had a reason for withholding it from Mr. Garland you will tell what it is?—A. No, sir; I did not have any reason for withholding it, and I did not withhold it any more than I withheld it from you.

Q. If you had any reason for not giving him the information, state what it is.—A. With the greatest pleasure in the world; I did not see him.

Q. Is there any reason why you did not take the two minutes' time necessary to go and see him or write him a letter?—A. No, sir; no more than I did not take the time necessary to see you or write you a letter. I had no occasion to see him or to write to him.

Q. Did you not have occasion to write him if it was necessary in order to make it valid that you should have the sanction of the directors?—A. No, sir; I didn't think it was; I had a majority already.

Q. Did you think of that at the time?—A. No, sir; I do not think I did.

Q. Are you sure you did get the sanction of a majority at the time?—A. I don't remember. I don't remember whether they said they approved it or not.

Q. Can you give any reason why you did not get their sanction?—A. No, sir; I don't think I could, and I don't think you would be competent to understand it either; I don't think you would be able to comprehend it.

Q. Answer my question without being impudent. Do you know any reason why you should not have made every director in your company aware of that fact?—A. I don't know of any reason if it had been convenient to do it. I did not notify General Brown or Mr. Looney, and they were directors, and I might just as well have done that as to notify Mr. Garland.

Q. You deemed an agreement of that kind important?—A. No, sir; I did not think it was important. I thought I was dealing with an honest man. I did not expect to undergo this pettifogging examination or I should have been more careful.

Q. I do not ask you about Mr. Van Benthuyzen's being an honest man, but about combining these companies.—A. I was giving you the reasons why I did not think proper to see them. If you want any more reasons I will give them.

Q. Proceed.—A. I have told you already that if I had seen Mr. Garland I should perhaps have communicated the same fact to him as to the other gentlemen. But as I did not deem it of sufficient importance to walk up to the Department of Justice to communicate the fact to him, I did not do so.

Q. I understood you to say that you were not certain that you did communicate it to the other directors.—A. I am not very certain about it. Possibly I did and possibly I didn't.

Q. It seems to me that you were at that time very indifferent as to whether the oth-

ers knew it or not.—A. Yes, just the same as I am now indifferent to your opinion about it, for they could have repudiated it all along, and it would have been all right, I didn't care. It didn't involve any responsibility or commit them to anything.

Q. But you did not make an effort to see whether they would repudiate it?—A. No, sir; never.

Q. You had no concern about it?—A. No, I didn't care anything about it.

Q. A very important agreement like that?—A. Do you esteem it so?

Q. You say, then, you felt indifferent as to whether your associates in the corporation would sanction it or not?—A. In reply to that I have to say that you are assuming a matter that you have no right to assume. Whether it was important or unimportant I am the man to judge of that and not you. I didn't consider it important, and don't now.

Q. The fact whether your company combined with Van Benthuyzen and his company in the matter embraced in that contract you say you did not consider important at all?—A. I did not.

Q. You did not consider it important whether you shared the expense?—A. Oh, the expense wouldn't be much. I supposed they would do whatever I recommended.

Q. If I understand you—— A. I don't think you do, and I don't think you will either.

Q. Forbear your comments upon the matter.—A. Well, your manner is offensive. You are a pettifogging lawyer instead of being a member of Congress.

Mr. HANBACK. I object to that kind of language.

Mr. RANNEY. You can get up no colloquy with me.

The WITNESS. I don't want any.

Mr. HALE. I object to a further continuance of this cross-examination, for I think ample time has been allowed to Mr. Ranney, and this question has been gone over and over again for the last ten days, and there must be a limit somewhere to the time that may be consumed in that way.

Mr. RANNEY. If the member who has been indulged in a week's absence will allow me, I want to say a word in reply. The contract I am now referring to is one which has been for the first time disclosed this morning, and for the first time put in evidence. The gentleman probably was not aware of that.

Mr. HALE. Well, I think you have had time enough on that, too.

Mr. RANNEY. I am to be the judge of that.

Mr. HALE. I will make the objection to it.

Mr. EDEN. I move that the committee adjourn.

Mr. MILLARD. I call for the yeas and nays.

The Chairman (Mr. Oates) declared the motion lost—three yeas and five nays.

Mr. HALL. I insist on my objection.

Mr. OATES. I understand that the gentleman from Massachusetts only wants to put a few more questions.

Mr. RANNEY. The only question I want to put is in relation to this agreement which has come in and been disclosed for the first time this morning. I have not resumed the examination I made the other day, and do not propose to, for I have finished it. (To the witness.) Do you mean to say that all the provisions of that agreement were so unimportant that you did not consider it of any consequence whether you got the assent of your co-directors or not?—A. I did not think it very important. I did get the assent of those I spoke to, if there was any assent about it. If there had been a meeting of the board of directors——

Q. Pardon me; I understood you to say that you were not sure whether you did or not.—A. There is no telling what you did understand by what you say. I am going to answer your question in my own way, if I answer it at all.

Mr. RANNEY. Read the question.

The reporter read the question as follows:

“Q. Do you mean to say that all the provisions of that agreement were so unimportant that you did not consider it of any consequence whether you got the assent of your co-directors or not?”—A. My answer is this, that if the board of directors had met, I might have considered it of sufficient importance to lay it before them, and I think I did. In their absence, if they did not attend, I did not think it of sufficient importance to call a meeting for that purpose.

Q. And you have had no meeting of your co-directors, formal or informal, since the date of that instrument?—A. There has been one; it is the one you have heard so much about, of the 25th of January, where a little row occurred.

Q. I will put just one more question.—A. Put just as many as you want.

Q. Do you swear positively that you either did or did not communicate to any one of your co-directors or co-counsel the fact of making that agreement?—A. I think “co-counsel” is a good word; yes, I will swear that I did communicate it to them.

Q. To which one?—A. I talked with General Johnston, Senator Harris, and Dr. Rogers.

Q. When and where?—A. It was about the time the agreement was made, and was in the city of Washington, in the District of Columbia.

Q. Was an agreement made in Washington?—A. Oh, yes, sir; that agreement was. This was not; this was made in Memphis.

Q. This is the one I mean.—A. I never mentioned it to a human being until I found it the other night. I had forgotten all about it, as I have explained.

Q. At Memphis, Tenn., when it was made, how many of your co-counsel were there?—A. My what?

Q. Your co-counsel, those who were associated with you?—A. I reckon all of them were there. Colonel Gantt was there, Mr. Beckwith, General Luke Wright, and I presume they were all there at the time it was made.

Q. Did you communicate it to them?—A. I presume it was written in their presence. I have no recollection when it was written. I see it is in the handwriting of the lady who was writing in my office.

Q. Do you remember whether it was shown to them or not?—A. I do not.

Q. Or after consultation with them?—A. I cannot remember whether after or before. The consultation continued for a number of days, and about that time it had been going on—

Q. Do you remember whether you brought it to Washington with you?—A. I decline to answer until I have finished my previous answer.

Q. I ask you whether you will swear that you did or not bring that agreement to Washington with you?—A. When I am allowed to answer the first question I will tell you. I don't propose to have you stop me in that way. I will answer it in my own way or not all. I was proceeding to say that about the time that instrument seems to have been written, about the 27th of August, we were having conference, just before and after that time and during that time, and I cannot say whether those gentlemen saw it or not, or whether it was submitted to them. I had no recollection of its being written at all until I found it in my trunk. Now proceed with your question.

Q. The question was whether you will swear that you did or not bring it to Washington with you after the 31st of August, 1885, and after Mr. McCorry had sent on his communication?—A. I will swear that I brought it here as early as the 1st of November, because my trunk has been here ever since, and I must have brought it here at that time.

Q. The question is whether you brought it here after Mr. McCorry had sent on his communication?—A. I cannot say. I found it in my trunk, and I presume I put it there when I came on.

Q. When you came on and were here from the 31st of August to the 7th of September?—A. I presume so.

Q. But you have no recollection to whom you showed it at that time?—A. I know I showed it to nobody because I would have remembered it if I had.

Q. You have no recollection of communicating it to anybody?—A. I have no recollection of communicating it to anybody because if I had I should have remembered it.

Q. You know of no reason why you did not, beyond what you have stated?—A. None that I can think of now.

Q. That is all I desire to ask now.

The WITNESS. Is that satisfactory to you?

Mr. RANNEY. It is not for me to say.

The WITNESS. I am very glad that you are satisfied once.

Mr. RANNEY. There is no use of your being impudent about it.

By Mr. MILLARD.

Q. Have you in your possession a copy of your agreement of which this is a supplement?—A. I have answered that a hundred times, that I have not got it.

Q. Did you not before that agreement left Washington get it copied?—A. What agreement?

Q. The agreement to which this is a supplement?—A. I don't remember whether there was a copy made or not.

Q. Did you not get a gentleman named Gardiner to have a copy made?—A. It is possible; I cannot say.

Q. Do you say that you did not?—A. I cannot say whether I did or not; I do not remember.

Q. Did you not charge him also at the time that he must not make it known to anybody?—A. No, sir; never in the world; I did not care who knew it. It was shown to anybody who wanted to see it. I would have placarded it on the wall; I had no occasion to conceal it.

Q. Do you say that Mr. Gardiner did not make for you one or two copies?—A. I could not say; I have forgotten all about it; I possibly had them made, but I am quite sure that I never told Mr. Gardiner or anybody else to conceal it. I would have put it on the wall if necessary. I could have easily withheld the whole thing from

the gentlemen if I had wanted to do it. It was not brought out by any question by either one of them.

Mr. HANBACK. I would like to ask a question or two. On page 137 of the testimony—

Mr. HALE. Has there not been some rule adopted in regard to the order of examination?

Mr. OATES. Yes, there was a rule adopted about it.

Mr. HALE. If we have a rule we ought to try to adhere to it.

Mr. RANNEY. I have adhered to it.

Mr. HALE. I think we ought to adhere to that rule if we have any.

Mr. HANBACK. I have adhered to it, but when the former examination of the witness was adjourned, I had a question to ask, but it went over until this session. (To the witness). I will read it to you; it is an answer to a question by Mr. Ranney. The question is: "You had become satisfied then that the Bell Telephone had an odious monopoly?—A. I had not become satisfied that it had become such a monopoly that it controlled the newspapers of the country and the courts." I will ask you to state if you know of your own knowledge of any newspapers of the country or any courts of the country that have been controlled by the Bell Telephone Company?—A. I was asked that the other day, and I stated, I believe, that I had no fact in my possession that I could prove; but there is such a belief. I think I have facts now that do authorize me in making the statement, and when the proper time comes I propose to submit those facts to the committee. I am not prepared at present to do it.

Q. It is a part of the inquiry—A. I understand it is perfectly proper, and I shall be prepared to do it. I see in one of the newspapers that I am put down as saying that certain newspapers did not sympathize with the Bell Company. I did not say that. I do think that the Bell Telephone Company is behind this whole business.

Q. You think you have facts now which you will submit?—A. Yes, sir; I think it is behind the whole investigation.

By Mr. OATES.

Q. You are not ready to put those facts before us now?—A. I am not.

Mr. OATES. Then it is supposed that the examination is closed and that the witness, when he obtains his facts, will present them in writing to the committee, stating what he proposes to testify to, and you can ask him about them at that time.

Mr. HANBACK. I did not intend to ask any further question on this part of the investigation.

The WITNESS. I will give you all the facts I have, and the committee and the country can judge about them.

Mr. HANBACK. I have no further question to ask on that point. That is all I cared to ask in regard to that. But there is another question I want to ask. (To the witness.) You stated in answer to a question of Mr. Ranney's, on page 144 of the printed testimony, in reference to the suit against the Bell Telephone Company, "I hold that when we defeat the Bell Telephone Company in the litigation which we have pending now, as we will do, it will relieve him [that is Dr. Rogers] from the injunction which he is under in Pennsylvania. I say that on my judgment as a lawyer, and I will discuss that question with you on the authorities if you desire." To what suit did you refer?

The WITNESS. I referred to the suit we had brought against the Bell Company in Memphis, the individual suit of our company against them.

Q. Then, again, on page 145, my question is answered really by your last answer to me: "Q. Do you mean the Government case?—A. No, sir; I mean my own case that I brought against them myself. I can do very well without the Government." Do you mean to be understood as saying that the company could do very well without the Government?—A. Yes; I mean to be understood as saying that I believe we could sustain that suit except for one thing. I had some doubt whether a suit of that sort could be maintained under the sixteenth section of the patent law; whether the declaration which we would have to make to give the court jurisdiction would not prevent our sustaining ourselves. I do not know whether a court would take jurisdiction of a question of that sort. That is a legal question for the courts to determine.

Mr. HANBACK. I have no further question.

Mr. HALE. Is it understood we are through with Colonel Young?

Mr. RANNEY. We are through with him until we get the still missing contract.

Mr. HALE. I want to put two or three questions. (To the witness.) Do you remember when the suit was brought by the Government last summer, the date?—A. I do not. I have a record which shows when it was brought.

Q. Did you have any conference or consultation before that suit was brought with Mr. Goode in regard to bringing it?—A. The first suit that was brought—no, sir.

Q. Did you have any talk or conference with him?—A. Oh, yes; I went to him on the 31st of July.

Mr. OATES. The witness has already testified about that.

Mr. HALE. I did not hear it. One more question. Did he state in that conversation, or in any conversation you had with him on that subject, whether he had conferred with Mr. Garland about bringing the suit?—A. No, sir; Mr. Garland was not here at the time.

Q. He had left a short time before?—A. Yes, sir.

Q. Was there anything said in the conversation about Mr. Garland?—A. His name was never mentioned at all.

Q. Did you understand that Mr. Goode was acting on his own authority?—A. Yes; I understand that he was Solicitor-General, and had authority to act under the law.

Q. Did he indicate in what he said that he was authorized by Mr. Garland to bring suit in his absence?—A. No, sir; he never mentioned anything of the kind at all.

Mr. HALE. That is all I have to ask.

The WITNESS. Before the committee adjourns I desire to ask for an opportunity of correcting such errors as I have found in my testimony.

Mr. OATES. You may make a list and submit it to the committee.

The WITNESS. I will telegraph or write to Mr. Gray to-night, and if he will release me from any obligation which may exist between us as between lawyer and client, I will tell the committee my whole connection with the case so far as he is concerned.

Mr. RANNEY. You have declined to answer questions on that point, and I do not know that we want the information now.

The committee then adjourned until 12.30 o'clock to-morrow.

WASHINGTON, D. C., *Wednesday, March 31, 1886.*

The committee was called to order at 12.40 p. m.

The CHAIRMAN. I believe it is understood that we shall proceed this morning with the examination of Senator Harris.

Mr. OATES. Yes.

The CHAIRMAN (to Senator Harris). Senator, will you be sworn?

Hon. ISHAM G. HARRIS was then sworn.

The WITNESS. Mr. Chairman, you will remember that on the first or second day of the meeting of this committee I called to say to you that at such time as would be convenient I would appear here for the purpose of telling the committee what I knew in respect to the Pan-Electric Telephone matters.

The CHAIRMAN. Such is the fact, sir.

The WITNESS. And I am here this morning for that purpose. I desire to say a word in respect to the relations that have existed between Dr. Rogers and myself, so that what I may hereafter say may be the better understood, perhaps, in view of these relations.

I have known Dr. Rogers, I should say, for thirty years, possibly more, and up to a very recent period have had abundant reason to believe and have believed that he was a very earnest and fast friend of mine; I have felt most kindly disposed toward him during that period, but up to the winter of 1882-'83 we met very seldom.

The first that I ever heard of these electrical inventions, now owned by the Pan-Electric Association, was some time in the winter of 1882-'83, and I should think in February of 1883, though I have no means of fixing the precise date. My best recollection is that the first information I had in respect to them was contained in a note signed by either Dr. J. W. Rogers or Mr. J. Harris Rogers, and addressed to Hon. J. D. C. Atkins, giving some account of these electrical inventions and expressing a wish that Atkins and myself should become interested in their development and in utilizing them. For some two or three, or possibly more weeks—how long I cannot possibly say—it was a subject of conversations, and possibly the writing of notes between the Rogerses and myself, and I imagine Atkins also; he can speak better as to that, however.

After the lapse of some weeks—how long I cannot say—I appointed an hour at which time I would appear at the laboratory at 315 Four-and-one-half street, in this city, for the purpose of looking at these various inventions and hearing such explanations as the electrician could give of them. At the time fixed I appeared. I was shown the telephone. We experimented with it. I was shown the telegraphic repeater, as I believe it is termed, and that was put in operation. Of course, I did not comprehend at all, except through the explanations made by the electrician, what it was doing. I saw a cylinder in operation, and an instrument making dots and dashes upon tin-foil, which I was informed were telegraphic characters, readable by an expert in telegraphy. Not being such expert, however, I understood nothing of the dots and dashes excep-

what I was told; the explanation was that the instrument would repeat with more accuracy than human fingers could do the exact message that that tin-foil had received, and receive and repeat at the rate of, perhaps, three hundred or more words per minute, while, as I was then informed, an expert operator would receive and send perhaps thirty words a minute. I was shown also an electric lamp, that struck my mind with very considerable force in its absolute simplicity, and in what I conceived to be a perfect remedy for what I understood to be the chief difficulty in electric lighting.

Of course, I relied to a large extent upon the explanations given to me. A number of other electrical inventions were shown me that I cannot now enumerate, because they did not then impress themselves upon my mind; I did not quite see the utility or practicability of them. But at the end of the investigation I said something like this to Dr. Rogers and J. Harris Rogers, who were both present: "I am impressed with the belief that at least three of these inventions are of utility, and are, I should think, of some value. The sound from the telephone impresses me as the clearest, the most distinct, and the loudest that I have ever heard. The telegraphic repeater, if it be what you gentlemen tell me it is, I think is a thing of utility, a thing of value. And the electric lamp, if it remedies, as I understand it probably will, the chief evil in electric lighting, I should think is also a thing of utility and of value."

Having said that much, I then proceeded to say: "You have been kind enough to express a wish that Atkins and myself should become interested in developing and utilizing these inventions. You have also heretofore suggested to me several persons to whom you have already promised interests. Now, there is one condition, and but one, upon which I would consent to become interested in this enterprise at all, and that condition is, in my own judgment, quite an unreasonable one." I was asked to state it. I said: "As it is the only condition upon which I would consent to become interested, unreasonable as it is, of course I will do it. It is this: That I shall have the right to name the persons who are to absolutely control the business of the enterprise; and unless I can have the naming of the persons who are to control it, I shall decline to take any interest in or have any connection with it." I think it was Dr. Rogers who replied: "The condition seems to me to be an unreasonable one." "Oh, my dear sir," I said, "I stated that it was unreasonable before I suggested it. I quite recognize the fact that it is unreasonable. But, as it is the only condition upon which I would consent to become connected with the enterprise, it is simply frank to name it, unreasonable as it is." With that we parted.

Either on the next day or the day following I was informed by the Messrs. Rogers, that, on reflection, they thought perhaps it would be well to give me the authority not only to name the persons who were to control the enterprise, but to fix the terms upon which those persons should become interested. In answer to which I said: "I will cheerfully accept the authority to name the persons, but not to fix the terms, because the persons whom I shall name will become part-owners of a property or a supposed property that belongs to Harry Rogers, and the terms upon which they are to become such part-owners must be the subject of negotiation. When I have named the persons and you have suggested terms, if the terms you suggest are satisfactory to the persons named, then the matter can go on; but if the terms you suggest shall not be satisfactory, the parties named can step down and out and no harm will have been done."

A day or two after that I received, I think, a note signed by either the one or the other of the Rogerses, the doctor or Harry, proposing that I should name three persons—for up to this time no number of persons had been suggested—in addition to Atkins and myself, making five in all, and the persons so named should be equally interested—with each other at least—the proposition being to divide the whole property into ten-tenths; that Atkins, myself, and the three persons named should each own one-tenth, Harry Rogers retain four-tenths, and the tenth tenth should be held in common by these parties named, to be used in any manner that the association should determine to use it. In answer to which I said: "Certainly, any gentleman who is inclined to connect himself with this enterprise at all will not object to the terms you propose."

Some time after that—how long I cannot say—Atkins and I went to the laboratory, at 315 Four-and-a-half street, together, and there we met Dr. Rogers and Harry Rogers, and engaged in a very general conversation about the whole matter, in the course of which I said to the Rogerses: "So far as I have thought about this matter at all I am inclined to suggest the name of General Joseph E. Johnston as one of the parties with whom I should like to be associated in this matter." Both the Rogerses and Mr. Atkins expressed absolute satisfaction at the suggestion, and I said: "Very well; let him be put down as the third man." Atkins and myself making the first and second. I had not thought about the matter sufficiently at that moment to designate or suggest any other name; but, in the course of the conversation, Atkins turned to me and said: "Senator, what do you think of Senator Garland?" I said I

had not thought of Garland at all in that connection, "but Garland is in every way satisfactory to me; I could have no objection to Garland, and he is in every way satisfactory." It was then suggested that Garland make the fourth of the five.

After some further conversation Dr. Rogers asked me, "What do you think of Casey Young?" "Well," I said, "I had not thought of Casey Young in this connection at all, and, indeed, my mind had not fixed itself upon any names beyond the one I have already suggested; but Casey Young is certainly in every way unobjectionable to me." The doctor stated that he had either been corresponding with Casey Young or talking to Casey Young about the matter, and that he thought he felt some interest in the inventions, and he would be glad to have Young's name as one of the men. I said, "Very well; I have no objection to Colonel Young; let him be named as the fifth." In that way the five men were agreed upon. That was all verbal, except so far as parts of these negotiations—if they can be called negotiations—were in the form of notes, and how far they were in the form of notes and how far in the form of verbal interviews I cannot say, for I have never preserved a single note that I received from Dr. Rogers or Harry Rogers in respect to these negotiations.

Mr. MILLARD. When did you fix that date, or have you fixed it?

The WITNESS. I started by saying that some time in the winter of 1882-'83, and I thought in the month of February, 1883; but to be specific or definite as to date I know of no means that I would have of fixing it with any degree of certainty, but it was, I am quite certain, in the year 1883, and I should think in the month of February. Then my statement was that for some two or three or possibly four weeks after—

Mr. MILLARD. I understood that

The WITNESS. I had come to this suggestion that I should name the people with whom I was to be associated in the management, development, and utilizing of this property. The matter remained so. Congress was drawing rapidly to a close, and we were all—at least Garland and I were—very much engaged. I think it was some time in March, after the adjournment, when, of course, having a little leisure, I think it probable that Atkins, Young, myself, and Garland, all met once or twice at Dr. Rogers's house, when we had a general talk about the matter, and witnessed experiments. We were all very much taken with the telephone, as being simple, clear, distinct, and loud; and perhaps as often as twice, and possibly oftener—but I would say it was safe to say as often as twice—Garland and myself and probably Atkins (and I am not sure about Young) met at the laboratory of Dr. Rogers's house on Four-and-a-half street. But nothing occurred there except a general discussion of the probable merit of these inventions.

The thing remained in that condition until some time along in March, when I had to go to New-York upon a matter of business that would detain me there two or three days, and I think one or two of the other gentlemen also had to go to New York. At all events, sooner or later it was agreed that we would meet at the New York Hotel at an early day. I expect the register of that hotel would show that we reached there somewhere about the 10th, 11th, or 12th of March, 1883. Dr. Rogers and Harry, Colonel Young, Atkins, and myself met at the New York Hotel. I think General Johnston's wife was quite ill at that time, and he sent me a written power of attorney to represent him in anything we might do there; and Garland was stricken down with a cold, and he also sent me a written power of attorney to represent him in anything we might do there in the way of closing up our agreement, or supposed agreement, in respect to this matter.

We were there, I think, two or three days, perhaps four days, I do not know; but it resulted in the drawing up by Colonel Young of the contract, a copy of which is in the possession of the committee, and it is my copy that I handed to Colonel Young when he was on the witness stand, and which I suppose the committee has the possession of. That contract substantially, if not accurately, expressed the proposition that the Rogerses had submitted with reference to dividing the whole matter into ten tenths and securing to each of the five persons named a one-tenth interest, on the conditions specified in the contract. I understand my duty to be, under the verbal agreements that had been reached, so far as they had amounted to agreements and as incorporated in that contract, that we were to contribute whatever means were necessary for the development, the completion, and the patenting of a good many of these inventions not yet patented. My impression is that there were only three or four of them that were then patented—applications were pending for patents as to several others—and there were several other inventions for which no applications for patents had been made up to that time. I understood it to be the duty of myself and associates to contribute pro rata to the furnishing of such means as were necessary to complete inventions not completed, to secure patents for inventions not yet patented, to defray our proportion of the expenses of the experiments necessary to develop to our own satisfaction the utility or inutility of these inventions, and to bring to public

notice and public use, such as we should, upon ample experiment, determine to be of utility.

While there I for the first time heard the name of Mr. Hewitt connected or proposed to be connected in any way with this enterprise. Some one of the gentlemen suggested that Mr. Hewitt would be a good man to associate with ourselves in developing this enterprise, and my impression is that Mr. Atkins and Harry Rogers went to see Mr. Hewitt. Harry Rogers stated here the other day, when I happened to be present, that Atkins and myself and himself went. In that he was mistaken. I did not go to see Mr. Hewitt at all upon that occasion. But I am frank to say that it would have been in every way agreeable to me to have had Mr. Hewitt associated with us, as he was a gentleman in whose capacity, integrity, and qualifications as a business man I had the very highest confidence. I should have been very glad to have him associated with us, but I did not chance to go with those gentlemen. I think, however, that Mr. Atkins and Harry Rogers did go, and they can state exactly what occurred with regard to it. The contract was drawn, and was executed by the various parties—by myself for myself, and under the powers of attorney that General Johnston and Mr. Garland had sent me I executed the contract for them as their attorney-in-fact.

Subsequent to that, I think Mr. Atkins, Harry Rogers, and myself visited the Western Union Telegraph office for the purpose of seeing if we could secure the use of a wire between Washington City and New York, in order that we might experiment both with the telegraphic instruments, with the telephone transmitter, and with what, I believe, is called a telephonic repeater. Failing, however, to make any arrangement with the Western Union Telegraph Company for the use of such wire, we went, I think, to the office of what is called the Merchants' Telegraph Company, or Bankers' Telegraph Company, which is it?

Mr. HANBACK. It is the Merchants' and Bankers', is it not?

The WITNESS. It may be; I would not be certain about the name, but it was a company other than the Western Union, and I think it was the Merchants' and Bankers', or the Merchants', or the Bankers' Telegraph Company. We made an agreement with that company to rent a wire for a given length of time, I forget how long, and I have not the terms upon which we were to have the use of the wire. My recollection is that our right to use it was to begin at six o'clock in the evening, and end at six o'clock in the morning, the telegraph company having the use of the wire from six in the morning to six in the evening. That is my recollection as to the agreement.

That accomplished, my recollection is that I went home from New York—I do not remember whether I came back through Washington and stopped here for a short time, or went directly home from New York—the understanding being that General Johnston and Harris Rogers should conduct such experiments as would develop the utility or inutility of the inventions referred to, my impression being that the chief experiments, if not the only ones, were to test the telephonic transmitter over a long line, to test the telephonic repeater, and to test the telegraphic repeater. Those, I think, were the things, certainly the chief things, that it was proposed to test over that line. I remained away from Washington for I do not know how long, and these experiments over that wire had been made some considerable time, I think, before I returned to Washington, and I only had the report of General Johnston and of Harry Rogers and other friends who had from time to time been invited to witness experiments, as to the result of those experiments.

I do not remember when the charter was obtained, but the undertaking, according to my construction of the written contract that you gentlemen have the possession of, and according to my understanding of my duties under that contract, was that we were to do whatever was necessary in aid of the electrician in perfecting and in utilizing such of those instruments as experiments showed to be of utility. The telephone impressed every one of the company that I have ever talked to about it—and I have talked to all of them—with more force as to its efficiency, as to its real value, than, I think, any other instrument. I at first, however, believed that the telegraphic repeater, if it accomplished results such as are claimed for it, would prove to be very much the most valuable of all those inventions. And at some time, whether before or after obtaining the charter I cannot say, the Western Union Telegraph Company, at our instance, named a Mr. Marean here as a telegraphic expert, and requested him to examine and to test this telegraphic repeater, and I remember to have been notified of the fact that Mr. Marean had been deputed by the Western Union Telegraph Company to investigate and to test that instrument.

Upon being so notified, I saw Mr. Harry Rogers, the electrician, and asked him to put the instrument in its best condition and give Mr. Marean all the aid in his power to subject it to a fair and thorough test. For some reason or other, I know not what, I think months elapsed—and how many I cannot say—before the instrument was put in condition by Mr. Rogers. But finally, I have understood from some of my associates—I think General Johnston, perhaps, informed me, and I do not know but others have talked to me about it—that the experiments with the repeater had been

made by Mr. Marean, and my informant said that he had been told (whether by Mr. Marean or by whom I do not know) that Mr. Marean had reported to the Western Union Telegraph Company that that company had an instrument of its own, then in daily use, performing the same functions, and performing them quite as efficiently and well and possibly better—I am not sure as to that—but certainly quite as efficiently and well as our instrument was capable of performing the functions claimed for it. Since which time I know of nothing that has been done in respect to the telegraphic repeater. It has remain in a state of quietude, so far as I know. I have certainly done nothing, and I have not heard of any of my associates doing anything or attempting to do anything with the telegraphic repeater since that time.

The Pan-Electric Telephone Company, as a general rule—and I may say almost without exception—when we have met to confer about matters of the company, has been very harmonious. Rarely has there been a dissenting voice in respect to the measures of policy that were agreed upon; and indeed I do not know that I could now say that there was at any time a dissenting voice in the board of directors.

Mr. OATES. Let me interrupt you in order that we may be exactly right. Do you mean the Pan-Electric Telephone Company, or the original Pan-Electric Company? You have not yet described the formation of the Pan-Electric Telephone Company.

The WITNESS. True. I was referring more particularly to the corporation when I then spoke, but I believe I can safely use the same expression with regard to the association created by the contract that is now in your custody.

Mr. OATES. Known as the Pan-Electric Company?

The WITNESS. Known as the Pan-Electric Association; perhaps that would be the better name. I do not remember whether the paper gives the name, and I do not remember whether it has any name that it can legally claim, but I have usually referred to it as the Pan-Electric Association. But I understood the agreement to be that in the matter of utilizing such of these instruments as we found to be of utility and supposed to be of value we were to take such steps as would best promote the matter of getting a charter, an act of incorporation, under the general laws of some State that would authorize a charter for such a company. I infer from Dr. Rogers's testimony, such of it as I have heard, and I inferred from his very frequent appeals, that he has made perhaps to the association before a charter was obtained for anything, that he was anxious that a charter should be obtained, and then some time after it was obtained—not very early—he frequently urged that we should issue stock and deliver it to the parties in the ratio to which they were entitled. But, so far as the action of the board of directors was concerned, if there be a question where there has been a dissenting vote, the record will show it. I can only say I do not remember it.

But from the very beginning my construction of my undertaking was to aid, by furnishing my portion of such means as might be necessary to perfect these instruments, to secure patents where it was deemed necessary and proper to obtain patents, to secure a charter for the purpose of utilizing them, but not to enter upon stock-jobbing operations; it was to utilize certain inventions, which, by experiment, we might become satisfied were of utility and of some value to the public; and to use our energies, our efforts, and our business capacity in bringing to the notice of the public and in utilizing such of these instruments as we became satisfied were of utility. Upon the proposition to issue and deliver stock, I am not sure that I was not the mover—I am not sure that I was—but one thing I am sure of, and that is, that in every instance where the proposition has been suggested I have opposed, by my suggestions and by my vote, the issue of the stock; and my information is that every share of the stock proper is now in the stock-book in the hands of the secretary and treasurer, locked up, but that some form of paper was issued to each party in interest, showing the extent of the interest to which he would be entitled when the stock of the company should be issued.

Mr. RANNEY. Are you speaking of the Pan-Electric Telephone Company or the original association?

The WITNESS. I am speaking of the Pan-Electric Telephone Company; if there ever was any stock of the original association I have no recollection of it; we have never had a corporation that was authorized to issue stock, or a corporation that was authorized to do anything else, representing the various things which were included in the contract, as I understand it; I think that there was a charter obtained—I am sure there was a charter obtained—for the Pan-Electric Telephone Company, and I think there was also a charter obtained for what was called the Pan-Electric Telegraph Company; but those are the only charters of which I have any knowledge, and if there be a stock-book, or if stock was ever prepared for any other corporation in connection with these matters, I have no recollection of it, and I am sure that I never, by any act or word, authorized the preparation of any such paper.

In brief, that is about the statement in respect to the circumstances under which we entered upon this enterprise and the manner in which we have conducted it. The record shows who were the officers and directors of the company.

I may make one other remark that may or may not be regarded as material: At one

time, when I chanced to be present in the committee room, I remember Dr. Rogers stating that we had had perhaps two or more meetings of the board of directors in the room of the Senate Judiciary Committee. I simply desire to say that I have no recollection of any meeting of the board of directors of the Pan-Electric Telephone Company, or of the Pan-Electric Telegraph Company, in that committee room at any time.

But Dr. Rogers may very easily have fallen into the error of his statement, if it be an error, in this way: I have frequently been talked to by General Johnston about some question pertaining to the business of the Pan-Electric Telephone Company; and if it involved a question of law, and possibly in many instances where it did not involve a question of law, I have said, "We will go and see Garland about it; let Garland advise you in respect to the matter;" and I have gone to the Judiciary Committee room, where Senator Garland kept a desk, repeatedly—how often I cannot tell—sometimes with Dr. Rogers, sometimes perhaps with Dr. Rogers and General Johnston, and sometimes alone, to ask Garland a question. But I know of no meeting of the board that ever occurred at that room. Indeed, I have no recollection of meetings of our board at places other than Colonel Young's room, sometimes at my rooms, but oftener at Young's, because he had the books and papers; sometimes, however, the board has met at my rooms, and as often as once or twice, when it was desirable to deal with some matter requiring prompt action, the board has met at my committee room, the room of the Senate Committee on Epidemic Diseases. I remember to have had one certainly, and possibly two meetings there, and I would not say positively that there had not been as many as three meetings of the board at my committee room. But outside of Young's room, my rooms, and my committee room, I know of no meeting of the board to consider anything.

One other suggestion. Speaking of Dr. Rogers's testimony reminds me of it; that is in respect to a proposition of his, as he states, to transfer or make some arrangement with the Pan-Electric Telephone Company in respect to his Postal Telegraph Company. I simply desire to say that I have no recollection of having ever heard any such proposition or having considered it. I have never had the slightest shadow of interest in the Postal Telegraph Company, and I do not remember for one moment having considered the question of any association. But in all human probability the doctor may have submitted a proposition, as he says; but if so, I do not think it possible that it could have been called to my attention, or that I have ever considered it, because I do not think it probable that I should have forgotten it having considered it. But I have known nothing about the Postal Telegraph Company except to have heard it spoken of from time to time, and to have known in that way that there was such an organization in existence.

I do not know that I care to state further, except to respond to such questions as any member of the committee may chose to propound.

By the CHAIRMAN:

Q. Senator, were you a member of the United States Senate at the time you speak of, the latter part of 1882 and beginning of 1883?—A. I have been continuously since March, 1877, and am still a member of that body.

Q. I understand you to say that the suggestion to you to take an interest in these inventions was made by General Atkins?—A. My recollection is, as I stated it, that the first I ever heard of these inventions, I think, was in a note addressed to Atkins by the one or the other of the Rogerses, calling his attention to the inventions and expressing a wish that both he and I should become interested in their development and in utilizing them.

Q. Was it after you had made an examination of the inventions at the laboratory that you made this suggestion that you were to control or to suggest the names of the persons who were to control the affairs of the enterprise?—A. I stated a few moments since that I think some weeks elapsed after my attention was first called to these inventions before I found it convenient or consented to go to the laboratory to look at them; but I finally did appoint a time; I went; I experimented with the telephone; had these other inventions of which I have spoken explained to me; and after the investigation that I had given I said substantially this, naming the three inventions: "It appears to me that they are of utility and I think of some value." I then proceeded to say: "You have been kind enough to express a wish that Atkins and I should become interested in their development and in utilizing them."

I also stated that they had given me the names of several persons to whom they had already promised an interest in these inventions, some of whom I knew and some of whom I did not know; and I am frank to say that the business methods of those of them that I did know were not my business methods, and I would not have been willing to connect myself with any business matter that those gentlemen would have controlled, however kindly I may have felt to them otherwise; I was not inclined to connect myself with a business enterprise of any kind that they would control. Hence

I proceeded to say: "There is but one condition upon which I would consent to become interested in this enterprise, and that is a very unreasonable one." Being asked what it was, I proceeded to state that it was that I was to name the men who should absolutely control the business enterprise. Dr. Rogers replied, "Well, that does strike me as unreasonable." I said, "I notified you in advance that it was unreasonable;" and there the matter dropped for that day. Possibly the next day, or a day or two after, I was informed by a note, I think, but I am not sure whether by note or verbally, that on reflection they were quite willing to have me not only name the men, but fix the terms. I promptly declined the authority to fix terms, but consented to name the men. A day or two or some days after that came the proposition that "You shall name three men in addition to Atkins and yourself; the whole property shall be divided into ten tenths; the five persons so named shall each own one tenth; Harry Rogers shall retain four tenths, and the tenth tenth shall be held by the association to be disposed of in any way it chooses."

The CHAIRMAN. That is your statement as you made it; I remember it.

The WITNESS. Yes; that was after I had investigated and experimented with these instruments to some extent.

Q. I understand, then, that you and General Atkins afterward met the Rogerses, and that you suggested the name of Senator Garland?—A. Some time after that, how long I can't tell, Atkins and I went down there together, and I suggested the name of General Joe Johnston, not having up to that time determined upon any other name that I would suggest; but I suggested the name of General Joseph E. Johnston, upon which both the Rogerses and Mr. Atkins expressed their entire satisfaction, and it was agreed that General Johnston should make the third name of the five.

Q. General Atkins suggested the name of Garland?—A. Yes; in the course of the same conversation Atkins turned to me, saying "Senator, what do you think of Senator Garland?" I said "I had not thought of Garland at all in this connection, but he is in every way satisfactory to me; I can have no objection to Garland." And it was then agreed that Garland's name should be the fourth name. Dr. Rogers then asked me, "What do you think of Casey Young?" and I proceeded to say, "I had not thought of Young in this connection; but I have no objection to Young."

Q. That is what you stated before. We recall all that. I want to know whether, in point of fact, you ever had heard Garland's name suggested in connection with this enterprise before this interview?—A. Never; never.

Q. Do you remember of having any conversation with Senator Garland, after this suggestion, with respect to his becoming a member of this association?—A. Oh, yes; soon after the naming of these persons—I expect the next day—I wrote a note to General Johnston, asking him to come to my house. He called at the time I had fixed, and for the first time, I suppose, that he ever heard of it I informed him of what had occurred, and told him I desired to know whether it would be agreeable to him to join in that enterprise. He said it would be entirely so, and I advised him to go to the laboratory and investigate those inventions. On the same day, meeting Garland, I recited to him what had occurred in respect to the enterprise, and he told me, I think, that Atkins had already spoken to him about it, and had made the same explanation to him that I have just made.

Q. What did he say in respect to being associated with you?—A. He said he would very cheerfully do so.

Q. Had you had any conversation with General Johnston in regard to Senator Garland before you suggested his name as one of the parties?—A. Never; never. It was after I had suggested his name that I addressed a note, and I expect it was addressed either that night or the next morning, asking him to come and see me at an hour the next morning which I fixed, which he did.

Q. Can you give any reason for selecting New York as the place for making that written agreement?—A. I am not sure as to the reasons that controlled. I am sure as to one thing: that I had to go to New York upon business wholly independent of and disconnected from all of these matters. I am not sure but there was one other consideration that may have had more or less of influence—yet I do not state that it had, for I am not sure that it had—but I am inclined to think that we had heard through some source that there was a recent act of the New York legislature that was broad enough to cover, under one charter, these various electrical inventions, and I think possibly that may have constituted some part of the motive for going to New York, but I am not sure as to that. The law of the case in respect to getting a charter and other matters I paid little or no attention to, but was relying upon Mr. Garland and Colonel Young to look to those things and determine those questions.

Q. I understood from your statement—you have stated it two or three times—that the consideration you were to pay for the interest you received in these inventions was sufficient money to put them on foot, to ascertain their utility, and to do what might be necessary to bring them before the public?—A. Clearly so. The inven-

tions were matters that I would not have trusted my own judgment in respect to. I was most favorably impressed with the telephone, because when it was experimented with and I conversed with people at a distance, my own ear went very far to satisfy me as to the value of the telephonic transmitter. But as to the telegraphic repeater, and as to the electric lamp, I should have had very little confidence in my judgment or conclusion that I might arrive at, unaided by the opinion or experience of experts. Nothing short of thorough experiment and the opinions of an expert would have satisfied me as to the utility and value of those things.

Q. You have stated, Senator, that you were opposed to the issuing of any stock, putting any of the stock of any of these companies before the public?—A. I stated that I was opposed to the Pan-Electric Telephone Company, being the owner of these telephonic patents, putting stock upon the market.

Q. You seem to have sold the territorial right to use and introduce the Pan-Electric telephone in a number of States for some sums of money. Did it occur to you that that might be putting it in the power of your sub-companies in those States to put stock upon the market, over which you would have no control?—A. Possibly. Certainly I would have supposed it to be completely within the power of a corporation in one of those States, over which I had no control, to issue stock and put it upon the market if it chose to do so. But our undertaking was to utilize these inventions so far as could be done, and the method of doing so was either to sell to an individual, who had the means necessary to make his plant and establish a telephonic exchange and commence the telephonic business, or to organize a local corporation which should issue its stock and convert that stock into the means of making the plant, putting up the wires, and putting the instruments in operation. But I regarded that as purely local, and I supposed their operations would be confined to the exact localities where they were establishing plants, and where everybody would understand perfectly and thoroughly exactly what they were undertaking to do, and what they were putting into the enterprise.

Q. Did the possible infringement of the Bell or other telephonic patents by yours have anything to do with your opposition to putting the stock of your company upon the market?—A. Well, before we ever sold any territory, and very early in the history of our corporation—and possibly before the corporation was formed, I cannot fix the time—with reference to the subject of infringement, I went to Mr. Marble, whom I chanced to know very familiarly; he and I had occupied rooms in the same house for two or three years; he had been for some years an assistant attorney-general of the United States, and then for some years after that he had been Commissioner of Patents; he had retired from the Patent Office, and was then, as now, a patent attorney in the Le Droit building on F street, I think; that is where his office was the last I knew of it. I went to Mr. Marble and asked him to take those patents that J. Harris Rogers had assigned to us, and carefully investigate, especially the telephonic patents, and report to me if those patents infringed any other or older telephonic patents in existence. Mr. Marble gave a somewhat elaborate opinion, which, I suppose, is in the custody of the committee; I have not seen it since I delivered it to the secretary of the company.

By Mr. RANNEY:

Q. Do you remember the date of that, Senator?—A. I do not; I cannot fix the date; but if the opinion is here, as I suppose it to be, it will show the date.

Q. Was Mr. Marble then connected with the Patent Office?

Mr. HALL. He has just explained that.

A. He was not; he was a patent attorney, having an office across F street from the Patent Office. He had retired from the Patent Office. He gave an opinion, my recollection of which is—

Mr. RANNEY. Both opinions are in evidence.

The WITNESS. Then, it will speak for itself.

Mr. HALL. He ought to state what it was.

The WITNESS. But, in answer to the question, I must refer to my memory as to one phase of the opinion. I think the concluding paragraph—I speak from memory, for I have never looked at it since I read it and passed it over to the secretary—was to the effect that our telephonic patents infringed no older patents nor other patents unless it be what was characterized as the broad claim of the Bell patent, which I understood to mean a claim (perhaps the fifth claim of the Bell patent, but I will not be sure as to its number) to cover the entire art of communicating articulate speech by means of electricity over a wire. Of course my own construction was that, if that broad claim could be sustained in its breadth, no telephone in America could be used without infringing that claim. That was my construction.

By the CHAIRMAN:

Q. Have you a recollection of the date of the first suit commenced against your company by the Bell Company?—A. I have not. In reference to those suits I may

say that I have only known of them by hearing them spoken of by Colonel Young or other members of the company. I have never looked at a paper in any one of them. I have never given the slightest attention to any one of the suits that have been pending or may be pending.

Q. I call your attention to the fact that on the 7th of April, 1885, your company resolved to sell no more rights to establish exchanges pending the Bell suit. Do you know how long it was before that date that you had knowledge that a Bell suit had been brought?—A. I cannot say; but there is one fact that I ought to have stated before, and that is this: At a meeting of our board—I should think at a date a good deal earlier than the date you name, April 7, 1885, but as to that date I cannot fix it; I suppose the minutes will show the matter to which I refer; they ought to if they do not—at a meeting of our board we instructed Colonel Young, the secretary and treasurer, to give notice to several parties with whom we then had outstanding contracts to establish exchanges, that we would declare the contracts annulled, as, under our construction of the contracts, we had a right to do, and I supposed that was at an earlier date, but my memory is not accurate as to dates in respect to any matter.

Q. I see that the action you have indicated was taken at that same meeting.—A. I should have supposed it was at an earlier date.

Q. That was on the 25th of April. There may have been earlier action, though, with respect to other companies?—A. As to the dates, I cannot fix them, Mr. Chairman; but I remember the action, and my impression was that that action was taken very promptly upon the beginning of a pending suit.

The CHAIRMAN. I will call your attention to the resolution, which I will find somewhere in this book.

The WITNESS. While you are looking I desire, with regard to this matter of selling stock, to state a fact that I ought to have stated before, but it did not occur to me until this moment. The only stock of the Pan-Electric Telephone Company that I have any knowledge of having ever been sold by the company was \$5,000 stock sold to George Howard; \$10,000 stock sold to Senator George Vest; and, I think, \$25,000 stock sold to two ladies; and each of those sales was negotiated by myself, and each of them was made at the express instance and desire of each of the purchasers. My recollection is that the first sale was made to George Howard. He had witnessed experiments with the telephone, and become interested in the matter; he came to me to know if it would be possible for him to obtain a small interest in the enterprise. I explained to him as fully as I was capable of doing the exact status of the whole matter, and its condition from every point of view. I said to him, "We have never offered a dollar of the stock for sale and are not proposing to sell it, but if you want a small amount of the stock I will mention to the board at its next meeting the fact that you want it, and will ascertain whether or not the board will consent to let you have it, and on what terms it will consent to let you have the amount of stock you want." I did mention it to the board at its next meeting, and was authorized to sell to George Howard the \$5,000 of stock at 10 cents on the dollar.

Mr. Vest came to me with exactly the same sort of suggestion, that he had seen a good deal of the telephone, and thought remarkably well of it, and would like to get an interest in it. I made to him substantially the same statement that I had made to Howard, and promised him that I would consult the board about it. So far as I was concerned, I had no objection to his coming in to the extent that he might desire. I did mention it to the board, and was authorized to sell to Vest the \$10,000 that he wanted. I did so. Each of them paid to me the amount of money specified, the one \$500, and the other \$1,000, which I turned over to the treasurer of the company.

While I am on this stock matter, I will go through with it, because there is another fact I omitted to state in the general statement I made, which I ought to have stated. Very soon after our association was organized—I think it was before the corporation was formed, before the charter was obtained—I suggested to our associates, upon some occasion, that Gov. John C. Brown, who had been for thirty years one of my most intimate and valued friends, should be allowed to take, upon the same terms that we had obtained our shares upon, \$100,000 of this undisposed of one-tenth interest, and the associates unanimously agreed to it, according to my recollection. Hence Governor Brown was put down as one of the parties in interest, on exactly the same terms that the balance of us obtained our interest. Then, with regard to the two ladies. One of them had been for twenty years a client of mine, and unfortunately involved in a good deal of litigation. I had written to her that I had received on her account the sum of \$1,000 in one of her transactions, and asked her what disposition I should make of the money. She answered saying, "Send it to me, and I intend to invest it in the stock of the Memphis Pan-Electric Telephone Company." I immediately wrote, inquiring of her—

Mr. RANNEY. Is that the local company at Memphis?

The WITNESS. That is the local company, the Memphis company. I immediately

inquired of her on what terms she could invest it in the stock of that local company. She answered, and my recollection is that the terms were a little higher than the terms upon which we had sold to George Howard and Senator Vest. I answered her immediately, saying, "While I am not inclined to advise you to invest at all, yet if you intend to invest in Pan-Electric telephone stock I will see the board of directors and see if I cannot procure for you the amount of stock you suggest"—the stock of the parent company, which I regarded as more valuable—"on even better terms than you can invest in the stock of the local company." In the mean time I had been requested by a lady here, who had consulted me for a number of years about all of her business affairs and had acted in her business affairs chiefly, if not entirely, upon my advice, to see what I could do for her in the way of getting some of this stock, which she had expressed a wish to obtain.

Mr. RANNEY. Unless you desire to go into all this detail, Senator, I do not see that there is any necessity for it; I do not understand that there is any complaint about it anywhere.

The WITNESS. I do not care to go into it.

Mr. RANNEY. There is no occasion for it, unless you desire to do so.

The WITNESS. If the committee do not deem it material, that whole statement may be stricken out; but I simply wanted the committee to understand.

Mr. RANNEY. I simply make the suggestion.

The WITNESS. I have no desire to go into it.

Q. I see, Senator, that this stock seems to have been the only stock disposed of by the company?—A. The only stock of which I have any knowledge.

The CHAIRMAN. That is my recollection of the testimony, and perhaps it is well enough that you have stated the circumstances under which it was disposed of.

Mr. OATES. It is, perhaps, well enough, in view of another fact, that it is already in evidence through other witnesses.

The WITNESS. Very well, then; I simply want to add the statement—I will be very brief—that upon the interview that I had had with these two ladies upon the subject, at the first meeting of our board afterwards I referred to the fact of the sale to George Howard and the sale of Senator Vest, and said, "Here are two widows, lady clients of mine, who have a little money, and they want to invest it in Pan-Electric Telephone stock. I agreed with them that I would ask the board to let them have the amount of stock they want;" and I proceeded to say something like this: "In respect to these other matters, I have been representing the Pan-Electric Telephone Company, and have acted in its interest. In respect to this matter, I want you to distinctly understand that I am for the two ladies and against the Pan-Electric Telephone Company, and I want to make the very best terms now that I can for this investment." Some member of the board suggested that Senator Harris be authorized to make any terms he chose, and the board assented; but I immediately said, "No; I shall not take the responsibility of suggesting terms. I am here representing the ladies, and want to make the best terms I can, but the terms must be fixed by you gentlemen." Some member of the board, I do not know who, then suggested some terms which were a modification of and were lower and better terms than we had given to anybody else. I accepted the terms, and paid the money into the treasury. That is the whole statement, so far as they are concerned.

The CHAIRMAN. I call your attention to the minutes of the stockholders' meeting held on the 26th of January, 1885. I think the minutes had better go in.

Mr. RANNEY. I think they were put in; they should have been, if they were not.

The CHAIRMAN. I will read them now, and if it is found hereafter that they are in the record, they can be omitted at this point, and a reference made to the proper page where they are printed.

[The minutes read are printed on pages 159 and 146 of the testimony.]

Q. Now, I will ask you why that action was taken. In the first place, if you know, what was your view of it at the meeting of the stockholders in January, and subsequently, at the meeting of the directors in April—the action looking to no further sale of the right to use these telephones in the States?—A. In answer to the first branch of the question, the facts stated by Colonel Young at the stockholders' meeting, looking to the form of resolution that he had prepared, which gives this 10 per cent. stock assessment into the hands of the board of directors to control, I saw no objection to taking such action, because, as a director, I would have at least my share of the control as to that stock that was so voted to the corporation; my own view of it being that when the monetary necessity came, if come it should, we would then determine whether we would undertake to sell, or whether we would by assessment undertake to raise such money as we deemed necessary or found necessary for the necessities that were upon us; and, so far as my action would have been concerned if the emergency had arisen—for I am not aware that a dollar of that stock has ever been offered to any human being since that action was taken—my own view would have been this: If a friend, such as many whom I could name, with full knowledge

of all the facts, had come to me and said he desired to invest a thousand or more dollars in that stock, the man being in every way acceptable to me, I should have favored letting him have it, but I should not have favored at any time the putting of stock on the market broadcast and offering it for sale; and, so far as I know, it never has been put upon the market or offered for sale by any one of the directors of the company. I have heard of many instances of J. W. Rogers having offered to sell his private stock.

By the CHAIRMAN:

Q. I understood you to say that you offered this resolution at the stockholders' meeting in April, 1885?—A. I think Colonel Young offered the resolution.

The CHAIRMAN. It is stated by the minutes that you offered it.

The WITNESS. At the stockholders' meeting?

The CHAIRMAN. At the meeting of the directors.

The WITNESS. That was the directors' meeting.

The CHAIRMAN. I thought I said directors' meeting. That that was offered because of litigation then pending or threatened.

The WITNESS. That was with me the moving motive. While the litigation was pending I was not willing to go on with the sale of territory, and desired to annul such contracts as were not already executed, had not already gone beyond the power that we had to annul them. I desired to arbitrarily annul such as were outstanding; and I apprehend that, in looking through the papers, between the time that you speak of (January), when this stockholders' meeting occurred, and April, when the board of directors met, I imagine you will find that no contract had been made by the company for the sale of any territory in any way.

The CHAIRMAN. There was one meeting between those two dates, and that is without date in the book.

The WITNESS. That I do not remember.

Q. At the time you were selling or agreeing to the sale of territorial rights, did you then believe that your inventions were infringements of the Bell or any other patents?—A. I did not then, and I do not now believe that they are.

Q. Do you know how long it was before this action in January by the stockholders that the Bell suits had been commenced?—A. I do not; I have no recollection as to when they were commenced. As I said a while ago, I have never looked at a paper in any of those suits, and have given them no sort of attention, and have known only what from time to time some of my associates may have said to me about them.

Q. Did I understand you to say that there has never been a charter for the Pan-Electric Company to your knowledge?—A. None that I know of.

Mr. MILLARD. Mr. Chairman, are you speaking of the original Pan-Electric Company or of the Pan-Electric Telephone Company?

The CHAIRMAN. Who has the original from the secretary of state of New York?

Mr. MILLARD. I have it here. That, I apprehend, is for the Pan-Electric Telegraph Company.

The CHAIRMAN. I guess not.

The WITNESS. I have understood that there was a charter obtained for that.

The CHAIRMAN. I have heard it stated that a certificate was issued from the office of the secretary of state of New York for the Pan-Electric Company, but you say you know nothing of it.

The WITNESS. If so, I have never seen it or heard of it until this moment.

Q. I show you a certificate from that office for the Pan-Electric Telegraphic Company, bearing date 10th November, 1883. Were you concerned or did you have any active part at all in incorporating that company?—A. I expect the record will show that the same officers and the same directors of that company did officer and direct the telephone company. I think I remember the organization of the telegraph company, but as to who obtained the charter I have no knowledge.

Q. You stated in your original statement that the stock was in the stock-book, locked up now.—A. Such is my information. I am not sure that I have ever seen the stock-book.

Q. Did you ever receive your certificate of stock—the certificate that was authorized by the company for your stock in the telephone company?

The WITNESS. Do you mean the certificate of stock in the telephone company that was agreed upon in the stockholders' meeting?

The CHAIRMAN. Yes.

A. I think I have.

Q. Has there ever been any other form of certificate of stock authorized by the company?—A. Never.

Q. Did you hear the reading of that certificate here some days ago?—A. I think I was present when that certificate was read.

Q. You say there has been no certificate issued at any time subsequent to that?—A. None of which I have any knowledge, and I have no idea that there has been any.

Q. You went home, Senator, as you stated, from the March meeting in New York; do you remember when you were next in Washington?—A. I do not; I am not positively certain that I went directly home from New York, or whether I came through Washington and spent a few days; I am somewhat inclined to think I went directly home from New York, but I would not be sure about that, for I do not remember.

Q. Did you receive a letter after the 14th of May, 1885, from Dr. Rogers, relating to the bringing of a suit by the Government to test the Bell patents?—A. At some time I received a letter from Dr. Rogers, the date of which he doubtless stated properly, though I have no recollection as to the date; but I received a letter from Dr. Rogers requesting me to urge the Attorney-General to institute a suit to test the validity of the Bell patents.

Q. Have you that letter?—A. I have not, unless it is amongst the papers; all telephone papers that I deemed worthy of preservation at all, that have come to me, I have from time to time handed over to the secretary.

Q. Have you any recollection of so disposing of that particular letter?—A. I have not; I think the probabilities are that it went into the waste basket.

Q. Did you do anything—and if so, what—in pursuance of that letter?—A. Nothing whatever; not even to the extent of acknowledging its receipt, is my impression.

Q. How soon after the receipt of that letter were you in Washington?—A. That I can't say. That was last year, was it not?

The CHAIRMAN. Last year; May, 1885.

The WITNESS. I think Dr. Rogers stated that the letter probably bore date the 24th of May, 1885.

The CHAIRMAN. I thought it was the 14th.

The WITNESS. I am not sure about the date.

Mr. MOFFATT. It was the 24th.

Mr. RANNEY. I think his communication to the Attorney-General was the 24th of May; that is my recollection.

The WITNESS. My recollection is, however, that he stated that he wrote to all of us on the same day—his application to the Attorney-General and his letter to me—and I believe he stated he wrote to General Johnston and Colonel Young, and perhaps others at the same time.

Q. How soon after that were you first in Washington, if you can tell?—A. I cannot tell that. I would possibly have the means of ascertaining it, but in respect to those matters of dates my memory is not a good one. I was serving during the most of the summer on the Senate Inter-State Commerce Committee, and we held sessions in the city of New York, in the city of Boston, a session at Saratoga for a day or two, or two or three days, a session at Chicago and at Saint Louis, at Des Moines, at Omaha, a session in this city; and subsequently we held a session in New Orleans, and one in Memphis and Atlanta.

Q. Did you make any reply to that letter?—A. Never. At least, my impression is I never answered it.

Q. Did you have any conference with any member of the company in regard to the subject suggested by the doctor; that is, the bringing of this suit by the Government?—A. I do not think the subject was ever mentioned by me or to me by any member of the company until after the suit was brought.

Q. Which suit do you refer to?—A. I mean the suit that was brought by the Government, the first suit that was brought at Memphis. Well, possibly that is not quite correct. I was in Washington at the time Colonel Young referred to in his testimony, passing through here, I think, and remained here only for a day or two, when he, Colonel Gantt, Mr. Van Benthuyzen, and the National Improved Company attorneys were conferring at the Ebbitt House. I remember to have heard from Colonel Young that they were conferring together and examining the question as to the power or right of the Government to bring such suit.

By Mr. RANNEY:

Q. Can you fix the date of that?—A. I cannot now. Possibly I might be able to fix the date by the clerk of the committee, but I suppose Colonel Young has fixed the date of that conference.

Mr. EDEN. Colonel Young fixed the date by his memorandum book.

Q. That was between the 31st of July and the 7th of August; was that the time or was it in September?—A. It is the conference that Colonel Young gave an account of when these gentlemen met here.

Q. He gave an account of one between the 31st of July and the 7th of August and another one between the 31st of August and the 7th of September of the same year?—A. My impression is it was the first conference, because the matter of the Government bringing a suit in such a case had never suggested itself to my mind until I received the letter from Dr. Rogers suggesting it. I attached no importance to his letter and paid no attention to it. When I met Colonel Young here, he informed me that he and Colonel Gantt and certain other attorneys whom he named, whose names

cannot now recall, but whom I understood to be the attorneys of the National Improved Company, were examining the law and consulting and conferring in respect to the duty, the right, and the propriety of bringing a Government suit to test the validity of the Bell patent, and I suppose it from that fact to have been the first of their conferences, if they had more than one.

By the CHAIRMAN:

Q. I understand you to say that you were not present at any of those conferences?—

A. I was not.

Q. Were you consulted?—A. I was not consulted. I was at the Ebbitt House perhaps twenty minutes upon one occasion. I called at Colonel Gantt's room. Colonel Gantt's office has been for eight or ten years on the same floor, and but one door from my own, and he is amongst the most intimate of my personal friends. Hearing from Colonel Young that he was at the Ebbitt House, I called up there and wanted simply to see Colonel Gantt one moment, and while in Colonel Gantt's room some one of these gentlemen of the National Improved Company's people, I am not sure which, came into his room, and I was introduced to that gentleman (I think it was Mr. Van Benthuisen), but not a word was said between Mr. Van Benthuisen and myself or between Colonel Gantt and myself about the suit or anything pertaining to it. My visit was purely a social one, and made as a matter of respect to a friend of very long standing, and having paid my respects to him I bowed out and went my way.

Q. Did you ever have any conversation with the Attorney-General in regard to the bringing of a suit by the Government?—A. I do not think the subject of a suit on the part of the Government or in the name of the Government to test the validity of the Bell patents was ever mentioned by me to Mr. Garland, or by Mr. Garland to me, until after this newspaper parade and assault upon the Pan-Electric Telephone Company. I have talked to Mr. Garland two or three times perhaps since then, not about the suit, but about the newspapers.

Q. Then I ask you, broadly, whether you had any agency or connection whatever, at the time you speak of, with the bringing or with having brought a suit by the Government?—A. Unless what I will now state was an agency, I answer with absolute emphasis, no. But at some time (and you will be able to fix the date; I cannot, but the records you have will fix it), being here, I received a letter or telegram from Colonel Gantt—either Colonel Gantt or Mr. McCorry, and I think it was Colonel Gantt—informing me that an application to bring a suit had been forwarded by mail and asking me to please ascertain if it had been received at the Department, and what action, if any, had been taken upon it. With that letter or telegram in my hand I went to the Department of Justice and went to Mr. Goode's room, Mr. Garland being absent at the time.

By Mr. RANNEY:

Q. Have you any means of fixing the date of that?—A. I have a means by which you will be able to fix it, and will come to that in a moment.

Q. Proceed.—A. With that paper in my hand, I walked into Mr. Goode's room. He was sitting at his desk, and I walked up in front of it, and read the inquiry from the telegram or letter, I am not sure which, and asked him if such an application had reached the Department. He said, "I have seen no such application." He rang for the messenger, and I think told the messenger to ask the mailing clerk—

Q. Did you go to the office alone or with some one? I do not want to interrupt you.—A. I am not sure if Colonel Young was not with me, if I did not meet him on the street. He will be able to remember whether he was with me or not, but I am inclined to think that he was with me upon that occasion.

Q. Now you may go on with your statement.—A. With that letter or telegram in my hand I asked my question. Mr. Goode answered, as I have stated, that "I have seen no such application." He sent for some clerk and asked him if such a paper had come in that day's mail. The clerk answered that he had seen no such paper, or gave a negative answer, which induced Mr. Goode to tell me that it had not come. Whereupon, without even taking a seat, without saying a word beyond making that inquiry, I left the Department, and said to Mr. Goode as I was going, that "In a day or two I will call again, so as to enable myself to answer this inquiry." On the next day, or the day following, I am not sure which, I called at Mr. Goode's room, knocked at the door, and was told to come in. As I opened the door, Mr. Goode rose from his desk and advanced to meet me half way, I should say, between the door and his desk, and shook hands with me, and invited me to take a chair. I said, "No; I simply came to ask if that application has been received, and whether any action has been taken upon it." He said, "Yes, the application reached here an hour after you were here the other day, and I have already ordered the district attorney for the western district of Tennessee to bring suit." Without taking a seat, and I think without saying another word, excepting to say "That enables me to answer the inquiry," I left and went over to the telegraph office or to my room, and wrote a telegram or letter. Whether I sent a tel-

ogram or wrote a letter I could not for my life now be certain about. But the fact I communicated was "the application has been received and the suit is ordered to be brought," and that is the extent of my agency in respect to it.

By the CHAIRMAN:

Q. Had you any knowledge of that intended application before the receipt of the dispatch from Colonel Gantt?—A. I cannot now say positively that I had or had not; I do not remember to have had any knowledge of it. I left here before the conference that I spoke of while those gentlemen were still here, and I do not remember to have seen any one of those gentlemen, though I may have done so. I do not remember to have seen Colonel Young or anybody else (Colonel Young and myself reside in the same town), but I do not think it probable that I had been home; indeed I am pretty confident that I had not, but I could not, without going to the clerk of the committee, give an exact statement as to that.

Q. You said you had a means of fixing the time?—A. The record will show when the suit was ordered, and it was either the next day or the day after the next that Mr. Goode told me the paper reached here. He said, "The application reached here an hour after you were here the other day, and I have already ordered the suit."

By Mr. RANNEY:

Q. It was the 3d of September; that is the date of Mr. Goode's order?—A. Well, the suit was ordered between the time I first made the inquiry and the time I last made it, and it was not more than two or three days—well, not more than one to three days apart.

By the CHAIRMAN:

Q. You have spoken of being at the Ebbitt House, or of being in Colonel Gantt's room at a certain time, and then of this visit to the Department of Justice. Have you any knowledge of how much time elapsed between those two occasions?—A. Oh, well, I should say some weeks.

Q. Had you been here from the one time to the other?—A. I had not. I had been East somewhere, I suppose, with the Interstate Commerce Committee.

Q. Had you been at home in the mean time?—A. I do not think I had, but I cannot positively say. If it is material that those dates should be fixed, I will get the clerk of the committee to show from the record exactly where we were at the various times, and from that data I can approximate, at least, those dates. But I can say now with absolute distinctness that I spent, at no time during that summer, more than a day or two or two or three days at my home. Some time early in the summer I took my wife out to a ranche that my son is upon in Texas, and remained there a short time, and then returned to my committee duties; and as soon as relieved from committee duties, later in the season, I went back to the ranche and spent a week or two there. But I spent a very little time at Memphis during the whole of that summer.

Q. Did you know anything of the intention of the Attorney-General to leave the city and go to Arkansas before he did go on that occasion?—A. The only knowledge I had of it is, I remember to have seen a statement in the newspaper (I think I was somewhere East at the time) that he would leave, perhaps the next day, for Arkansas.

By Mr. RANNEY:

Q. Do you remember what newspaper that was?—A. I do not.

By the CHAIRMAN:

Q. Did you have any communication with any other member of the company or with any of its attorneys in respect to his going away?—A. I do not think I had. I certainly never have had any communication with the attorneys in respect to the matter of this suit at all. I have met Colonel Gantt and I have met General Wright as often as once or twice, or two or three times perhaps, since that original suit was commenced, but never a word has passed between them and myself in respect to the suit, and up to this hour I have never looked at a paper connected with the suit, the bringing of the suit, or the suit itself.

Q. If you have any knowledge of an application made on behalf of the National Improved Company to the Department of Justice for the bringing of a suit in the name of the Government, you may state.—A. You mean before the suit was brought? Only the knowledge I have given you. When I met Colonel Young and Colonel Gantt here some time in the summer of last year, I was informed by Colonel Young that they were looking at the authorities and conferring in respect to the power of the Government and the right and duty of the Government to bring such a suit. I had that amount of knowledge, and the knowledge that Mr. Van Benthuyzen (who I understand to be the president of the National Improved Company) and certain attorneys of his and Colonel Gantt and Colonel Young were here, and I understood they were conferring upon that subject.

Q. Did you know anything of Mr. Van Benthuyssen's having addressed a letter to the Attorney-General requesting the bringing of a suit?—A. I did not.

Q. Did you know anything of the withdrawal of that letter?—A. No, sir; I did not, and I never knew there was such a letter written until I heard Colonel Young on the stand the other day being interrogated on the subject and making his statement with regard to it. I had no knowledge in regard to it.

Q. Was it suggested to you at the time the going into this company was spoken of or at any other time that there was to be any official action in favor of the company, whether it was to profit in any way by the official position of the persons who might be engaged in it?—A. I answer no, and I answer further that if it had been intimated to me that my official action as a Senator was to be invoked, remotely or directly, it would have ended forever all negotiation.

Q. It has been stated by one of the witnesses who preceded you that on one occasion, when the establishment of a postal telegraph by the Government was spoken of, you made some remark as to what you would do in case such a bill should come before the Senate. Do you recall the circumstance?—A. I remember at some time, when I could not say, there was some talk about a possibility or probability of such a bill, or possibly the pendency of a postal telegraph bill then in the one or the other Houses of Congress, when I distinctly announced that while the interest of the Pan-Electric Company I should regard as very remote, if such a proposition was presented in the Senate I should promptly rise in my place and say that "I feel that I may be, or am, pecuniarily interested in this question, and, so feeling, I shall not only decline to vote, but decline to utter one word or to have anything whatever to do with it."

Q. Would you have done that in case the bill had come before the Senate?—A. I most certainly should have done so.

Q. A bill was introduced by Mr. Vance, now the Assistant Commissioner of Patents, in the House, and was passed by the House, providing for the institution of suits by the Government to test the validity of patents. Have you any knowledge of such a bill?—A. Only that knowledge that I derived recently from having heard so. I do not think I have ever seen a copy of the bill.

Q. Did you know at the time that such a bill had passed the House?—A. I did not.

Q. Or had been introduced?—A. I did not, and if such a bill came to the Senate, as I understand from outside sources it did, no human being can say that I ever gave it the slightest attention, or ever uttered a word in respect to it.

Q. Did you have any connection with the effort to have Mr. J. Harris Rogers appointed electrician of the House?—A. To this extent I had. Harry Rogers and Dr. Rogers, towards whom I have felt very kindly, because they have been, up to a very recent period, very warm and earnest friends of mine, and I have appreciated their friendship and kindness, approached me to say that Harry had gone out of the office of electrician because of a change in the political majority of the House, whether by removal or resignation I do not now remember. But they said that now there was a Democratic House, he was anxious to be reinstated. My recollection is that I advised them against making any effort, and I distinctly remember that I would have preferred that Harry should not leave the laboratory and go to the House of Representatives. But they were intensely earnest about it, and finally understanding the great amount of anxiety that they had about it, and understanding that the Architect of the Capitol and the Speaker of the House made the appointment, I said to Mr. Clark one day in the lobby of the Senate (and by the way Mr. Clark had some years before that spoken in very complimentary terms to me of Harry Rogers's genius as an electrician, and I think of some economies that he had inaugurated in the House), I said to Mr. Clark that Harry Rogers was very anxious to be reinstated in the position of electrician of the House, and that I felt very kindly towards him, and would be very glad to oblige him in any way that I could. I said to him, "What do you think of it?" Mr. Clark said, "There are two objections: first, while he was electrician, occasionally he was dissipated, and not unfrequently was more or less surrounded by some dissipated people; then, if Harry Rogers should become electrician of the House he would be wanting to get his telephone in there, and that would produce a feud and make trouble with other telephone companies, and jealousies and discontent would grow out of it." Whereupon I said to Mr. Clark that that idea had not occurred to me before, and then and there I abandoned it, and never said a word to anybody about making Harry Rogers electrician of the House afterwards. I reported to Harry Rogers the first part of that interview with Mr. Clark—that is, that Mr. Clark had said he had been dissipated while he was electrician, and that I thought that Mr. Clark was disinclined to favor his reappointment, leaving him to infer that his dissipation was the only reason. Harry Rogers seemed to become irritated, and I think the next day he wrote me a note of rather a tart character, declaring—the substance of it was—

Mr. RANNEY. Have you a copy of that note?

The WITNESS. I have not, but the substance of it was that under no circumstances

would he accept a favor at the hands of Mr. Clark. I do not think I answered the letter or paid any attention to it, except to cast it into the waste basket. Some time after that, Dr. Rogers and Harry came to the Senate and sent in their cards, and I met them in the marble room, or in the corridor, near the marble room. They suggested to me that some member of the House was going to introduce a resolution to appoint Harry Rogers electrician. I advised them, with emphasis, against allowing any such resolution to be introduced, and that ended all that ever occurred, so far as I remember, about his effort to be appointed electrician of the House.

Q. You have stated that you communicated to Harry Rogers one of the reasons given by Mr. Clark for refusing to appoint him. Why did you not communicate the other reason to him?—A. I do not know of any special reason why I did not, and am not absolutely certain that I did not, nor am I absolutely certain that I did. But it was the charge of intoxication, the charge of dissipation that irritated him, and the fact that he became irritated with that feature impressed itself on my mind.

By Mr. RANNEY:

Q. That was the one that you communicated to him?—A. Yes, sir; that was the one I communicated, but I am by no means certain that I did not tell him all that Mr. Clark said.

By the CHAIRMAN:

Q. You have also stated that when the request was first made to you by the Rogerses to aid in this appointment, you were opposed to Harris Rogers accepting that position and leaving the laboratory. What was the reason of that?—A. I thought that his whole time had better be devoted to his laboratory and to that in respect to which I thought he possessed a very high order of genius, and I thought it was his interest to devote his time to his own laboratory, rather than to seek to hold or take upon himself the duty that would carry him to the House of Representatives.

Q. Was it in any degree because of his connection with your company, and any possible impropriety in having a person connected with the company in that position?—A. I heard him state here that he had stated at a meeting of the board at some time or other that it would be serviceable for our company for him to hold that position, as he could conduct some experiments; that he thought it would be an economy to the Government and profitable to our company. My impression is that I could not have been present at that meeting, because I have no recollection of any such suggestion, and I am inclined to believe that if you will ask Mr. Clark he will tell you that the moment he made that suggestion to me, I said that "it had not occurred to me before, and that ends it, so far as I am concerned," and turned from him.

The CHAIRMAN. I think that is as far as I care to go in my examination.

By Mr. RANNEY:

Q. I have a few questions that I should like to put to you, Senator. The contract in New York which you all respectively signed, that is, you and your associates, was drawn by Casey Young? You read it, I suppose, and are familiar with it?—A. I think he read it to all of us. To that extent I was familiar with it.

Q. You, in common with other of your associates, received a transfer of one-tenth interest in all these patents by virtue of that contract?—A. We did.

Q. Did you, as one of those transferees, pay directly to Dr. Rogers or to either of the Rogerses anything?—A. No.

Q. You paid nothing direct to him?—A. To neither of them.

Q. But you did agree in these articles which you signed that you should be assessed for a sum to carry on the operations, not exceeding \$150 apiece?—A. I think there is such a stipulation in the agreement.

Q. And in that agreement all of those who held an interest in the patent were to be assessed—that is, Dr. Rogers or Dr. Rogers's son—I believe he is the only one who signed it?—A. Dr. Rogers was not a signer, and the only way he became interested was by transfer. It was J. Harris Rogers, who retained an interest of four tenths when he signed it.

Q. By that agreement you were all to be assessed for the expenses, as I understand it?—A. By that agreement, as I understand it, we were to be assessed by an executive committee created by the instrument to that extent, and, as I understand it, to a greater extent with the consent of a majority of the association.

Q. The assessment embraced not only you five gentlemen who got one-tenth, but embraced the Rogerses' interest I believe, also.—A. I suppose it embraced the parties to the contract.

Q. So that the sum which was to be assessed upon you by the committee from time to time, not exceeding \$150 apiece, embracing all the men who were transferees in interest, and J. Harris Rogers also, would go for the benefit of all alike?—A. I do not know what the proper construction of the contract would be upon the point, nor do I know what the fact is as to the payments. The books will show, however. That

is, I do not know, whether it is that we were assessed to that extent per capita by the executive committee, or assessed to that extent in proportion to the interests of each.

Q. Here is a clause I will call your attention to: "And any expense incurred for the doing of the same may assess pro rata upon the members of the company to the amount of one hundred and fifty dollars each; and no greater sum shall be assessed without authority from a majority of the members." That is article 5.

The WITNESS. Will you please read it again; I did not hear it.

Mr. RANNEY. I will read the whole of the fifth clause: "And it is also agreed that until the said charter of incorporation shall be procured, the company organized, and the board of directors elected thereunder, there shall be chosen from the persons above mentioned an executive committee of three, who shall conduct the business and affairs of the company, and direct the doing of such things as may be needed to do for the furtherance of the objects herein set out. And any expense incurred for the doing of the same may be assessed pro rata upon the members of the company to the amount of one hundred and fifty dollars each, and no greater sum shall be assessed without authority from a majority of the members." I simply want to know this. There was nothing paid by either one of the transferees, certainly not by you and Dr. Rogers or his son?—A. I have so answered.

Q. For whatever interest was transferred, but this agreement allowed of an assessment of \$150 only on members and no more unless the members of the association voted it?—A. I understand that is meant by the contract; that is, that a majority could make any assessments they chose.

Q. It has been constantly asserted by Colonel Young and claimed in the papers, that you transferees, whatever you got from Dr. Rogers, you purchased and paid for. As I understand, there is no mistake about that; that the transferees paid nothing, but got their interests transferred to them, and then made a provision for the assessment of a sum not exceeding \$150 to be paid by them contingently, and that assessment was made upon you all, Dr. Rogers as well as the others, and when the money was assessed it was made for the common benefit of all. I understand there is no mistake about that?—A. I do not think there is. I think we undertook to pay so much money as necessary and to give our business qualifications and capacities to the patenting, thorough testing by experiments, and utilizing such of them as we found to be of public utility.

Q. But whatever was done would be for the actual benefit of all the associates?—A. I should hope so, and should so believe.

Q. And Dr. Rogers was to pay his proportion of it?—A. I so understand.

Q. And I see at a subsequent meeting of the board of directors, the assessments were made accordingly. You have spoken about examining these patents. You are, as we all know, a good lawyer, and you examined those patent rights before you went into this enterprise, as I understand you, and satisfied yourself that they were valuable?—A. I examined certain inventions, certain instruments, but never looked at one of the patents until long after the signing of that contract; at least, I have no recollection of having done so until afterwards.

Q. How early did you look into the patents to see whether there was any infringement on anybody else's patent?—A. It is impossible for me to fix the date except as you will find it and may arrive at the approximation to it by the opinion of Mr. Marble.

Mr. HALL. I think you stated, Mr. Ranney, that that opinion had been introduced in evidence.

Mr. RANNEY. All I remember is, that Colonel Young in his testimony, in answer to a question of mine, when called upon produced the opinion. He produced one opinion, and it was put in evidence and subsequently I examined the papers and found another opinion, and that was put into the record.

Mr. HALL. At that time a question arose as to the identity of the opinion.

Mr. RANNEY. Early in the examination of Colonel Young, he made a statement about having an opinion of Mr. Marble's. I was then looking over the books and noticed Mr. Marble was a stockholder and I made a suggestion about it, whereupon Colonel Young mumbled over his papers, but did not find the opinion. Finally he found it and produced it, and it was shown, and that was then put in, or should have been put in. On last Friday, in looking over the papers, I found an opinion dated October 21, 1884, and it was put in the record. Yesterday I called the attention of the committee to the record and to the fact that they had put in the date October 21, without stating the year, and had that corrected and the year put in, and then the opinion was produced and the first opinion was handed in to you.

Mr. HALL. The second opinion was handed to me. I have never seen the first one.

The WITNESS. If you will allow me to suggest, the October opinion you will find to be upon the subject of—

Mr. RANNEY. That has been already suggested.

The WITNESS. The fact I was going to state is, that when you look at the date of the opinion you will find it at an earlier date. This was the October, 1884, opinion.

Mr. RANNEY. I am aware of that, and it must appear somewhere in the record, because it was produced, and I suppose it is in the record, or should be, and that would fix the date.

Mr. HALL. On some occasion when I was not present, it may have been produced and put in.

Mr. RANNEY. Colonel Young produced it, and had it at the other end of the table. If Colonel Young is here, can't he tell us where that opinion is?

Mr. OATES. That results from interjecting papers into the testimony of a witness, instead of putting them in at the proper place as exhibits.

Mr. RANNEY. It is not necessary to comment in regard to the interjecting of papers into the testimony.

Mr. OATES. I state the facts as they exist; I am not commenting on them.

Mr. RANNEY. I did not get the second opinion to put in until last Friday, and it had not been extended into the record until yesterday. (To the witness.) You can fix the date when you first examined the patents by the date of the first opinion of Mr. Marble.

The WITNESS. No, sir; not by the date of the first opinion of Mr. Marble, but at a very early date after the signing of this agreement; how soon I cannot tell. We requested Mr. Garland, who was recognized as our legal adviser and attorney, to examine carefully the legal questions involved in respect to patents. How much later, or at what time, I cannot say, but after Mr. Marble retired from the Patent Office and opened his office as an attorney I requested him to make a careful examination and give his opinion also. Regarding Mr. Garland as a very sound lawyer, at the same time I had very much more confidence in Mr. Marble's opinion so far as mechanical devices would figure in the question of infringement, and I wanted the opinion of Mr. Marble as well as the opinion of Mr. Garland in respect to the question of infringement.

Q. Had you gotten Mr. Garland's opinion before you had that of Mr. Marble?—A. I think so.

Q. You had his opinion that the patents were good?—A. I did.

Q. And that there was no infringement?—A. I had such an expression of opinion from him.

Q. Then you got Mr. Marble's opinion to the same effect?—A. Yes, sir; I got Mr. Marble's opinion to the same effect, except as I stated a while ago you will find the last clause of Mr. Marble's opinion the one to which I refer, the first one, to the effect that there was no infringement, unless the broad claim of the Bell patent was allowed, which claimed the exclusive right to conduct articulate speech over a wire by means of electricity.

Q. Did you examine, or have some one examine, that claim upon which he made that statement, to satisfy yourself?—A. I have heard the expression of Mr. Garland and the expression of Mr. Marble, and the expression of a good many people in respect to the probability of sustaining the broad construction of that broad claim.

Q. And what was the conclusion to which you came?—A. I never have myself believed that it would be so construed.

Q. That was the opinion of those whose opinion you obtained?—A. It was the opinion of those whose opinion I had obtained.

Q. Had you gotten those opinions and come to that conclusion prior to the formation of the Pan-Electric Telephone Company in Tennessee?—A. The date at which I arrived at such conclusion and the date at which the Pan-Electric Telephone Company under the Tennessee charter was organized, I would find it impossible to fix except by the minutes of the company.

Q. You are unable to tell whether it was before or after?—A. I am unable to tell how soon or at what time it was at which I got the opinion of Mr. Garland. I am unable to tell how soon or at what time it was that the question of infringement presented itself to my mind, but as soon as it did, I instituted inquiry.

Q. While you cannot remember the year or the month, possibly you might remember so far as to tell us whether it was before or after the corporation had been formed of the Pan-Electric Telephone Company in the State of Tennessee?—A. My decided impression is that it was before.

Q. So that then you and your associates were clear as to the validity of those patents and of the non-infringement as regards the Bell Telephone Company?—A. I have so believed, and so still believe.

Q. If so, you believed then that those patents were valuable?—A. I thought the telephone a very valuable instrument, and the telegraphic repeater a very valuable instrument until the report of Mr. Marean, which made an impression on my mind that an older patent of an instrument performing the same functions was in use.

Q. You were aware, probably (you can say whether you were or not), in the formation of the corporation in the State of Tennessee, the Pan-Electric Telephone Company, that the capital stock was put at \$5,000,000; you are aware of that fact I suppose?—A. I think it very probable I had heard it, and yet I could not have told you

that if you had asked the direct question, as to what its capital stock was; do you refer to the local company, the Memphis company?

Q. I refer to the parent company, so-called.—A. Oh, yes; I was aware, of course, that the capital stock of that company was fixed at \$5,000,000, but I understood you to refer to the local Memphis company.

Q. I mean the parent Pan-Electric Company. Did you and your associates estimate the patent which you put into that company as worth \$5,000,000?—A. I had very little idea as to what they were or were not worth. But I had the idea that no matter what the capital stock of the company might be, it represented the property that it covered, and whether you fix it at \$5 or \$5,000,000, it would cover the property, and the stock would be the value of the property. That was the idea I have had in respect to the matter.

Q. You were aware that in the formation of that company no money was paid in as capital stock, were you not?—A. I was perfectly aware of the facts as I have already stated them.

Q. I supposed you were. And you were aware of the fact that the patent rights conveyed to the parent company, and the Pan-Electric Telephone Company organized under the laws of Tennessee, related to telephone patents alone, not embracing the electric patents?—A. Such was my understanding.

Q. What proportion of the patent rights embraced in the New York contract were the telephone patents and what were not?—A. I do not know that there was but one telegraphic instrument. I do not know that there was not; but there was only one that attracted my attention particularly, and that was the instrument called the telegraphic repeater, I think.

Q. Are you speaking now of the patents relating to telegraphy or to the telephone?—A. To telegraphy. I think there were several telephone patents.

Q. My question intended to get at your recollection of how many patents there were which were not conveyed to the Pan-Electric Telephone Company of Tennessee.—A. That I cannot answer; but the contract itself will show the number of patents that were conveyed to us, and the assignment to the Pan-Electric Telephone Company will show the number and what patents were assigned.

Q. You haven't it in mind?—A. I have not.

Mr. EDEN. Both of those papers are in evidence.

Q. Do you say that in your opinion at that time the telephone patents conveyed to the Pan-Electric Telephone Company, organized under the laws of Tennessee, conveyed in payment of the capital stock, which was \$5,000,000, were worth \$5,000,000?—A. I have once answered that. I have very little idea as to what they were or were not worth. The telephone I regard as very much the best telephone I have ever seen. I regard it as a thing of value.

Q. You or your associates put in these telephone patents into that company in payment of the capital stock of \$5,000,000?—A. Yes, sir.

Q. Now, you would not have been likely to have called those telephone patents worth \$5,000,000, and of value enough to pay the capital stock of \$5,000,000, unless you had some reason to suppose it was so; from your well-known character, I should not have supposed you would.—A. I have just explained that I do not think it a matter of the slightest consequence what you capitalize a corporation at. It was a transaction between ourselves. We owned the stock, and the stock covered the property, of whatever value the property might be.

Q. You will see by the certificate-book of that company that on the margin of the certificate-book gotten up there is this statement: "Stock fully paid up and non-assessable." So that the certificate-book, or the form of certificate gotten up, stated on its face, or purported to state on its face, that the capital stock of \$5,000,000 was all paid up and non-assessable. You were aware of that fact, were you not?—A. I don't remember ever having noticed the certificate or the form of it, but if I had it would not have changed my course with regard to the matter at all.

Q. I am not questioning the propriety of your conduct; I only wish to know what the fact is (showing the certificate-book to the witness). You see on this certificate it says, "Fully paid and non-assessable"?—A. Yes, sir.

Q. If the \$5,000,000 of stock was fully paid, it was paid by the telephone patents?—A. It was certainly the intention, I suppose, that the stock should not be assessable.

Q. The first part of it "fully paid" is what I wish to call your attention to more particularly. You would not have been a party to the getting up of an inflated corporation, would you, with an ostensible capital of \$5,000,000 represented to be fully paid, when you knew the only payment was the transfer of the telephone patents, if you had really believed that the patents did not fully pay it at a supposed or fair value?—A. I should have been perfectly indifferent as to the amount of the capital stock that a majority of my associates might have desired to fix. But in every transaction with other people with whom I have ever had anything to do, I have entered into the fullest explanation of the exact status of the company, and exactly what we

had done, what the capital stock was, what it was based upon, with every fact that I deemed directly or remotely material for parties to understand.

Q. I do not mean any implication or to insinuate otherwise. I only want to call your attention to the fact as to whether you intended to put these patents into that company at an inflated and unwarrantable value or at a value which you considered to be fair and honorable?—A. My answer is, I was perfectly indifferent as to what the company was capitalized at; and to illustrate, one of the subcompanies I think fixed its capital stock, when it originally organized, at a million dollars, and afterwards consulted me as to the propriety of reducing the capital stock to \$40,000. My answer to those gentlemen was, "I am perfectly indifferent as to what you fix the capital stock at. The capital stock will represent whatever property there is. Fix it \$40,000 if you want to, or at any other sum you think proper, so far as I am concerned. I am perfectly indifferent as to what you fix it at. It will be universally understood, I suppose, as covering whatever property you possess."

Q. Knowing your ability as a lawyer, I would like to ask you a question: whether, according to your judgment, under the law of Tennessee when this company was organized, it was competent to pay up the capital stock by putting in the patents alone as a payment?—A. I do not remember that I looked at the law then at all, either then or since then. I thought Colonel Young was looking to that, and we acted under his suggestion as to the matter.

Q. If you did not look at it we cannot have the benefit of your judgment. There was not, so far as you know, any subscriptions gotten up for capital stock in that company, was there?—A. No formal subscriptions, so far as I know.

Q. So you had no subscribers to the capital stock. I would like to know whether you were aware of the fact that a large proportion of the capital stock in the Pan-Electric Telephone Company, the parent company, was issued or assigned or allotted to the company itself? To make myself understood let me state this: There were certain associates who had a limited interest, and of course had allotted to them the number of shares that represented their interest. Were you aware after that had been done that there was a large amount of that capital stock that was allotted to the company itself as owned by them?—A. Under the original contract there was a one-tenth interest that was to be held, according to my understanding of it, as the common interest of the associates pro rata.

Q. So that, as a matter of fact, the corporation was a subscriber to a large portion of its own stock?—A. And that stock—if you will allow me to answer the question that you first asked—being a one-tenth, there were some doubts expressed as to whether or not the \$170,000 that Dr. Rogers had promised to certain parties was to come out of the Rogers interest or out of that common stock. As soon as the question was suggested I moved to solve any doubt that might exist, if any should, by appropriating out of that common stock, the \$170,000 that Dr. Rogers had promised. It was so agreed. Subsequently, and very soon thereafter, the date of which I cannot fix, however, I moved that ex-Governor John C. Brown be taken into the association, on the same terms that the originals had come in on, to the extent of \$100,000 of that stock. That was agreed to and that appropriation made. Subsequently the stock I have referred to heretofore as having been disposed of by the company was disposed of, and the books will show what balance of that common stock was left. To that extent I suppose that common stock was held by the company.

Q. What became of that tenth which was originally designed and reserved for Abram S. Hewitt, as you understood it? You understood that originally it was contemplated in New York that Abram S. Hewitt should take one-tenth.—A. I never heard of any such contemplation or any such reserve of stock for Abram S. Hewitt. When we were in New York it was suggested by some one that Mr. Hewitt was a man of enterprise and high character, and all of us who knew him recognized him as a man of ability, and thought it would be well to have him associated with us. I think Harry Rogers and Mr. Atkins called to see Mr. Hewitt, whether upon that subject or what I cannot say, but I understood that that subject had been mentioned to him. That was the first I ever heard of Mr. Hewitt in connection with this enterprise. I do not think I ever have had a word with Mr. Hewitt on the subject in my life, except as he passed out of this committee room. He made some remark to me as he passed out about the telephone company, while he was shaking hands with me.

Q. In that paper prepared in New York how many tenths interest in these patent rights did you understand Mr. Rogers had conveyed?—A. I understood that Mr. Rogers by that paper had conveyed to General Johnston one-tenth, to Senator Garland one-tenth, to Mr. Atkins one-tenth, to Casey Young one-tenth, to myself one-tenth, and one-tenth to the association, retaining four-tenths in his own right.

Q. Did you know that one-tenth at that time was also contemplated or suggested to be given to Mr. Hewitt?—A. Except as I have just stated to you, I knew nothing of any intention to give anything to Mr. Hewitt.

Q. Did you know of anybody else taking a tenth afterwards?—A. There were no tenths to be taken afterwards.

Q. You understood that Harry Rogers retained four-tenths?—A. He retained four-tenths; and the tenth tenth, I have just described to you what was done with it.

Q. I understand it; I comprehend your understanding of it. Well, were you aware that your company, the Pan-Electric Telephone Company, was selling territory?—A. Yes, sir; I was aware of it when it did so.

Q. What subordinate companies, children of the parent company, did you understand were incorporated?—A. I am inclined to think Missouri was the first State. I have understood that a corporation was created and organized there.

Q. Do you remember with what amount of capital stock?—A. I do not.

Q. Was the territory sold to them limited to Missouri?—A. To Missouri and that part of Kansas City that extends into one of the counties of Kansas. That is my recollection of what was sold in Missouri.

Q. What others do you recall that you understood?—A. I think Texas was the next State that was sold; but I am not sure about the order.

Q. What others?—A. And next to that, Tennessee.

Q. The whole of Tennessee?—A. Yes, sir; and next to that the State of Alabama; well, there was this territory here which may have been sold earlier than that.

Q. You mean here in Washington?—A. Yes, sir; Washington, including Maryland, Virginia, and possibly West Virginia; I do not remember the terms of this contract, or the territory accurately that it covered; but the contract will show.

Q. Any others?—A. And Illinois; I think those are the only contracts that have been made.

Q. Now, if this local company in Tennessee embraced the whole State, and you sold the whole State of Tennessee to them, what rights in the State of Tennessee did the Pan-Electric Telephone Company have after they had sub-sold the territory of Tennessee?—A. The Pan-Electric Telephone Company was a stockholder in the Tennessee company, and it also had the right to charge and receive a royalty upon each telephone that was used; those are all the rights that I suppose the parent company retained in respect to that State.

Q. If I understand you, then, the parent company, the Pan-Electric Telephone Company, organized under the laws of the State of Tennessee, transferred to a subordinate company all the interests in the patent rights in that State, and in consideration of receiving a certain amount of stock in the subordinate company and a certain amount of royalty—. A. It conveyed to the Tennessee company, a local company, the right to use the instruments covered by the telephonic patents (that is my recollection of the contract) within the territory of that State, in consideration of, I think it was, \$7,500 in cash, a given percentage of the stock (as to which I would not attempt to be accurate in my statement, but I should say 25 per cent.), and a royalty of either 50 cents a month or \$5 a year, I would be inclined to think; but the contract will speak for itself and is more accurate than my memory.

Q. So that the parent company, after that, would have no right to operate any telephone in the State of Tennessee?—A. It would not; that would be my construction.

By Mr. HALL:

Q. Do you recall whether that included the right to manufacture the instruments, or did the parent company retain that right?—A. I do not think it included the right to manufacture the instruments.

By Mr. RANNEY:

Q. Can you tell us what the capital stock of that Tennessee company was to which the parent company sold?—A. I do not remember what they fixed their capital stock at.

Q. Was it \$5,000,000?—A. I don't remember; the contract will show, I imagine.

Q. You sold to the Washington Telephone Company, which embraced the District of Columbia, Maryland, Virginia, West Virginia, and Delaware. In selling the right of territory to those States do you remember what the capital stock of the telephone company was?—A. I do not.

Q. It appears to be \$5,000,000.—A. It appears that the territory was sold —

Mr. HALL. It seems to me that in regard to questions of that kind we ought to agree among ourselves as to the facts. I suppose there is no controversy about them.

Mr. EDEN. The books are already in evidence.

Q. You were aware that these subordinate companies were already being formed with this amount of capital stock, as I understand you?—A. You do not understand me accurately, then.

Q. I would be glad to.—A. I am sure of that. I was aware that corporations were being formed, and I said, about as distinctly as I know how to speak, that I did not remember, nor had I informed myself (in all human probability I had heard) what the capital stock of those subcompanies were.

Q. You will pardon me for assuming that, for you were a director in the parent company.—A. Yes, sir.

Q. And in all of these companies, as I understood it, they took stock as part consideration of the sale made to these subordinate companies.—A. That is true.

Q. And I suppose you might possibly know what the capital stock of the companies was for which you were taking pay in stock.—A. I have no doubt the records of our company will show, or the papers on file. I have not looked at them, nor have I seen them since the stock of those local companies was deposited with the secretary and treasurer, and could not remember anything about it so as to make any statement as to what the amount of stock was that we held in those companies.

Q. You did not concern yourself to see whether they organized corporations with a very large capital stock and paid it in by the patent rights?—A. I did not; and if I am a director in any of those local companies, I never have attended a meeting of one of them.

Q. Have you ever taken interest in it enough to say how much the capital stock is in amount, in the aggregate, these patent rights in which you purchased an interest of Harry Rogers, in New York, represented in the parent company and in the subordinate companies?—A. I have not.

Q. You would not have considered it of any account as to what sum they were put in as payment of capital stock, I understand?—A. The stock of the company, according to my understanding, represents the property of that company, and it does not matter very much what figures may appear, as it seems to me it represents only so much and no more than the properties of the company.

Q. Had you anything to do with it so that you could tell the reason why the Washington Telephone Company was organized in the State of Tennessee instead of in the District of Columbia, or in any one of the States embracing the territory which was sold?—A. The reason why—repeat the question, please, I did not get it.

Q. The reason why, in organizing the Washington Telephone Company, it was not organized under the laws of the District of Columbia or of Virginia, West Virginia, Maryland, or Delaware, the territory which was embraced in the sale?—A. I could give no reason. I do not think I was ever consulted by the people who organized the Washington Telephone Company. I never attended a meeting of the company, stockholders, or directors.

Q. You could not tell, then, whether the reason was that if they organized in any of those States they had to pay in the capital stock, and patent rights would not do?—A. I could not. I have no knowledge of the reason which controlled them, and could not tell you where the charter was obtained. I have never looked at it, inquired into it, or had any knowledge on the subject.

Q. Going back to your idea of the value of patents, I see in the printed letters on page 19, under date of June 14, 1884, a letter from Senator Harris. The original is here, and I suppose there is no question about the authenticity of it. It is the letter numbered 140. I will read it:

UNITED STATES SENATE,
Washington, D. C., June 14, 1884.

DEAR SIR: In answer to your note of this day I have to say that I have used the Pan-Electric telephone in my rooms for some time, and think it vastly superior to any telephone that I have ever seen.

And upon a somewhat careful examination my opinion is that it does not infringe the Bell or any other patent.

Respectfully,

ISHAM G. HARRIS.

General J. W. DENVER.

At that time it would seem you had formed an opinion of your own as a lawyer?—A. I had evidently, prior to that time, talked to Mr. Garland and to other attorneys. Mr. Garland at one time furnished me a brief that I undertook to investigate, but I found my engagements entirely too pressing and numerous, and abandoned all idea of undertaking to go through the investigation of the questions of law.

Q. Do you remember writing that letter to General Denver?—A. I do not; but the original being here, I have no reason to doubt it. But I have no recollection of ever writing the letter. It could be very easily identified, and I have no doubt the letter was written.

Q. Nobody will ever accuse you, Senator Harris, of attempting to put on the market, to float on the market, corporations or stock in corporations at a fictitious or inflated value, and I suppose we may infer that you believed there was a real and substantial value, present and prospective, in those patent rights?—A. I have stated two or three times that I believed, and still believe, there is value in that telephone patent.

Q. Did you, after entering into that contract, you or your company, proceed to get out new patents, letters patent from the Patent Office?—A. Oh, several patents have been obtained.

Q. Do you remember what they were?—A. No, sir; I do not; I think Mr. Marble, as a patent attorney, has obtained I don't know how many.

Q. Is it not true that the patent rights which have been utilized in these corporations were patents that had already been obtained before you went into it?—A. That I cannot tell.

Q. I do not find here any expenses incurred in getting out any new patents by your company for any amount.—A. Well, I am sure some expenses have been paid for getting out new patents, but I could not tell you how much.

Q. As you are not aware of it, we will obtain it from some other witness. I see by the record, if I recollect it right, that you were authorized to treat with the Bell Telephone Company. Did you do anything of that kind?—A. I had a correspondence, I should think, perhaps, in the summer or fall of 1883, running, perhaps, to January or February, 1884, with Mr. T. N. Vail, who was then, I understand, the general manager of the Bell Telephone Company. My first letter called his attention to the Rogers telephonic transmitter as an instrument that impressed me as being the clearest and perhaps the loudest and most distinct telephone that I had seen, and I thought capable of extending to greater distances, perhaps, than any known telephone.

Q. You had simply a correspondence?—A. I had more than that. But you will please allow me to proceed with my statement upon the subject.

Q. Certainly. I would not have interrupted you, but I thought you were through.—A. I speak, of course, from a memory going back to that period as to exactly what that correspondence was, but what I have said indicates, I imagine—

Q. Possibly you may have the correspondence?—A. I have not unless it is among the papers of the company.

Q. We find no letters of the company.—A. I had supposed I had that correspondence, for I did at the time it was going on retain a copy of each letter I wrote to Mr. Vail, and I think it probable I wrote about three letters, and possibly more, and had as many answers from him, and had those copies and Mr. Vail's letters for a time tied up in a bundle where I could put my hand on them while the matter was still pending. I think his first letter was to warn me that results produced in a laboratory were rarely realized when the instruments were put in practical use. Finally, however, he asked me what suggestion I had to make, or what my desire was, and I made, in some form of words, this suggestion as the idea that had occurred to me: "If this transmitter be superior to any other and capable of reaching to greater distances, I think it probable that some arrangement might be made with your company by which your customers could make an arrangement with us, if they chose to do so, to use our transmitter where they chose." That, I think, was about the substance of the suggestion I made to him. He finally asked me to send him a set of our instruments, in order that he might investigate and test them. I wrote him that as soon as I could conveniently I would do so, and my impression is that in January, 1884, General Johnston, J. Harris Rogers, and myself went to Boston with perhaps two or three of our transmitters. When we reached there and announced to Mr. Vail that the instruments were there, he ordered Mr. Lockwood (I think that was the name), the chief electrician of the Bell Company at that time, to investigate and examine and test those transmitters. I asked Mr. Lockwood if I should have the instruments brought over to the Bell Telephone office or would he go to the Parker House, where they were, and he said, "I will step over there."

When we got to the Parker House Mr. Rogers brought the instruments into my room, and dissected one instrument, and was explaining it in language that I comprehended very little of, because he was dealing in electrical technicalities, I suppose, to a large extent. Mr. Rogers explained the principles upon which his transmitter operated, and I was impressed with the belief that Mr. Lockwood did not think well of it; did not think that the results that he claimed for it could be produced by that sort of mechanical device. But Mr. Lockwood said, "We will take them over to the Bell telephone office and put them up and test them." They carried them over to the office, and put up one instrument, and connected it with a line that ran down to the Exchange and back to an adjoining room. Mr. Lockwood took the receiver, and Mr. Rogers went to his transmitter. I staid with Mr. Lockwood at his desk, and they talked in various tones of conversation from a low whisper up to ordinary conversational tone, and then yelled at each other. Mr. Rogers was yelling at him, and in each instance Mr. Rogers would say, after whispering, "How is that, Mr. Lockwood?" Mr. Lockwood said, "It is excellent." Then, in a louder tone, "How is that, Mr. Lockwood?" Mr. Lockwood said, "It is splendid." And then yelling in a very loud tone, "How is that, Mr. Lockwood?" Mr. Lockwood expressed himself as somewhat surprised at the volume of sound and the perfection of the instrument. But the room in which the transmitter was put up was adjoining, with a thin partition wall between the room where Mr. Lockwood and I staid and the one Mr. Rogers was talking in, and I could hear through the door all that Mr. Rogers was saying, as well as through the telephone.

I then suggested to Mr. Lockwood that he should have the instrument connected with a room more remote, so that we could hear nothing except through the telephone. He did so. I then went to the transmitter and talked to Mr. Lockwood myself for some time, and after some considerable conversation through the instrument, I said,

"Mr. Lockwood, have you heard clearly and distinctly every syllable of every word I have spoken to you." He said, "Yes, most perfectly." I said, "Lockwood, what do you think of the instrument?" He said, "I think it is excellent." I said, "Are you satisfied with the experiment, or do you care to experiment further?" He said, "No, there is no necessity for further experiments." General Johnston, Harry Rogers, and myself then went to the room of Mr. Vail, and I said to Mr. Vail, "Mr. Lockwood has examined and experimented with the transmitter, and I suppose is ready to report." Mr. Vail called Mr. Lockwood, and as he entered the room, Mr. Vail's room, Mr. Vail spoke to him from his desk and said, "Lockwood, have you examined this transmitter?" Mr. Lockwood said "Yes." "Have you tested it?" "Yes." "Well, what is it?"

Mr. Lockwood proceeded to explain in telephonic terms the construction of the instrument and the principle upon which it proceeded, and then said: "The instrument is very clear, very distinct, and very much louder than ours." "Louder," said Mr. Vail, "how much louder?" Mr. Lockwood said, "I don't know; at least four times as loud." Mr. Vail then said: "Have it connected with my desk." Mr. Lockwood ordered the exchange to connect with Mr. Vail's desk, and I said to Harry Rogers: "Go back to your transmitter and talk to Mr. Vail." He did so, and after some conversation, perhaps extending half an hour, Mr. Vail said he was satisfied, and I then asked Mr. Vail if he was inclined to do anything in respect to the matter. Mr. Vail said, "Your suggestion is impracticable and would lead to confusion. It would result in confusion inevitably, because you would have authority to license telephones and we would have authority to license telephones, and it would evidently lead to complication and confusion." I said, "Very well, Mr. Vail, if you think that my suggestion is subject to that criticism have you any suggestion or proposition you wish to submit?" He said he was not prepared at that moment to do so, but would consider the matter in the next day or two, and would write to me, and just after saying that he would write to me he said, "By the way, I have to be in Washington next Wednesday,"—this being Monday that the conversation occurred—"and I will see you then, if that will answer as well." I said, "It will answer even better." So that evening I left and returned to Washington.

Several days, or perhaps a week, afterwards I received a note from Mr. Vail, saying that he had started in a very severe spell of weather, and that the ice or snow or something else had detained him and he had missed connection, and he got here a train or a day later than he had expected, and (reaching here in the morning) in the course of a few hours after reaching the city he had received a telegram which called him immediately back to Boston, and he had to leave on the four o'clock train of that evening, and that was the reason why he had not seen me. I then wrote him or telegraphed to him, I am not sure which, a simple inquiry whether he had any wish to negotiate with us, and if so on what terms. He did not answer until the next day, and on the next day I sent him a telegram substantially like this: "If you have any desire to negotiate with us, please indicate the terms that you would suggest, as propositions from other parties make it necessary to decide promptly whether we negotiate with you or not."

That was substantially the idea that I communicated to him in that telegram, to which I received a telegram in answer, my recollection being that he simply said in the telegram that he would write that day. Certainly the next day, or a day or two afterwards, I received a brief note from him saying, substantially this: "That in view of the complications and confusion that the adoption of your suggestion would lead to, we cannot accept it. We must have the absolute control of your instrument, if we do anything either by purchase or by giving or allowing you royalty upon it; and from what I have understood from you, while you were here, as to your estimate of their value, I do not think the probabilities are sufficiently strong of our agreeing upon their value to justify your delaying other negotiations." That was the general idea conveyed.

Q. Can you state what was the value?—A. I had never communicated that to him.

Q. What did he intimate to you was the value?—A. He did not intimate it to me at all, but he referred to the conclusion at which he had arrived from what I had said to him in Boston, or from what General Johnston and Harry Rogers and myself had said to him in Boston, when, as a matter of fact, I had never intimated to him in the correspondence any number of dollars that I thought the inventions were worth, but had mentioned to him, and emphasized the fact, that I regarded the transmitter as vastly superior to any transmitter I had ever seen.

Q. Did he intimate what was the value?—A. No. His remark was in regard to what he understood to be our estimate of the value of our instruments, and said he thought there was very little probability of our agreeing upon terms of sale.

Q. You may proceed; I do not wish to interrupt you.—A. I was a little surprised at his remark, because I had never intimated myself any idea of the value to him, except as I had intimated an opinion as to the superiority of the instrument, but I had never named any sum of money as a consideration for the instrument, and upon inquiry I was informed by General Johnston and Harry Rogers that neither one of

them had mentioned to him or to Mr. Lockwood or anybody else of the Bell Company any idea we had of their value, and we had not amongst ourselves, so far as I remember, discussed any particular sum that we would agree upon, in the event of a proposition to purchase.

Q. Now go on with your narrative of the negotiation from that point.—A. That was the end of the negotiation.

Q. It ended by your telegram or his?—A. Well, I answered his letter. His telegram simply informed me that he had written that day.

Q. Do you recollect about what time that negotiation terminated?—A. I think it was some time in January or February, 1884.

Q. Did you ever resume it?—A. Never.

Q. I see in a letter dated August 3, 1885, of Mr. R. F. Looney, which was put in yesterday, there occurs this sentence: "Harris, I think, will make another effort to sell to the Bell Company, in the success of which effort I have but little hope," which seems to indicate that he thought something more was going on. Do you know anything about that letter?—A. No, I do not; I cannot imagine any basis for any such letter unless it be this: Perhaps a year after the close of the correspondence between Mr. Vail and myself I was informed by some one here that a gentleman named Gustin, who was an old college mate of Mr. Vail's, had had some correspondence with Mr. Vail, urging Vail to purchase the Pan-Electric transmitter, and possibly Mr. Gustin had suggested \$5,000,000 as a price at which he, Gustin, supposed Vail or the Bell Company could purchase our transmitter; and I remember to have remarked to some of our friends that that was doubtless the thing upon which Mr. Vail had based his estimation of our idea of its value. But Mr. Gustin had no earthly authority, so far as I know, to speak on that subject at all.

Q. You say you do not know anything about the negotiations with the American Postal Telegraph Company?—A. I do not remember ever having had any negotiation or even any proposition for any such thing.

Mr. HALE. I move that the committee go into executive session, and that when it adjourns it be until to-morrow at 1 o'clock p. m.

The motion was agreed to, and after a short executive session the committee adjourned.

WASHINGTON, D. C., *Thursday, April 1, 1886.*

The committee was called to order at 1.05 o'clock p. m., Mr. Oates in the chair.

Mr. OATES (to Mr. RANNEY). You may continue your examination of Senator Harris.

Hon. ISHAM G. HARRIS came before the committee, and his examination was continued as follows:

Mr. RANNEY. Senator Harris, I observed yesterday what you said in your statement in regard to the American Postal Telegraph Company. Without repeating it, I want to call your attention to that matter. I find among the papers here a paper signed by the president of that company, which I will read and ask you a question about:

[Office of the American Postal Telegraph Company, 39 Broadway, N. Y.]

NEW YORK, *September 26, 1883.*

Dr. J. W. ROGERS,

Vice-President, Washington, D. C.:

DEAR SIR: Your letter in regard to the matter of consolidating the American Postal Telegraph Company, in some equitable manner, with the Pan-Electric Company, has been in hand some days, and after due consultation with the board of trustees and stockholders of the American Postal Telegraph Company, I am directed, as its chief officer and chairman of the executive committee, to make the following reply:

(1) The stockholders of the American Postal Telegraph Company are aware of the importance of unity of action before the next Congress to accomplish the end had in view at the organization of the company, and would be willing to unite its influence and avoid any conflict of interest with the Pan-Electric Company, by a general consolidation of the said companies, if said consolidation can be effected on the basis as set forth below, namely:

First. The American Postal Telegraph Company will surrender all of its stock of \$5,000,000, its valuable patents, engraved plates, books and papers, and whatever else of value it has to the Pan-Electric Company for the following consideration:

The Pan-Electric Company shall reorganize the American Postal Telegraph Company, placing it in hands of men of national reputation, putting into the company the "famous cylinder" that worked so successfully between New York and Washington on recent trial.

Second. The Pan-Electric Company shall issue new stock (using, if so desired, our plates) for our \$5,000,000 of stock (which carries with it all our patents and values of every sort), and, for the same, turn over to the American Postal Telegraph Company's stockholders, viz:

Of Pan-Electric stock \$250,000, or the same amount of the Pan-Electric Telegraph, at the option of the Pan-Electric Company.

(*Interlineation*: There would be no need of a Pan-Electric Telegraph if "The American Postal" could be substituted for it; in which case the one telegraph company belonging to "The Pan-Electric Company" would be simply "The American Postal," stocked at \$5,000,000.)

Of the Consolidated American Postal, \$3,000,000.

Third. The difference between the above and the capital stock of the American Postal Telegraph Company is \$1,750,000, which shall be so appropriated that this amount of stock, \$750,000, shall be placed in the treasury of the newly organized company for working capital, and the \$1,000,000 to be divided pro rata among the stockholders of the Pan-Electric Company as individual stock.

Please present the above to the board of directors of the Pan-Electric Company, and if accepted I will take necessary steps to carry into effect the terms and conditions named in the foregoing proposition.

Very respectfully, your obedient servant,

LEE R. SHRYOCK,

President American Postal Telegraph Company.

Attested: E. BAETRO,
Assistant Secretary.

Mr. HALE. Mr. Shryock lives in Saint Louis.

By Mr. RANNEY:

Q. I call your attention to the first clause of that letter, where it speaks of the importance of uniting with the Pan-Electric before the next Congress, and also to the general proposition of uniting these two companies. Were you present at any time when that came before the directors?—A. I have never seen the paper that you have just read until I saw it in your hands; I have never heard it read until you read it; and if the Pan-Electric Telephone Company has at any time considered such a proposition I have no knowledge of it.

Q. In that connection, I call your attention to the letter from Casey Young, dated Hot Springs, Ark., August 21, 1883, which has already been put in evidence in connection with the testimony of Colonel Young, at page 206, wherein this paragraph occurs:

"But to resume on Gould: He sees plainly enough that the next Congress will establish a postal telegraph, and he is arranging to sell the plant of the Western Union to the Government for that purpose, and to accomplish this object he will put in the field the largest lobby he has ever had in Washington, and the company we may be associated with will be the only one that will have the ghost of a chance to compete with him. So it seems to me that if these views were presented to the American Postal Company they would at once see the importance of joining forces with us. I impressed all this on Colonel Looney before he left, and supposed he would have laid it before the company at once."

Q. You see that that first letter is an official letter directed to J. W. Rogers, as vice-president, and is signed by the president of the American Postal Telegraph Company, and following that, in the next month, comes this letter from Mr. Young. Do you know anything about this letter from Mr. Young?—A. I never heard of it until I saw it printed perhaps in the newspapers, or heard it spoken of here in the examination. And for further answer, I say that J. W. Rogers was never vice-president, director, or other officer of the Pan-Electric Telephone or Telegraph Company. I heard him say here on the witness stand that he was vice-president of the American Postal Telegraph Company, of which Mr. Shryock was president.

Q. If, then, it was brought up and discussed among the directors of the Pan-Electric Company, you were not present?—A. I have no knowledge of any discussion by the Pan-Electric Company directors in regard to having anything to do with the Postal Telegraph Company, or of any action in respect to a postal telegraph bill. I have heard the subject spoken of, as I stated on yesterday, I think upon one single occasion, but I do not think that was even at a meeting of the Pan-Electric board; I think it was a private outside conversation, in which the remarks I made to Dr. Rogers about the matter—

Q. In a conversation with whom?—A. It was most likely with Dr. Rogers and Harry Rogers.

Q. Do you recall now where it was?—A. My best impression is that it was at the house of Dr. Rogers.

Q. Was any one else present?—A. Oh, I couldn't say.

Q. Have you a distinct recollection about the conference which would enable you to tell us whether it related to any arrangement for union between the Pan-Electric Company and the Postal Telegraph Company?—A. By no means does my memory tend in that direction. As I stated on yesterday, I think the suggestion was that there was a bill pending to establish a postal telegraph upon the part of the Government,

in response to which suggestion I made the remarks that I repeated yesterday in respect to such question. It was not in reference to any union between the Postal Telegraph Company and the Pan-Electric Company, but was in respect to a bill either really pending or supposed to be pending in the one or the other house of Congress.

Q. By this letter of Casey Young the matter would have seemed to have been known by him, but you do not recall any occasion where it was ever mentioned to you or in your presence?—A. I must refer you to Colonel Young as to the circumstances that prompted and as to the meaning of his letter; I knew nothing of it.

Q. He has been examined originally?—A. Yes.

Q. You have been in the Senate how long a time, Senator?—A. I entered the Senate on the 4th day of March, 1877.

Q. What committees were you on in 1884 or 1885?—A. For the first six years I was in the Senate I was upon the Committee on Claims; since 1878 and 1879 I have been chairman of the Committee on Epidemic Diseases; I have been on the Committee on the District of Columbia for, I would say, eight years continuously, and for the last four or five or six years I have been on the Committee on Finance. I have been on other select committees, and have been for several years on the Committee on Rules.

Q. Is the Committee on the District of Columbia a joint committee?—A. No, sir; it is a Senate committee.

Q. Pardon me for making this specific inquiry; I make it without any implied reflection on you in any way. Was there ever anything before that committee relating to any telephone transaction in Washington?—A. I do not remember any proposition on that subject that has ever been pending since I have been a member of that committee; but it would be a very difficult matter for any human brain to remember with accuracy the various propositions that had come up in the length of time I have served on that committee. I do not, however, think there has been any question before that committee involving that matter.

Q. Did you ever have occasion to go, or did you ever go, to see the Commissioners of the District of Columbia—is that what they are called? I am not familiar with the local government here. Are they Commissioners?

Mr. EDEN. Three Commissioners.

Q. Did you ever have occasion to go to them to secure permission to put up wires in the city for the telegraph company or telephone company?—A. Upon one occasion I went to see the Commissioners to ask them to allow the local company here to put up wires on poles, as other companies were permitted to do and so long as they were permitted so to do, for the purpose of making some experiments. I think the Commissioners had probably established or had issued an order that no additional wires should be put up on housetops or poles; and I was informed by the secretary of the company that the company wanted to put up some experimental wires in the city, and desired permission so to do, as other wires were being established. I forget now which Commissioner I consulted, for I do not think I saw but one, but my recollection is that he said there would be no trouble about it; that they would be subject to be taken down whenever others were required to be taken down.

Q. Had they granted permission, or refused it?—A. I understood the Commissioner with whom I talked to say that there would be no trouble about the matter of putting up the wires; of course if they used the housetops it would have to be with the permission of the owner in every instance, and if they used poles they would be liable to be ordered down at any time when the Commissioners should order other wires to be taken down. This is the recollection I have about it.

Q. Your recollection is that you went in advance to get permission, and not to remonstrate against a refusal?—A. I was informed, I think, by Dr. Harlan, whom I recognized as one of the managers, if not the chief manager, of the Washington company here in this city, that there was an order of the Commissioners prohibiting the putting up of wires above ground, and I simply went to say to them that that company desired to put up some wires for experimental purposes, and desired to put them up above ground, as they could not afford the expense of putting them under ground for these experimental purposes, and I asked if it could be done. I was informed that there would be no objection to their doing so, subject to being required on any day to take them down and put them under ground or abandon them altogether.

Q. If I understand you, before you went to see them there had been a prohibition?—A. That was my understanding from Dr. Harlan. I had never talked to the Commissioners on any such subject, and have no recollection of having any such knowledge, and do not think I had ever examined the subject in any way, except so far as the Commissioner may have informed me as to the condition of things.

Q. At whose request did you go?—A. At the request of Dr. Harlan.

Q. He was connected with the Washington company?—A. So I have stated.

Q. You were not directly connected with that company?—A. No.

Q. Recurring, now, to your testimony of yesterday, or your statement in regard to the interviews at the Attorney-General's office, if I understand you, you went there twice?—A. Twice; once before the bringing or the ordering of the first suit, and once,

I think, on the day the order was made or the day after, to inquire, as I stated yesterday, if the record had come, and if so, what action, if any, had been taken upon it.

Q. I want to ask you again—I am not sure I did not ask you yesterday—whether the first time you went any one went with you; and if so, who it was?—A. I think Colonel Young was with me.

Q. Do you recollect where you met him?—A. My impression is that I met him somewhere near the Riggs House.

Q. Do you recollect whether he asked you to go with him, or you asked him to go with you?—A. I do not remember that either asked the other; but my recollection is that I said to him, “I have a letter,” or a telegram, one or the other, “from Colonel Gantt, asking me to ascertain whether the application of District Attorney McCorry has been received at the Department of Justice to bring a Government suit to test the validity of the Bell telephone patents and I am going there for the purpose of making that inquiry and ascertaining what has been done, if the application has reached the Department, in order that I may answer his inquiry.”

Q. Do you remember what reply Mr. Young made to that?—A. I do not, except that he would go with me, and my recollection is that we walked together to the Department, went up the elevator to the floor upon which Goode’s room is, and we entered the room together, and I do not think either one of us took a seat.

Q. I have not your evidence reported here, but I want to see if I understood you; so will you be kind enough to repeat just exactly all that was said there?—A. We entered the room and walked up to the front; Mr. Goode was sitting at his desk; we walked up on the opposite side of the desk, between Goode and the fireplace. I had the letter or telegram in my hand, and read from it the inquiry, and then asked Mr. Goode, “Has the application reached you?” He said, “I have seen nothing of it,” and rang for the messenger; instructed the messenger to tell some one—I supposed it to be the mail clerk, if there be such an officer there; he appeared in a very few seconds, and Mr. Goode asked him if anything for his desk had come that day. Mr. Goode informed me, after receiving the answer of the messenger, that the paper had not come. I then said, “Very well; I will call to-morrow or next day, and ascertain whether it has come or not, so that I may answer this inquiry.”

Q. Are you sure that Mr. Young was with you when that was said?—A. Mr. Young was with me upon that occasion.

Q. Then you both left?—A. We both left together.

Q. That was all that was said?—A. That was all that was said so far as I have any recollection.

Q. The next day you went there again; did you go alone, or with Mr. Young?—A. I went alone the next day, or the day after, I am not sure which, but one or the other. I knocked at the door of Mr. Goode’s room, and was told to come in. Upon opening the door Mr. Goode rose from his desk and advanced; I think it probable we met about midway between the desk and the door; Mr. Goode waved me to a chair. I said, “No; I have simply called to ascertain if that application has reached you, and if so, what action, if any, has been taken upon it.” His answer was that “Within an hour from the time you were here yesterday”—or the day before, as the case may be—“the paper reached me; I have looked it through, and have ordered the suit to be brought.” Whereupon I said, “I shall be able now to answer,” and retired, and that is all that was said between Mr. Goode and myself.

Q. Did you see Mr. Young after your first interview and before your second interview with Mr. Goode?—A. I don’t remember whether I did or not.

Q. Do you remember whether you saw him soon after the second interview?—A. The probabilities are, if Mr. Young and I both remained in the city, that we saw each other frequently; but I have no recollection of any special meeting between Mr. Young and myself at the time or about the time you specify.

Q. Going back to the interview you had with Mr. Young before you went in to see Mr. Goode the first time, when you told Mr. Young that you had a telegram from Colonel Gantt, what you have already stated, and which I will not repeat, did Mr. Young say anything about having just come from Colonel Gantt?—A. I do not remember that he did, and I do not think that he did.

Q. Did he say anything about the fact that a bill had already been drawn and was ready to be filed?—A. I have no recollection of his having said anything about a bill having been drawn.

Q. Is your recollection so clear about it that you can say whether he did or did not?—A. No; I should not be able to say with absolute certainty; I knew it at some time, but when or exactly how I obtained the information I do not remember. I am inclined to think I did not know it until I was informed that the suit had been ordered to be brought.

Q. Can you recollect so that you can state with positiveness whether Mr. Young did not then have a bill ready to be filed or printed in Memphis, Tenn.?—A. I had no knowledge of it if he had, and up to this time I have never seen any such bill.

Q. Can you state how long it takes to come from Memphis or Jackson, Tenn., to Washington?—A. My time over the routes that I usually travel is about forty-five hours

from here to Memphis, or from Memphis here; I suppose it would be very nearly the same time to Jackson.

Q. So that a letter mailed at Memphis on the 31st of August would have reached here, in the usual course, when?—A. It would have reached here on the second day.

Q. Mr. Goode told you at the second interview that within an hour after you were there the communication came?—A. That the application had reached him.

Q. Are you quite confident that in the first interview Mr. Goode did not send out and get the application while you and Mr. Young were there?—A. I am absolutely certain that he did not; he sent out and informed us that it had not come; otherwise I should not have said to him, "I will call to-morrow or next day," to ascertain whether it had come.

Q. Did not Mr. Goode say to you that he would look it up and let you know the next day?—A. He did not, because the application had not come.

Q. You did not hear Mr. Young's testimony on that subject?—A. I did not.

Q. What was there that indicated that he knew nothing of it?—A. He simply

Q. I put the question not doubting your statement, but there is a little conflict between your statement and that of Mr. Young in regard to it, and therefore I wanted to be certain.—A. Mr. Goode stated distinctly upon the first inquiry that he had seen no such application; he rang for a clerk; the clerk reported in a very few minutes or seconds. I supposed he was the clerk that handled the mails.

Q. Did Mr. Goode inquire what application it was?—A. I read the paper that I held in my hand, which informed me that an application to the Department of Justice to bring a suit in the name of the Government to test the validity of the Bell patents had been forwarded by mail, and I was requested to ascertain if it had been received, and what action had been taken upon it, if any.

Q. And that was all that was said on that subject?—A. I read from the paper the inquiry and asked Mr. Goode "Has any such application reached you?"

Q. Did Mr. Goode make any further inquiry about it?—A. Not of me, that I remember.

Q. Was it a matter that he seemed to know about already, or did he say anything to indicate that he did not?—A. I was impressed by his manner and by what he said that he knew nothing of it.

Q. What was there that indicated that he knew nothing of it?—A. He simply said that no such application had reached him.

Q. In this call on the second day did he make any inquiry other than what you have stated?—A. Not a word that I recall. The interview of the second day did not last, I should think, a minute.

Q. Can you remember how early in the day your first call was made?—A. I should think it was somewhere about 11 o'clock in the day, possibly 12; that would be my best impression.

Q. So that, according to Mr. Goode's statement, he got the paper in the afternoon of that same day; do you remember what part of the day it was the next day when you called to make the inquiry?—A. I am inclined to think it was about the same hour; I base that statement chiefly upon the fact that I do not get down town ordinarily before 10 or 11 o'clock; it is generally nearer 11 than 10; I have been living for the last two years on the hill; but as to any distinct memory as to the hour of the day, I have it not except so far as I base my statement upon that general habit.

Q. How long had you been acquainted with Mr. Goode, the Solicitor-General?—A. I have known Mr. Goode as I know a great many others of the House of Representatives; I do not know how many years, certainly six or eight.

Q. And have been on friendly terms with him, of course?—A. Never unfriendly; but never to any extent intimate. My relations with him have been just exactly the relations that I have with perhaps forty or fifty members of the House of Representatives, whom I know as gentlemen of character and standing; but I have never had any intercourse with him outside, only that sort of intercourse that members of the two Houses have with each other when they chance to know each other.

Q. Do you know whether he was aware of your interest in or connection with, in any way, the Pan-Electric Telephone Company, or any of the subordinate companies?—A. I don't know whether he was aware of it or not.

Q. Mr. Goode made no inquiry as to whether you were at all interested in this application?—A. He did not.

Q. In either of these interviews did he make any reference to Mr. Garland?—A. None whatever.

Q. And you made no reference to him?—A. I did not.

Q. Nor Mr. Young?—A. None that I recollect, and I don't think he did.

Q. Were you aware that Mr. Young and Mr. Goode were intimate friends?—A. I was aware of the fact that Goode had been a member of the House of Representatives for a good while, and that Young had also been a member of Congress for a considerable time; beyond that I do not think I knew anything of their relations.

Q. Before you went to the Department, or when you had an interview with Casey

Young, did he make any allusion to Mr. Garland being absent or being present?—A. I do not remember that he did.

Q. Are you confident in your recollection so that you can state whether he did or not? You may not remember all of it.—A. No; I should not say with absolute certainty.

Q. Was any allusion made by Mr. Young to you about prior interviews with Attorney-General Garland?—A. None whatever.

Q. Had Mr. Young ever communicated to you any interview he had had with Mr. Garland on the subject of bringing a Government suit?—A. Mr. Young has never communicated to me that he had had an interview with Mr. Garland upon the subject. The first time, I think, that I knew of that was soon after the correspondence was published between Mr. Garland and the President and Mr. Goode—

Mr. RANNEY. I do not care for that; that is subsequent to the fact.

The WITNESS. The first time that Mr. Young communicated to me that he thought Mr. Garland had fallen into an error—

Mr. RANNEY. I do not ask you what that conversation was, because it is subsequent to the fact involved.

The WITNESS. Mr. Young has never communicated to me that he had any other interview with Mr. Garland that was connected directly or remotely with the suit.

Q. I understand your answer. Were you here in Washington between the 31st of July and the 7th of August, 1885?—A. That I could not answer without getting the data from the records of the committee to which I referred yesterday. Since this question was propounded and answered I have procured a statement from the Sergeant-at-Arms of the Senate, showing that he telegraphed me on the 24th July, 1885, that I had been appointed by the Vice-President as a member of a Senate committee to attend the funeral of General Grant. That telegram was sent to Memphis, but as I was on the ranch in Texas at the time, the telegram was repeated to Baird, Texas, the nearest telegraph office to, and about fifteen miles from the ranch. Either that or the next day the telegram was sent out to me, and I took the train to come east the night after the second day after receiving the telegram. I stopped at Memphis a day or two, I think two days, *en route*. It takes about four days to reach Washington from the ranch by that route. I have no means other than this of fixing the time of my arrival in Washington. From Washington, with other members of the committee, and in charge of the Sergeant-at-Arms of the Senate, I proceeded to New York. The memoranda of the Sergeant-at-Arms shows on the morning of the 6th of August.

Q. Do you remember that you directed Mr. Young to go to Pittsburgh in relation to the suit?—A. I remember what occurred in that respect. I don't remember the time; but Colonel Young called my attention, I think, to some newspaper statement in respect of very extensive telephonic preparations for a hearing of an application for an injunction then pending at Pittsburgh, an injunction sought by the Bell Telephone Company against the National Improved Telephone Company, and I think he suggested that it might be well for him to witness the proceedings there and see what those various models and telephonic instruments were that were put up to operate there upon that hearing, and to hear the case argued. I said to Mr. Young that I thought it would be a very good thing for him to go, and I very much preferred that he should witness the proceedings there. I understood from Mr. Young that he was going, and subsequently I think I telegraphed Colonel Young that I would pass through Pittsburgh on a named day, and Colonel Young joined me at Pittsburgh, and he and I went south together. You will be able to fix the date.

Q. Do you remember about the time when he went to Pittsburgh, as you understood, of meeting him in Washington on his return from Pittsburgh?—A. Yes; I remember to have met Colonel Young in Washington subsequent to that time. My recollection is that Colonel Young and I went south together from Pittsburgh.

Q. You spent some days here before you went, did you not?

The WITNESS. Here?

Mr. RANNEY. Yes.

A. We did not return here. I was leaving here on my way south while Colonel Young was at Pittsburgh.

Q. Perhaps you were here together subsequently?—A. We were here subsequently.

Q. Perhaps you went to Pittsburgh and returned?—A. We were here subsequently. As I stated on yesterday, this conference that occurred between Colonel Gantt, Colonel Young, Mr. Van Benthuyzen, and the attorneys of the National Improved Telephone Company was subsequent to that time, and I was here a day or two while those gentlemen were at the Ebbitt House conferring. That was subsequent, but how long subsequent I could not say.

Q. Had you known Mr. Van Benthuyzen before that time?—A. Never; I had some—I was going to say some correspondence with him; perhaps I may say so. Some year or more prior to that time Mr. Van Benthuyzen had published, I think, an open letter addressed to the Pan-Electric Telephone Company or to General Johnston, president of the Pan-Electric Telephone Company, the first I saw of which, however, was the letter published in a newspaper. My recollection is that that letter claimed that

our instrument, our transmitter, was an infringement upon their transmitter, and threatened to sue everybody that invested in a Pan-Electric telephone. I published an open letter addressed to him, and suggesting to him that newspaper threats and street-corner threats settled nothing; that if our instruments were infringements upon his, the courts were open to him and possessed abundant power to remedy the wrong, if there was a wrong. But I had never met Mr. Van Benthuyzen—

Mr. RANNEY. Without going into the details of the letters, I show you a copy of the New Orleans Picayune, in which is published a series of letters, the last of which purports to be yours. See if you recognize it.

The WITNESS (after examining the letters). The letter purporting to be written by myself I have no doubt is genuine in every statement.

Mr. RANNEY. This correspondence seems to have been furnished the paper all together.

The WITNESS. That I do not know; I do not know how they happened to be furnished to the paper all together or at all.

Mr. RANNEY. There is the letter, first, of George D. Johnston; then the letter of J. Harris Rogers to him; then J. E. Johnston's letter to H. Gardes' letter; then A. H. Garland's to H. Gardes, and then your letter.

The WITNESS. The letter that is printed there purporting to be from me is in accordance with my recollection.

Mr. RANNEY. There seems to have been a series of letters written to meet that controversy down there.

The WITNESS. Yes; I do not remember anything about other parties writing; I remember very distinctly to have written myself. It is very probable that I suggested to Harry Rogers, the electrician, that he make a statement about it, but I have no positive recollection even of that. It would have been very natural for me to do that, and in all human probability I did.

Mr. RANNEY. I will put in those letters; they seem to be all connected.

Mr. EDEN. Before you proceed, Judge Ranney, what letters are they?

Mr. RANNEY. Get them and look at them, if you please.

Mr. EDEN. The Senator only spoke of one having been written by himself.

Mr. RANNEY. They are of no consequence except to show the nature of the controversy.

Mr. EDEN. He said he knew nothing about the others.

Mr. OATES. Let us look at the letters to see whether there is any objection to them.

The following are the letters referred to:

To the Public:

Certain persons, denominating themselves "The National Improved Telephone Company," having seen fit, by their officials, to *publicly* charge, through the press of this city, that the Pan-Electric Telephone Company are using instruments which infringe patents owned by them; also, by the same methods, warning the public against the use of said instruments, and threatening all who use them with legal prosecution; and having further published that the said National Improved Telephone Company "claims to own the *exclusive right* to make, use, and sell *the improvements in telephones*, invented by Prof. J. Harris Rogers," thereby implying that the said National Company claims to own the exclusive right to make, use, and sell *all* "the improvements in telephones," invented by the said Prof. J. Harris Rogers, greatly to the detriment of the said Pan-Electric Telephone Company. Now, reserving against each and all of the said persons denominating themselves "The National Improved Telephone Company" such legal redress as the courts of the country will furnish, the public is referred, *for the facts*, to the subjoined correspondence.

Respectfully,

GEO. D. JOHNSTON.

NEW ORLEANS, September 27, 1884.

Letter from Prof. J. Harris Rogers, the inventor of the patents in dispute, and electrician of the Pan-Electric Telephone Company.

WASHINGTON, D. C., September 20, 1884.

General GEORGE G. JOHNSTON:

DEAR SIR: General Joseph E. Johnston and Senator Isham G. Harris this morning informed me that a claim had been set up to the Pan-Electric Company's devices by the National Telephone Company, on the ground that my patents assigned to the National Secret Telephone Company, Nos. 251,292, 252,521, 252,250, 252,256, 252,257, 257,075, and 269,884, had been infringed by the Pan-Electric Company.

There is no justice or reason in such a claim. It is impertinently foolish. Several of my aforesaid patents refer simply and solely to my methods of producing a *secret* telephone, and the Pan-Electric Company has no *secret* telephone, but only a secret

exchange system which controls the National Telephone patents 251,292 and 252,257. The Pan-Electric Company also owns a patent which controls the National Telephone patent No. 257,075, but while owning these controlling patents, never uses them, for such is the wealth of the Pan Electric Company, in her general system, that she has no occasion to use these controlling patents, and only holds them to restrain rival companies. Excepting these patents, all the devices assigned to the National Telephone Company are thoroughly, radically, and absolutely different from those employed by the Pan Electric Company, which do not infringe in any respect the aforesaid patents, nor are they subject to them in any sense whatever. Even the patents excepted above were bought by the Pan-Electric Company, not for use, but simply for their great value to the National Secret Telephone Company, which without these patents could neither wind their peculiar helix on a large scale, nor operate their secret telephone, except on *private lines*, and for these very reasons have been stock-jobbing for three years without establishing a single exchange, while the Pan-Electric Company, in her wealth of patents, has a perfect system (without using half what she owns) and exchanges in full operation.

The National Telephone Company should make terms with the Pan-Electric Company by a legitimate purchase of patents, not used by the latter, to complete her system; and either enjoin you at once or stop discrediting you with the ignorant by newspaper attacks, for their electricians and attorneys are either ignorant or they have trumped up this pretext of infringement to embarrass your movements in New Orleans, or to make capital with the vulgar to sell stock.

Respectfully,

J. HARRIS ROGERS.

Letter from General Joseph E. Johnston, president of the Pan-Electric Telephone Company.

WASHINGTON, D. C., September 22, 1884.

H. GARDES, Esq.:

DEAR SIR: My absence prevented early acknowledgment of your favor of the 12th instant.

As to the legal status, superiority, &c., of our telephone, it was patented by the inventor, J. Harris Rogers, and transferred to our company, of which he is a member. We employed an eminent patent lawyer, who was formerly Commissioner of Patents, to compare our patent with all other similar ones to ascertain if it infringes any. He made the investigations, and gave a favorable and positive report.

As to "superiority," the Pan-Electric Telephone has been tried in New York, Philadelphia, Baltimore, Washington, Saint Louis, Memphis (besides New Orleans), with the most satisfactory results. Indeed, I have seen or heard of no one who has witnessed such trials who has not pronounced our telephone superior to any other that has been exhibited. As to that, however, witnessing the use of General Johnston's instrument would be more satisfactory than anything I can write.

Most respectfully, yours, truly,

J. E. JOHNSTON.

Letter from Senator Garland, of Arkansas.

LITTLE ROCK, September 21, 1884.

H. GARDES, Esq.:

DEAR SIR: Yours of 12th was delayed in getting to me, as I am out in the country.

I am one of the *Pan-Electric* Company, and attorney for it also. I have given much time and attention to it, and my deliberate opinion is it is one of the best inventions of the day, a decided improvement on everything else in this line, and will stand scrutiny in every respect, and the most severe judicial tests as well.

Very truly, yours,

A. H. GARLAND.

Letter from Senator Harris, of Tennessee.

WASHINGTON, D. C., September 20, 1884.

W. VAN BENTHUYSEN, Esq.,

President National Improved Telephone Company:

SIR: I have the honor to acknowledge the receipt of your note dated 10th instant, but which came to hand only two days since, and on the same day I received a letter from General George D. Johnston, the agent of the Pan-Electric Telephone Company at New Orleans, inclosing a slip from a New Orleans paper, in which your letter to this company, and one of a similar character addressed to him, were copied.

In your letter to this company, amongst other things, you say: "Having been ad-

vised by the electrician and attorneys of this company (the National Improved) that certain instruments used by your company are infringements of patents owned by this company, notice is hereby respectfully given that any one using *said instruments* will be prosecuted for infringement."

In answer to which, I have to say that I am advised by the electrician of the Pan-Electric Telephone Company, and by its attorneys, that the instruments used by it infringe no patent owned by your company, or by any other telephone company in existence.

I am also advised by Hon. E. M. Marble, who was for a number of years Commissioner of Patents (the head of the Patent Office), and now a prominent patent attorney of this city, and who was some months since employed by this company for the express purpose of examining and reporting upon the question of infringement, and who did report, after weeks of patient and careful examination, that the instruments used by this company do not infringe any older telephonic patent. From what I see in the New Orleans papers, and learn through other channels, I am authorized to infer that, being unable to compete with the Pan-Electric telephone instruments in the elements of merit and efficiency, the agents of your company in New Orleans raised this question of infringement, and indulged freely in the language of threat, with the hope of intimidating people not well informed upon such questions, and in that way preventing the Pan-Electric Company organizing a corporation there.

Allow me to respectfully suggest that the threats of your company through the newspapers, or of its agents on the streets of New Orleans, are not the most certain or satisfactory method of settling legal rights.

I respectfully inform you that the Pan-Electric Telephone Company is now using, and will continue to use, instruments in all respects similar to those exhibited by General George D. Johnston, in New Orleans, in the city of Washington, D. C., and in the States of New York, Pennsylvania, Maryland, Missouri, Texas, Tennessee, and Alabama, and intends very soon to use them in many other States and in the Territories.

The headquarters of the Pan-Electric Telephone Company are in the city of Washington, D. C., where process can be served upon the company at any time. If it has infringed any patent owned by your company, the judicial tribunals are open to you; the courts can, while newspaper threats cannot, furnish you a remedy.

Respectfully,

ISHAM G. HARRIS,
Vice-President, Pan-Electric Telephone Company.

Q. You had a controversy with Mr. Van Benthuyzen. Your meeting here at the Ebbitt House, to which you have alluded, seems to have been, according to the testimony of other witnesses, about the 1st of August, 1885. Was that meeting of you gentlemen accidental or by appointment?—A. So far as I was concerned it was purely accidental; I knew nothing of any such intended meeting.

Q. Do you know how you happened to be present?—A. I think I was on my way East to meet the Interstate Commerce Committee, and stopped here for a day or two; that is my recollection of the matter; but learning that Colonel Gantt and Colonel Young were at the Ebbitt House, which I think I learned from Colonel Young, he having called at my rooms, or I having met him on the street, I called by there to see Colonel Gantt, and remained twenty or possibly thirty minutes; I have no idea that I remained longer than thirty minutes. After answering this question, I have referred to the records of the Interstate Commerce Committee and the record of the Senate Sergeant-at-Arms; from the latter I see that I stopped here on my way to the funeral of General Grant.

Q. I see by a letter from R. F. Looney, dated at Memphis, August 3, 1885, numbered 251, and printed on page 18 of the appendix, that—

"Harris, Young, and Gantt are at Washington, I suppose on telephone matters. I do not know exactly what they are driving at. I could make plenty of money out of the telephone if I had the chance, but I really have no answer to my proposition made to the company."

Q. It seems that Colonel Looney was aware of you gentlemen being at Washington, as he supposed, on telephone matters.—A. The probabilities are that I had just left Memphis, though I do not really remember where I came from.

Mr. HALL. That letter also alludes to the fact that Mr. Harris would make another effort to sell to the Bell Company.

Mr. RANNEY. That is immaterial in this connection.

Mr. HALL. I think it is well enough for him to understand the whole connection.

The WITNESS. Certainly, I have made no such effort.

Q. Not to divert you, I have already asked you about that and read it to you, and you have answered; I shall not repeat it unless you desire. But I am now coming to this interview. Do you remember whether any one requested you to be present?—

A. I do not remember any such request coming from any source.

Q. Did you meet there in the day-time or evening?—A. It was in the day-time that I called there.

Q. Have you any means of fixing the date?—A. None except that it was while they were in conference there.

Q. They were in conference while you were in?—A. They were not in conference when I went in; at least I met Colonel Gantt in his own room; but while there some one of the other gentlemen came in—I think it was Van Benthuyzen—to whom I was introduced. I knew from Colonel Young, however, prior to that time that they were there considering and investigating the question as to the power of the Government to bring such suit and as to the method by which it could be brought.

Q. From whom have you learned that?—A. From Colonel Young.

Q. How long before?—A. I think, perhaps, one day before, or on the very day I refer to.

Q. How long did you remain there at that interview?—A. I should say that I remained in Colonel Gantt's room twenty, possibly thirty minutes. While in Colonel Gantt's room the matter of bringing suit was not discussed. My call upon Colonel Gantt was purely social.

Q. Was any matter of business discussed?—A. No matter of business whatever was discussed while I was there.

Q. So you did not attend any meeting of those gentlemen while they were here, in which that matter was discussed?—A. I did not. I did not meet the gentlemen except upon the occasion I have stated.

Q. At that particular time, it appears in other evidence—and therefore I assume it—Colonel Young arrived here about the 30th or 31st of July, and remained here until about the 7th of August; these other gentlemen were here at the same time, and they had conferences and interviews on several occasions. What they did or what they agreed upon there about the Government suit or anything else you had no participation in?—A. I had none, and I do not remember at what time I learned what they did, but I did learn at no very remote day from that time—at some time subsequent—that it was decided that the suit could be brought.

Q. Do you know how long subsequently?—A. No, I do not.

Q. You learned that it was decided at that time that suit could be brought?—A. That they had arrived at the conclusion, upon investigation, that the suit could be brought; that is, that the law authorized the bringing of such suits.

Q. Did you know of a written contract drawn between the National Improved Company, or Van Benthuyzen, and the Pan-Electric Telephone Company at that time?

The WITNESS. At that time?

Mr. RANNEY. Yes, or about that time?

A. The most difficult of all things for me to answer definitely about is as to dates.

Q. I will take the fact.—A. The fact in respect to the matter about which you inquire is this: I have already stated that Colonel Young went to Pittsburgh. As he and I were leaving Pittsburgh, I mean en route south, he explained to me that he and Van Benthuyzen had agreed—

Mr. RANNEY. I do not care to put in what he said they had agreed. I am now speaking of the written contract.

The WITNESS. Very well. At some time subsequent to that, Colonel Young informed me that an agreement had been reached between him and Van Benthuyzen; whether he said it was a written contract or not, I do not know; but at a later date, and exactly when I cannot say, I think Colonel Young exhibited to me a contract between Van Benthuyzen or the National Improved Company and the Pan-Electric Telephone Company, and I would not be able to state positively until I see the paper whether it was signed by Colonel Young for the Pan-Electric Telephone Company, or whether he asked me to sign it for the Pan-Electric Telephone Company; the contract, when it is produced, will speak for itself; but my understanding of it was that it was an agreement between the two companies—I speak now of the written contract that I saw subsequent to this Pittsburgh agreement, that the National Improved Telephone Company—

Mr. RANNEY. You need not tell your understanding of the contents of it; we have not been able to find that paper yet.

The WITNESS. I hope you may be, and have no doubt you will.

Q. With reference to the point whether you signed it in behalf of the company, perhaps you will allow me to call your attention to this fact, or to ask you whether it is not a fact, that you had a talk with young Mr. Rogers about it afterwards, and told him you had taken the responsibility to sign that in behalf of the company?—A. Oh, I stated in the presence of young Mr. Rogers, old Mr. Rogers, Colonel Young, General Johnston, and Colonel Looney, that my recollection was that I had signed that agreement for the Pan-Electric Company, and such is the impression upon my mind now. But I understand, from conversation with Colonel Young, that he thinks he signed it and that I did not. My impression is that I signed it.

Q. You did not hear his last testimony, did you?—A. No, I did not.

Q. In that he stated that he had seen you and you said you had signed it.—A. I

told him my impression was that I had signed it instead of himself when he presented it.

Q. When was it you told young Mr. Rogers that you had signed it?—A. It was at the meeting; at least, the conversation I refer to was at a meeting, and I do not remember that I have ever said a word about it to Mr. Rogers, except upon that occasion; that was a meeting of the directors that occurred at my room, and the last meeting we ever had.

Q. That was the time you told him?—A. Yes.

Q. Was this matter of that contract the subject of conversation then?—A. I suggested to the company that I had signed a contract, agreeing that each of the two companies should contribute whatever of models, whatever of testimony, whatever of expense that might be incurred in the prosecution of the Memphis suit and in the defense of the New Orleans suit (I believe it was), and my impressions then were, or up to, I think, about that time, perhaps that very night, that it included also whatever expense these companies would be subjected to in prosecuting the Government suit; and I stated to the directors that I mentioned the subject because the paper was signed without the authority of the company, and I wanted their approval.

Q. When was that meeting, Senator?—A. I cannot fix that date.

Q. As nearly as you can.—A. Oh, it was the meeting referred to by the two Rogerses, and I suppose by Colonel Young also; it was the time of that difficulty between Colonel Young and Harry Rogers.

Q. Who was present?—A. General Johnston, Col. Robert F. Looney, J. D. C. Atkins, J. Harris Rogers, J. W. Rogers, Colonel Young, and myself.

Q. What other business did you transact at that time?—A. There were two matters that I remember. There had been some discussion, or perhaps I may say negotiation, between Colonel Young and Van Benthuyzen upon the subject of a consolidation with the National Improved Telephone Company, which I understand to be based upon some patents of J. Harris Rogers earlier than those that we claim, we owning the balance of his telephonic patents, and Colonel Young desired to have the views of the board. Colonel Young had talked to me about the negotiations, and also Colonel Looney, looking to a consolidation; and those negotiations, in one form and another, I think, had been continued up to that time by correspondence or otherwise, but our board had taken no action. I had suggested, when I had been talked to about it at all, that I did not think the board of directors would have any power to make an agreement to consolidate; that we would have to have a stockholders' meeting, as it seemed to me, though that was an opinion expressed to them without an investigation of the question. We wanted the advice of the board or the views of the board as to the matter of consolidation. A committee was appointed to confer with the National Improved Telephone Company and ascertain the exact terms upon which a consolidation could be effected. That being done, the only other thing in the shape of business that I remember was a resolution drafted by Dr. Rogers, this meeting having occurred, I think, on the very day that the first World article attacking the Pan-Electric Telephone Company was published.

Mr. RANNEY. That will fix the date.

The WITNESS. Yes; I think it was on that very day. There was a paragraph in that two or two-and-a-half column article (speaking from memory) that amounted to an insinuation or an intimation—

Mr. RANNEY. I do not care to go into the details.

The WITNESS. I am obliged to go into the details if I tell the other business that was transacted.

Mr. RANNEY. I leave it to your judgment.

The WITNESS. The paragraph contained an intimation—I do not think it amounted to a charge—that J. Harris Rogers had sold to the Pan-Electric Telephone people patents that he had previously sold to the National Improved people or of which they were the owners. Dr. Rogers drafted a resolution referring to that particular paragraph in that two or more column article. His object was, as he stated, to vindicate the honor of his son from that charge. I said to Dr. Rogers, "Here is a two or two-and-a-half column article, with an admixture of more or less truth and more or less misrepresentation and falsehood; for us to notice a single paragraph in that two-and-a-half column article, and not notice the whole, would be taken by the whole world as a tacit admission of the correctness of all the other statements, and I assure you that I will never consent to notice that paragraph without noticing the entire article and dealing with the whole of it." The balance of the board seemed to entertain the same opinion that I had expressed, and no action was taken upon the resolution. That is all the business that I remember.

Q. After you communicated the fact or spoke of the fact to those gentlemen present of having signed that contract with Van Benthuyzen for the reason you have stated, did they take a vote on that?—A. There was a general expression of views; there was no formal resolution of the board, but there was a general expression from every one present that they approved of what I had done. I had no copy of the con-

tract that I supposed myself to have signed. I stated verbally my recollection of its object and purpose, which was that Young and Van Benthuyzen had agreed that the Pan-Electric and the National Improved companies should each contribute what it had of scientific information, expert testimony, models, services of attorneys, and expenses equally in the prosecution and defense of the suits pending at the time of the contract. The cases of the Pan-Electric *vs.* the Bell Company was then pending at Memphis, and the Bell Company *vs.* National Improved at New Orleans. I don't remember whether the Government suit was or was not pending at the time I signed the contract, and do not think I referred to it in what I said to the directors, but I understood them as acquiescing in what I had done.

Q. Were you here when this supplemental agreement was put in?—A. I think not.

Q. Have you ever seen that original agreement since you signed it?—A. I have not. Colonel Young and I differ in our recollection about the place where it was signed; my impression is that it was done at my own office in the city of Memphis.

Q. That you signed it in Memphis?—A. That is my impression; but Colonel Young thinks it was signed here in this city; it is a mere difference of memory.

Q. You do not differ about the fact, then, that you signed it?—A. Well, I am not sure that we do or do not. Colonel Young expressed himself to me at a very late date that he thought he signed it, but I told him all the time that I was pretty confident that I did. I am not sure that Colonel Young has yet come to my conclusion about it. But the paper itself will decide the question between Colonel Young and myself when it comes to light.

Mr. RANNEY. We have had to waste a good deal of time without getting it.

Mr. HALL. Has this committee ever issued any subpoenas?

The WITNESS. I do not think, Mr. Chairman, that I have ever seen this paper (referring to the supplemental agreement). My impression is that the paper I signed, if I did sign it, as I think I did, was drawn by Colonel Young.

Mr. OATES. You notice that that does not purport to be the original agreement, but a supplemental agreement.

Mr. RANNEY. You will notice that that is an original supplemental agreement, which was drawn at Memphis.

The WITNESS. I do not see anything that indicates—

Mr. HALL. You will notice that there are blanks that have never been filled, and that it is signed by only one of the parties to it.

The WITNESS. The signature seems to be "The National Improved Tele. Co., by W. Van Benthuyzen, president."

Q. Did you not sign a duplicate on the part of the Pan-Electric and deliver that?—

A. I could not state whether there is a duplicate of this or not.

Q. I mean in the nature of an indenture in two parts?—A. I am not prepared to say whether it is the same paper or not.

Q. You see it is dated the 27th of August, 1885. Were you at Memphis on the 27th of August, 1885, or about that time?—A. Let me see. This paper is "in addition to the agreement and entered into between the above-mentioned companies, at the city of Washington, D. C., on the 4th day of August, 1885. It is hereby further stipulated and agreed by and between the same, as follows, namely: that the officers and agents of said two companies shall co-operate in the use of all lawful means to secure the cancellation, recall, or modification of the letters patent granted to Alexander Graham Bell on the 7th day of March, 1876, and on the 30th day of January, 1877, and numbered respectively," &c.

Q. You will notice that some individual was to be agreed upon whose name is left blank?—A. I cannot say as to whether the paper I signed, if I did sign, was a duplicate of that or not, but I understood the paper to be an agreement that we should make common cause in the matter of furnishing whatever of scientific testimony and of models and instruments, and our attorneys were to act jointly.

Mr. RANNEY. You need not go over the details of this; I only wanted it identified.

Mr. HALL. Did you read this clear through?

The WITNESS. No; I did not.

Q. Did Van Benthuyzen sign the paper you signed, or who did?—A. I am inclined to think it was already signed by Van Benthuyzen when I signed it.

Q. Do you remember whether at this interview you have spoken of where this affair occurred this supplemental paper was spoken of?—A. I do not remember that any paper was spoken of at the time I signed the paper that I did sign. I had known, as I stated before, that Colonel Young and Mr. Van Benthuyzen had agreed—whether in writing or verbally I do not know—that these models and instruments and our attorneys should make common cause in prosecuting the suit that the Pan-Electric Telephone Company had brought against the Bell Company and defending the suit that the Bell Company had brought against the National Improved Company.

Q. I do not make my question clear. I did not understand myself, or else you did not understand me. What I wanted to know was whether at this meeting we are talking of this supplemental paper was alluded to; I mean the meeting where you got the sanction of the rest of the directors for your action?—A. It was not, for I

have no recollection that there was any supplemental paper. My recollection is that there was a contract signed by Van Benthuyzen and myself for the purposes that I have already indicated and of the character indicated.

Q. You say there was no formal vote at that meeting?—A. There was no resolution written, and no vote. I simply reported the facts, as I remember now.

Q. I understand that at the same time the matter of the consolidation of the two companies was a subject of discussion, and that committee was appointed to confer on the subject.—A. A committee was appointed to confer on the subject.

Q. Do you know how it happens that no record of that meeting was ever made?—A. I do not, except as has already been disclosed, a personal misunderstanding, a personal difficulty, occurred.

Q. That would be no reason why the business you transacted should not be recorded, would it?—A. I state the fact, and you may judge as to the reason. It is not any part of my business to keep the record.

Q. That is fair, perhaps. Was anything said at that meeting about Mr. Garland? I understand you to say he was not present.—A. He was not present, and indeed I may say he has been present at very few of the meetings of the board, but he has been a director all the time.

Q. An attorney, too, I see. You recollect he was not present at that meeting. Was that meeting at your Judiciary Committee rooms?—A. Oh, no; it was at my private room, at my house.

Q. Was any suggestion made there as to procuring Mr. Garland's sanction to the agreement?—A. None whatever; and if Mr. Garland's name was mentioned at all, it was in respect to the newspaper attack that we supposed pointed directly at him. I do not remember to what extent, if at all, that was mentioned.

Q. Going back to that interview, somewhere between the 31st of July and 7th of August, had you any knowledge at that time that Van Benthuyzen, after his interview with Casey Young at Pittsburgh, had made an application to the Attorney-General to have a suit brought in the name of the Government for the purpose of vacating the Bell telephone patents?

The WITNESS. That he had made an application?

Mr. RANNEY. Yes.

A. I answered you yesterday that he had not.

Mr. RANNEY. Not me; I did not ask you.

The WITNESS. I answered, perhaps, the chairman of the committee, but I answered the question yesterday.

Q. That being so, you are clear, are you, that neither Van Benthuyzen nor Mr. Casey Young ever mentioned it to you?—A. I stated yesterday that the application that Van Benthuyzen had made which, as I understood from Colonel Young's testimony here that I chanced to hear a day or two ago, had been made, had been referred and had been withdrawn. I answered yesterday that I had no knowledge of either fact until I heard it stated on the witness stand here.

Q. Then, in the interviews you had at the time which I have named (to wit, the period between the 30th of July and the 7th of August, 1885) you at that time did know that Dr. Rogers had made an application to the Attorney-General to have suit instituted in the name of the Government, but you did not know that Van Benthuyzen had done it as the result of the interview between Young and himself at Pittsburgh?—A. I did know that Dr. Rogers had written a letter on the subject; whether that letter stated that he had made a formal application I could not say.

Q. It seems, then, that in the interview you had with Van Benthuyzen and with Young they made no mention whatever of that subject to you or to any one else in your presence?—A. Van Benthuyzen's interview with me can hardly be called an interview. He happened to come into the room, and I was introduced to him. I do not think we remained together in the room three minutes, perhaps not one, for I think he simply called in the room to get a paper, and entering the room he was introduced to me by Colonel Gantt.

Q. You met Colonel Young often, I take it?—A. I suppose I did. Mr. Young and I met very often when we were in the city. I have already stated that I had learned from Mr. Young that Mr. Van Benthuyzen, the attorneys of the National Improved Telephone Company, Colonel Gantt, and he were at the Ebbitt House, conferring and examining the question as to the power of the Government to bring suit.

Q. I remember what you said on that point; I only wanted—not to imply in any way any doubt of your statement, Senator—to be certain on the point whether, in any of those interviews when you learned those facts from Colonel Young, whatever he told you in the course of those interviews, he said anything about the Van Benthuyzen application or his withdrawal of it?—A. I may say in a word, if it is competent to so do, that from the beginning, from the moment that Dr. Rogers made the suggestion through his letter to me, without having examined the question at all as to the practice of the Government in such matters, however clear the question might be as a legal proposition, I did not believe, with Mr. Garland at the head of that

Department, that he would ever take any action in the matter; I did not believe that he ought to take any action in the matter. I know I would not if I were in his place, and I had the same opinion of him that I had of myself in respect to the matter, and I had no sympathy with any idea of presenting such a question to him, and I had no conference with those gentlemen upon the subject. But, in order that I may not be misunderstood, I will say that the fact of Garland's interest in a telephone company was the only reason why I did not favor bringing the Government suit. I did not know, nor had the idea occurred to me at that time, that in case of the incompetency of the Attorney-General some other disinterested and competent officer of the Department could act, as in the case of an incompetent judge. If the Attorney-General had been a disinterested party I should have favored bringing the suit.

Q. There is no objection to your stating, although it is not directly in answer to my question, simply whether Mr. Young said anything to you about Mr. Garland's action.—A. Never a word in respect to Mr. Garland's action or his having had anything to say to Mr. Garland about it, or Garland to him about it.

Q. You were on intimate terms, I suppose, with Attorney-General Garland?—A. Very. I have been on very intimate terms with him for eight or nine years.

Q. Of course, if you did not know there was any such application, you did not know any reason why he should withdraw it or consent to its being withdrawn from the Interior Department?—A. I knew nothing, as I said a little while ago, until I heard it stated here.

Q. Do you know any reason why Mr. Young should have withheld from you—not to use offensive terms—or omitted to state to you the interviews he had had with the Attorney-General on the subject?—A. I have never suspected Colonel Young of having any disposition to conceal anything from me. He may have deemed it wholly unnecessary to communicate a great many things to me, but I have never suspected him of a disposition to conceal or withhold any fact that he deemed at all material for me to know.

Mr. EDEN. I would suggest that Colonel Young did not state that he had an interview with Mr. Garland on the subject at all, and therefore your question is based upon wrong premises.

Q. Do you know any reason why he should not have communicated it to you?—A. I do not.

Q. You have known Dr. Rogers a great many years, I understand you to say?—A. I have known Dr. Rogers I should think I might say for thirty years; though, knowing him for thirty years, up to the winter of 1882-'83 he and I met very rarely and have had very little intercourse, but we have known each other for quite that length of time.

Q. A paper has been put in here, in which you and many others recommended him for a subordinate position under the new administration, as Assistant Attorney-General or for some attorney's place, and your name is first on the list. Did you start the paper yourself, or did some one else?—A. The paper was brought to me, and I was requested by Dr. Rogers to sign it, as a great many other such papers have been brought to me.

Q. I observe that about all the prominent men in your company signed it. Did you have anything to do with getting the signatures other than yours to it?—A. I did not.

Q. Pardon me, Senator, you need not answer unless you care to; I do not care to pry into matters. Were you instrumental in having anything to do with getting Mr. Garland appointed Attorney-General?—A. I wrote a letter to the President, telling him that I regarded Mr. Garland as an eminent and very able lawyer.

Q. With a view to his appointment?—A. It was intended for that express purpose.

Q. I make the same question in regard to Mr. Atkins; you need not answer it unless you desire: Whether you had anything to do with having him appointed clerk.

The WITNESS. Clerk of the House?

Mr. RANNEY. Yes.

A. I was very warmly his friend, and very much desired his election. I have known him since his little boyhood, and I have had no more intimate friend in the world than Mr. Atkins.

Q. Then you may answer it, if you desire, in regard to his present position?—A. I recommended him to his present position, and was very glad to see him appointed.

Q. Do you know of any other members connected with that company who are holding office under the present administration?—A. Yes, sir; I recommended General Joe Johnston for appointment to the position he holds.

Q. Any others?—A. I do not remember any others.

Q. You have spoken about your efforts to prevent issue of stock. I see by the records here (page 26, July 25, 1884) that a good many men had become stockholders. Here is a list of stockholders to whom dividends were paid. I want to run through these names, inasmuch as you have testified in regard to some of them. You have

already testified in regard to General Joseph E. Johnston. Then follow the names of Isham G. Harris, Casey Young, J. D. C. Atkins, A. H. Garland, R. F. Looney, J. H. Rogers, John C. Brown —

A. He is the gentleman who was admitted on the same terms with the balance of us to the extent of \$100,000, and was admitted on my motion.

Q. He is an ex-governor of Tennessee?—A. Yes.

Q. And member of the Democratic National Committee; he is the same man who has been spoken of before?—A. I do not know whether he was a member of the national committee or not; I do not know that he holds any political position.

Mr. RANNEY. I merely allude to that for the purpose of identifying the man.

The WITNESS. He is not a member; and I take it for granted has not been a member at all. He claims Tennessee as his home, although his business has been in Saint Louis for a number of years. Col. Robert F. Looney, according to my recollection, is the Tennessee member of the National Executive Committee. I do not think Governor Brown holds any political position.

Mr. RANNEY. I suppose Colonel Looney is the man I had in mind.

The WITNESS. Yes, I suppose he is.

Q. The next man is Philip H. Dwyer; in one of the letters put in here he is alluded to as holding an office under the Government in the Treasury Department, and traveling around a good deal.—A. I know nothing of him; I do not know who he is, what he does, or where he holds forth.

Q. Next is J. C. Neeley?—A. He is a leading wealthy merchant in the city of Memphis.

Q. Holding no office?—A. None that I know of.

Q. Next is Jacob Thompson; was that the former Secretary of the Navy?—A. Many years ago he was Secretary of the Interior.

Q. He lives in Memphis?—A. He did live in Memphis until he died.

Q. Do you know where he got the amount of his stock, \$50,000?—A. I have heard that he got it from Colonel Looney.

Q. The next is George F. Brodt, of Washington, \$40,000. Do you know anything about him?—A. I have heard that he obtained his stock from Dr. Rogers, but I have no idea of the matter. Colonel Young's books and records will show exactly.

Q. I understand. Then there is J. A. Harlan, who has \$30,000; do you know of whom he got his?—A. I do not.

Q. He is simply the man who came to you connected with the telegraph?—A. With the Washington Telephone Company. I do not know from whom he got his stock, but I suppose it came from the Roger's stock.

Q. M. J. Wright, \$19,000?—A. He is one of the gentlemen to whom the Rogerses had promised perhaps an interest of \$10,000 on a capital of \$5,000,000 before our association was formed, and is one of the parties to whom the \$170,000 of that common stock was pledged.

Q. Marcus J. Wright; he holds some position; what is that?—A. I think he is a clerk in the War Records Office.

Mr. EDEN. And has been for a long while.

The WITNESS. Has been for six or seven years, I should say.

Q. The next is R. C. Wintersmith.—A. He is one of the original \$170,000 men.

Q. You have already testified about E. M. Marble.—A. I do not know how he got his; I suppose he got it from the Rogerses.

Q. J. D. Webb?—A. I know nothing of him.

Q. H. R. McNeal?—A. I know nothing of him.

Q. Walter Wilson?—A. I know nothing of him.

Q. F. Palmer?—A. Nor do I know of him.

Q. R. F. Crowell?—A. I know nothing of him either.

Q. Some one said he was connected with the Government?

Mr. MOFFATT. He was one of the Auditors.

Q. One of the Auditors of the Treasury Department? Do you know anything about whether he holds an office in the Treasury Department?—A. I do not know the man at all, and did not know there was such a man who holds stock.

Q. George Howard?—A. George Howard is a Tennessean, and clerk in the Post-Office Department, and has been for I should say about eight years.

Q. John Boyle, Saint Louis; do you know anything about him?—A. I know General Boyle; I think he got his stock from Colonel Looney; I have so understood.

Q. H. S. O'Dowd?—A. I don't know him at all.

Q. C. H. Payne?—A. I don't know anything of him.

Q. W. C. Whitthorne?—A. I understood he got his stock from General Wright, and Wright was one of the original \$170,000 men.

Q. Mr. Whitthorne was formerly a Representative from Tennessee?—A. Yes; he was for ten or twelve years a Representative from his district.

Q. A. B. Brownell, Washington, do you know anything of him?—A. I do not.

Q. You do not know from whom he got his stock?—A. No.

Q. L. P. Cooper, Memphis?—A. He got his stock from Dr. Rogers. I think Dr.

Rogers owed him an old debt. Cooper's office is only a couple of doors from mine, on the same floor. I think Dr. Rogers wrote to me to see if Cooper would take stock in payment of a debt that he (Rogers) had owed Cooper for many years. I handed Rogers' letter to Cooper, and Cooper afterwards reported to me that he would.

Q. Cooper is charged with \$11,600. A. W. Fletcher, Philadelphia?—A. I know nothing about him.

Q. The next is William W. Briggs, Washington, D. C.?—A. I know nothing of him.

Q. It seems from the record here that those men whose names I have mentioned, including three described yesterday, were all recognized as stockholders when this dividend was made. Were you present when the dividend was made?—A. I do not remember that there was any formal action in ordering it, but I have attended meetings very generally. I do not remember to have been present at a meeting, however, when a formal order of that character was adopted.

Q. I see some other names mentioned on the previous page. F. A. Mitchell, \$10,000. Do you know who he is?—A. I do not.

Q. Also George S. Mitchell?—A. I know nothing of him either.

Q. Nathaniel Wilson, do you know anything of him?—A. I do not.

Q. Up to that time had there been any refusal to recognize the sales made by Dr. Rogers?—A. I must refer you to Colonel Young, because he was the party to act upon those orders that Dr. Rogers was making. But from the beginning I understood the board to be unanimously opposed to those stock sales.

Q. I see in the record read you yesterday by our chairman, under the date mentioned, you all passed a vote of 10 per cent. of the stock to be held in the treasury for sale for the purpose of realizing funds for the company. Ten per cent. of \$5,000,000 would be \$500,000?—A. Yes.

Q. So that when you passed that vote you contemplated the sale of stock as a means of raising money for the use of the company?—A. The resolution will speak for itself. My recollection is that it will show that the stock was put into the hands of the board of directors subject to their selling or not selling.

Q. Yes, but you understood by that that there was authority given to sell?—A. There was authority given to sell if the board of directors should decide so to do, if they should decide to exercise that authority.

Q. Of the shares you sold to Senator Vest, 10 per cent. was retained for that purpose?—A. So I understand.

Q. Also of the ladies?—A. Yes; I understand 10 per cent. of all the stock.

Q. So that you were ready at the time that vote was proposed to sell this stock in the market for the purpose of raising money to defray expenses and meet the exigencies of your corporation?—A. I can say that for myself I was not ready. I was one of the board of directors; but as the power was given to the board to sell if the emergency should arise, and it should deem it proper to sell, I had no objection. I was not afraid to trust myself with the power.

Q. Do you remember who the committee were to whom it was left?—A. I do not. It was left to the board of directors, according to my recollection. The resolution will speak for itself. I do not think it was left to any special committee.

Q. You will pardon me, but do you recollect whether you were present at the meeting when that vote was passed?

The WITNESS. At the stockholders' meeting?

Mr. RANNEY. Yes.

A. Yes; I was present.

Q. You have no doubt about the record expressing the truth about that?—A. I suppose it does.

Q. Was there any verbal agreement made about it independently of the vote?—A. I do not remember of any verbal agreement made about it independently of the vote.

Q. Did you know anything about any agreement being made between your company and the Globe Telephone Company, connected with this litigation?—A. I have heard that the Globe Telephone Company agreed to go into the prosecution of this litigation and to defray one-third of any expense that the companies were subjected to.

Q. From whom did you hear that?—A. My impression is that it was from Colonel Young.

Q. Can you tell me when it was?—A. No; I cannot.

Q. Was there any written agreement drawn up in relation to that?—A. I do not know; I have no recollection of having seen any such agreement.

Q. Can you now fix anywhere near the time when Mr. Young told you that?—A. I am not sure it was before—I am inclined to think it was since—the decision of Secretary Lamar in respect to this second application.

Q. Were you aware that the Globe Telephone Company was one of the parties who applied to the Attorney-General and whose application was referred to the Secretary of the Interior?—A. I have been so informed by Mr. Humphries, who represented himself as the attorney for the Globe Company.

Q. That company, as you understood from Mr. Humphries, had entered into the

combination to share the expenses of the fight against the Bell Telephone Company?—
A. I so understood.

Q. Were there any others that you understood entered into it?—A. No others that I have understood entered into any stipulation in respect to expense or anything else in regard to it.

Q. Did you know of any arrangement made with Professor Gray?—A. None whatever.

Q. Did you know that Mr. Young represented him?

The WITNESS. Did I know that he represented Gray?

Mr. RANNEY. Yes.

A. I have had no such knowledge until perhaps within the last two or three days. I understood that he had some professional or other connection with Mr. Gray.

Q. I do not care anything about it unless you knew it at the time?—A. I did not.

Q. Did you have anything to do with procuring the affidavit of Mr. Wilbur?—A. I have never seen Mr. Wilbur in my life that I know of.

Q. Or engaging Wellington Adams?—A. Yes; I was consulted about the propriety of engaging Dr. Wellington Adams; I think that is his name.

Q. As an expert?—A. He was employed by our company as an electrical scientist, to examine the scientific questions in connection with these inventions. That was long before, however, or some time before, I should think, I had heard anything of a Government suit, or any action at least having been taken in respect to a Government suit. We were prosecuting a suit against the Bell Telephone Company at Memphis, and had agreed to help the New Orleans people in defending the suit they had there.

Q. Were you present at the meeting when the vote was passed for his employment?—A. I expect I was; I know I favored his employment.

Q. Did you have anything to do with executing a contract whereby he was to act as electrical expert, his pay to be dependent on the success of the suit?—A. I was one of the parties present, I have no doubt, when we resolved to employ him, and I think the terms were distinctly stated, and whatever those terms are shown to be, I have no doubt I assented to them.

Q. I see his affidavit was obtained as an electrical expert on validity, infringement, and other such questions, and his affidavit was used. I want to know if you had anything to do with executing an agreement with him whereby his pay was to be dependent on the success of the suit?—A. I doubtless understood the exact nature of the contract that was made with him at the time it was made, and I have no doubt I assented to it. I cannot reproduce it from memory, nor can I state with any degree of accuracy from memory what the contract was.

Q. You made a contract with him. Did you understand that he would be a witness in the case, and that the amount of pay he should receive was to depend upon whether the suit was successful or not?—A. My recollection is that he was employed as an electrical expert to hunt up and investigate all electrical questions involved in these litigations. As to employing him as a witness, that idea had not occurred to me until it was suggested by your interrogatory.

Q. Did Mr. Young say anything to you about the propriety of making the pay of a witness dependent on whether his suit was successful?

Mr. HALL. Do you know whether that contract was in writing that Mr. Ranney alludes to?

The WITNESS. I could not have stated, but I suppose it to be so.

Q. Did Mr. Young say anything to you, that you recollect, about the propriety or impropriety of making a witness's pay dependent on the success of the suit in which he was to testify?—A. I do not think Mr. Young ever made any such suggestion to me or anybody else.

Q. Do you know this Mr. Myers to whom Mr. Garland gave the opinion as to this patent right?—A. I have met him upon one single occasion, and was introduced to him at the National Hotel, but that was subsequent to the time at which the contract that had existed between Mr. Myers and our company had been annulled, I think by the mutual consent of the parties.

Q. Do you know the relations of that Mr. Myers to your company, the Pan Electric Company, what his relations really were to the Pan Electric Company or any of the suborninate companies?—A. The only information I have is, I understood at the time that a contract had been made with Mr. Myers and perhaps one or two other parties to the contract (with Mr. Myers or associates of Mr. Myers), to utilize the telephone in the State of Indiana.

Q. Do you know whether he was not really in the employ of your company to sell rights?—A. The only connection that I ever knew of his having with our company was as a purchaser of the right to use the telephone in the State of Indiana.

Q. Then he was a mere contractor?—A. A mere contractor is what I understood him to be; but I never had a word with Mr. Myers before the contract was made. While it existed, I think it was Colonel Looney who informed me upon one occasion

that Mr. Myers was willing to rescind the contract, and I advised Colonel Looney to get it rescinded if he could.

Q. I put the question, Senator, because I noticed in a newspaper this morning a statement that I am trying to find, to the effect that Mr. Myers was under an arrangement with your company, whereby he was to act for the purpose of selling rights in some of the States; that he did not really have a contract for himself, but was acting for your company for the purpose of selling rights.—A. I suppose the contract that was made with Mr. Myers is amongst the papers, but I never regarded Mr. Myers in any sense as the agent of the Pan-Electric Telephone Company, but did understand at that time that he had a contract with the company for the right to use the telephone within a given State, the State of Indiana.

Q. Were you aware of any contract whereby he was to have a certain proportion of the thing that he sold?—A. I do not remember the terms of the contract.

By Mr. HALL:

Q. Was the contract in writing?—A. I supposed it to have been so, but I have no recollection that I ever saw it.

Mr. RANNEY. I would like to see it.

Mr. HALL. I suppose there is a way of getting all those papers if they are in existence.

Mr. EDEN. The official papers are in the hands of the committee. Mr. Millard has the contract, I believe.

Mr. HALL. I make the same objection in regard to the other one—the other contract.

Mr. RANNEY. Possibly there may be a written contract and a verbal one outside of it. I do not know anything about it; I do not state that there was.

Mr. EDEN. The Myers contract is in the book and is in evidence here, and that will be the best evidence.

The WITNESS. It would certainly be better evidence than the statement of a witness who had never seen it or looked at it.

Mr. EDEN. That is the way it looks to me.

Mr. RANNEY. While they are looking for that contract I will refer to another matter found in the record at page 24.

The WITNESS. Excuse me, I was in doubt about the Adams contract. Is that in evidence?

Mr. RANNEY. No, it is not in evidence yet.

The WITNESS. As I am interrogated about it, I should like to have it go into the evidence and speak for itself.

Mr. RANNEY. I now refer to the record, on the same page, of the meeting at which you say you were present (and the record shows you were present), which reads as follows:

MINUTES OF MEETING, JANUARY 15, 1885.

THURSDAY, *January 15, 1885.*

The president announced the object of the meeting to be for the purpose of agreeing upon terms for the employment of Dr. Wellington Adams as an expert in perfecting testimony to assist in the defense of any suit that may be brought against this company under its telephone patents. Whereupon, on motion of Col. R. F. Looney, Mr. Casey Young was directed to draw up a contract upon the basis of Dr. Adams' letter to the president of December, 1884, that is, providing that the company should pay Dr. Adams for his services as such expert the sum of \$500 in cash, \$500 in three months, and \$1,000 at the termination of any suit that may be brought provided it terminates in favor of the company, and in addition he is to be paid his necessary expenses while in the service of the company. On motion the meeting adjourned.

Mr. MILLARD. Those are the conditions of the contract with one exception.

Mr. RANNEY. Have you seen it?

Mr. MILLARD. Yes, it is here. Those are the conditions, with one exception; that in case the Bell Telephone Company should purchase the Pan-Electric Telephone he should have his thousand dollars; that it should be equivalent to a favorable termination of the suit.

Mr. RANNEY. If any gentleman desires the contract itself to go in, that may be done.

The WITNESS. I prefer that the contract should speak for itself. I have already stated that I favored making the contract with and employing Dr. Adams as an electrical expert to investigate scientific questions, and to aid in the examination of scientific witnesses; that is what I supposed it to mean.

The paper referred to is as follows:

AGREEMENT BETWEEN PAN-ELECTRIC TELEPHONE COMPANY AND DR. WELLINGTON ADAMS.

This agreement made and entered into in the city of Washington, D. C., on the — day of January, A. D. 1885, by and between the "Pan-Electric Telephone Company," a corporation organized under the laws of the State of Tennessee for the purpose of

manufacturing, operating, and putting in general use a new and improved telephone recently invented by J. Harris Rogers, party of the first part, and Dr. Wellington Adams, of the city of Saint Louis and State of Missouri, party of the second part; witnesseth.

That whereas the party of the first part is threatened with litigation by the American Bell Telephone Company upon the alleged ground that the telephone invented by the said J. Harris Rogers, and now being put in use and operated by the party of the first part, is an infringement of the telephone invented by Alexander Graham Bell, and now being used and operated by said American Bell Telephone Company, and the said party of the first part desiring the services of a competent scientist and expert to assist its counsel in taking proof and in making all other necessary preparations for a successful defense of any suit or suits that may be brought against it for the purpose of testing the validity of its patents on the telephone aforesaid, and its right to use and operate the same, has agreed with the party of the second part, the said Wellington Adams, to employ him as such scientist and expert, stipulating to pay him therefor as follows, viz: Five hundred dollars in cash, five hundred dollars in three months from the 15th day of January, 1885, and one thousand dollars when any suit that may be brought as aforesaid shall be finally determined in favor of the party of the first part, and in addition to the above, the party of the first part agrees to pay to the party of the second part his personal expenses during the time he is away from home in the service of the party of the first part not to exceed \$50 per month.

And in consideration of the foregoing the party of the second party, the said Wellington Adams, hereby undertakes and agrees to assist the counsel of the party of the first part in acquiring such scientific information, and in procuring and taking such testimony in reference to the telephone as may be needed in making a proper defense to any suit or suits of the kind above mentioned, and he further agrees to perform such other services in the premises either in Washington or elsewhere as properly pertains to the expert and scientific work which he here undertakes to do, provided that the party of the first part shall pay his transportation to and from any point he may be required to visit, and also any necessary traveling expenses he may incur over and above the sum of \$50 per month.

It is further agreed, however, that if the party of the first part shall sell its patents to the American Bell Telephone or otherwise terminate in its favor any suit or suits that may be brought, then, and in that case, the last one thousand dollars shall be due and payable.

In witness whereof we hereunto affix our hands and seals this ——— day of January, A. D. 1885.

J. E. JOHNSON,
Pres. B. E. T. Co.
WELLINGTON ADAMS.

By Mr. RANNEY:

Q. Were you aware that on the 3d of August, 1885, which was the time when you were here, I understand you, that the affidavit of one Z. F. Wilbur was taken?—A. Some time after the affidavit of Mr. Wilbur was taken I heard it spoken of, but I had no knowledge of its having been taken at the time it was taken, and I do not know how long after it was taken before I heard anything of it.

Q. Were you aware that on the 28th of April, 1885, after that vote being reached, the affidavit of this Dr. Wellington Adams was taken as an expert?—A. I do not remember that I have ever been informed that his affidavit was taken at all.

Mr. RANNEY. It is contained in the Interior Department record, on page 24 G. I put in that affidavit of Professor Adams, on page 24, dated the 28th of April, 1885, and that record shows on what day the vote was, January 15, 1885.

The following is the affidavit referred to:

AFFIDAVIT OF PROFESSOR ADAMS.

WELLINGTON ADAMS, being duly sworn, deposes and says:

My name is Wellington Adams; I am 28 years of age, and reside in Saint Louis, Mo. I am a regular graduate in medicine from the Georgetown University; for six years I practiced medicine, making a specialty of ear and throat surgery, having been oral and throat surgeon to several medical institutions, and professor of that branch in the medical department of the University of Denver. From the nature of my specialty, I was early in my career led to investigate thoroughly the sciences of acoustics and electricity, which finally resulted in my drifting completely into electrical and pure scientific research, so that for the past two years my business has been wholly confined to electrical engineering and scientific expert work.

In 1877, when the telephone first made its appearance in public, and before it reached Washington, D. C., in a commercial sense, I delivered a lecture on the subject, and described the construction of the instrument and the principles governing its operation, before a Scotch literary and social society of Washington, D. C., and on the same occasion Professor Taylor, microscopist of the Agricultural Department, believ-

ered an essay on the *Eucalyptus globulus* tree. In the early part of 1878 I began original telephone research, making a number of different forms of transmitters and receivers. There are many who will remember these experiments. In this way I became early interested in telephonic matters, and particularly with the legal and scientific aspect of the subject. From its very incipency I was familiar with the question, and I have ever since kept apace with the developments, and with the complex and abstruse legal and scientific problems involved, and with the intrigue and strategy resorted to by counsel for the Bell Company in the Patent Office and in the courts.

With this premise I have to state that the foregoing summary of the telephone situation, both as regards the legal and scientific aspect of the case, as compiled by myself, is, to the best of my knowledge and belief, in every respect true and in perfect accordance with the facts in the case, both in entirety and in particular.

WELLINGTON ADAMS.

Subscribed and sworn to before me this 28th day of April, A. D. 1885.

[SEAL.]

WM. HELMICK,
Justice of the Peace.

Then on the following April your company seem to have taken this affidavit of Dr. Adams, as an expert on the validity of these patents, on the question of infringement, though he was under pay of \$1,000 contingent on the success of it. You had nothing to do with that, I take it?—A. I have no knowledge of who took his affidavit, when it was taken, or where it was taken, or what was in it.

Mr. RANNEY. I refer to the record page 9 of the meeting held January 14, 1884, at which it seems you were present when the following proceedings took place:

MINUTES OF MEETING OF JANUARY 14, 1884.

"Pursuant to a call of the president, the board of directors of the Pan-Electric Telephone Company met at the rooms of Casey Young, at 515 Fourteenth street, N. W., at 7.30 o'clock p. m., January 14, 1884. Present: Joseph E. Johnston, Isham G. Harris, J. Harris Rogers, Robert F. Looney, and Casey Young. Joseph E. Johnston, from committee formerly appointed to negotiate with D. E. Myers & Co. for the sale of the States of Ohio, Indiana, Illinois, and Minnesota, reported that the committee had conferred with Mr. Myers & Co. and his attorney, and had agreed with him upon the following terms, viz:

"That the Pan-Electric Telephone Company should sell to D. E. Myers & Co. the right to put up and use the Pan-Electric telephone in the States of Ohio, Illinois, Indiana, and Minnesota, they agreeing to pay for the same the sum of \$145,000. For the State of Illinois, \$50,000; for the State of Ohio, \$50,000; for the State of Indiana, \$25,000; for the State of Minnesota, \$20,000; to be paid in installments as follows: One-fourth of the amount agreed to be given for each State to be paid within three months from the time a telephone exchange is erected and put in operation in said State, and the balance in six, nine, and twelve months thereafter. And, in addition to which, the said D. E. Myers & Co. were to pay a royalty of \$5 per annum for every telephone which they might erect and use.

"Messrs. D. E. Myers and J. W. Rogers being present, and the matter being discussed at some length, it was finally agreed that the contract should be made as above stated, and the president and secretary were instructed to prepare the necessary papers to carry it formally into effect. Said contract is recorded in contract-book, page 145.

"On motion, the board adjourned subject to the call of the president."

Q. Do you know who the "company" was with Mr. Myers?—A. I do not remember. I do not remember whether he had associates or not, but I am inclined to think he had. It was represented to me, at all events, that a wealthy gentleman, I think by the name of Allen (but I would not be certain of the name), of Indiana, was, and my impression when I spoke awhile ago was that the contract was confined to Indiana, and for that reason I asked that the written contract itself should be sought for, in order that it might show exactly what it was.

Q. You do not recall, yourself, who the company was?—A. I do not. Except assenting to the making of such contract, I do not think I ever had anything to do with it. I am not inclined to think that I have ever seen the contract itself.

Q. Do you not know of correspondence between Mr. Myers and your company, the Pan-Electric Telephone Company?—A. I heard of correspondence between him and the company in respect to the matter.

Q. There was considerable correspondence, was there not?—A. I don't know how considerable it was. I know, at least I heard from some of my associates, that there was more or less of correspondence, probably with Colonel Young and General Johnston. One time I remember that he was very anxious (I have been informed that he was anxious) to get telephones immediately, and we were in a great hurry to have some telephones manufactured to send to him.

Q. Can you give us any information as to where that correspondence is?—A. I

cannot. I have never seen the correspondence myself. I have heard it spoken of, that is, I have heard the fact spoken of, that Mr. Myers was anxious to get telephones, in order to exhibit them and to get to work. But the first telephones we sent him were extremely imperfect, as I understood him to complain, and so far as I remember about the correspondence it was in respect to his desiring telephones promptly, and in respect to the fact that the first telephones that were sent to him were imperfect and useless, as we found on experiment here a part of the same lot to be, and they had to be remodeled.

Q. I see this contract is recorded on page 45 of the record. It simply shows that the party of the first part, the Pan-Electric Telephone Company, and D. E. Myers & Co., a voluntary association or business firm—do you know any such firm as D. E. Myers & Co.?—A. Oh, I did not know who composed the company, and, as I tell you, I do not think I ever met Mr. Myers but once in my life to know him, and then it was simply getting an introduction.

Q. Do you know whether any of your associates under that contract in New York or under the Pan-Electric Telephone Company were connected with Mr. Myers in any way?

The WITNESS. Connected with this Mr. Myers?

Mr. RANNEY. Yes.

A. I do not know. There was a contract that existed at one time with New York people, and the negotiations in respect to that contract were conducted by Mr. Jacobs at No. 335 Broadway, and myself, and he represented to me that a gentleman by the name of Myer or Myers, I am not sure which, was associated with him, and I think they both executed the contract that was agreed upon. That is one of the contracts that were annulled.

Q. Those are the parties of whom Dr. Rogers has spoken as the "sons of Abraham"?—A. Well, perhaps so. They are the only parties, at all events, that I knew that we ever had any contracts of any kind with in the city of New York.

Q. I see there are a good many letters here from you to Dr. Rogers. Did you not likewise have correspondence with Mr. Casey Young?—A. Very much less with Casey Young. Casey Young is a less voluminous and frequent correspondent than Dr. Rogers.

Q. But you had some correspondence?—A. Yes, sir; some correspondence from time to time. Colonel Young and myself are neighbors, are associates in these matters, have been colleagues here in Congress, and we have had more or less of correspondence.

Q. We have not found here among the papers produced any of the letters of yourself to him. Do you know what has become of them?—A. I know nothing in the world as to what has become of my letters to him, or any letter of his that I have retained, unless it was about some matter pertaining to business which, in my judgment, ought to be filed, and those letters I have put on file, if there are any such; but I do not remember really that I ever put a single letter of his on file.

Q. Will you be kind enough, if it is not too much trouble, to see if you have any letters of his, and if you find any, produce them here, if you are willing?—A. I am perfectly willing, if I have any letters of his, to produce them; but I doubt very much if I have preserved a single letter of Colonel Young's. I am not only willing, but desirous that this committee should go to the bottom of every fact and learn the exact truth.

Q. I have no doubt of that. Did you have a correspondence with Colonel Gantt about this Government suit or about these matters?—A. I do not think I have ever had any correspondence with Colonel Gantt, except as I explained the other day with regard to the receipt of the first application, and the fact that the suit was ordered. But when that suit was discontinued I received either a letter or a telegram from Colonel Gantt and General Wright, I think, asking me if—

Q. I don't care to go into that. Have you got them?—A. No, sir; I have not. They were simply matters of inquiry that I answered as I was able to answer them; and they would have no bearing on this issue that the committee is inquiring into.

Q. Then I do not care for them. It seems that the Pan-Electric Company, the original association, filed with the secretary of State, at Albany, articles of association with a view of organizing a corporation under the general laws of New York. Do you know why that thing did not go on?

The WITNESS. Do you mean the Pan-Electric Company in contradistinction to the Pan-Electric Telegraph Company?

Mr. RANNEY. Yes.

A. I did not know that any such application had ever been made, and therefore I could not tell you why it did not go on.

Mr. RANNEY. I think of no more questions I desire to put now.

The WITNESS. Does any other member of the committee desire to interrogate me?

Mr. OATES. I want to ask you one or two, myself. You have been over the ground, but I merely want to see if I understand your testimony correctly on one or two points. I understand you testify that the Pan-Electric Company or Association, the

existence of which is evidenced by the contract here, never issued any stock.—A. Never that I ever heard of or knew of.

Q. And that the Pan-Electric Telephone Company, which sprang from that, or was one of the inventions included in that, did not sell any stock, but sold territorial rights —A. With the exception of the stock that I explained in regard to yesterday.

Q. That which was sold to Senator Vest and the two ladies?—A. That which was sold to Senator Vest, to George Howard, and to the two ladies. With that exception I know of no stock that the Pan-Electric Telephone Company has sold. I explained yesterday that at my suggestion Governor Brown was let into the original association to the extent of \$100,000 before any charter had been obtained and before any corporation had been organized.

Q. You were asked about the provision of this contract limiting the assessments of the members to \$150. That limitation was as against the executive committee, was it not, composed of General Joseph E. Johnston, J. Harris Rogers, and Casey Young?—A. That was my understanding of it; that the executive committee, without the consent of a majority of the parties in interest, could not assess beyond that amount, and exactly why Colonel Young incorporated it into the contract I did not understand at the time, and do not now.

Q. How much did the assessments upon you aggregate altogether?—A. I must refer you to the book. I think the assessments I paid will be found to be somewhere between \$300 and \$400, possibly a little over \$400, but I am not sure about that. The books will doubtless show every assessment.

Q. Assessments, then, greater than \$150 each were made and paid?—A. Oh, to the extent I have suggested, or to the extent the books will show, and I think they will show it was between \$300 and \$400.

Mr. RANNEY. The books have been put in and they show exactly.

The WITNESS. Yes, and they are doubtless correct. I have never looked at them, because I never supposed there was a mistake, much less an intentional wrong, and I have acquiesced in the report of the secretary as to all those matters.

Q. In the sale of territorial rights made by the Pan-Electric Telephone Company, what obligation, if any, did your company here enter into with them in respect to defending those rights?—A. My understanding of our contracts with what we call the "subcompanies," was that in the event of litigation upon the ground that our instrument infringed any other instrument, any other patent, we would defend such suits with our own attorneys and at own expense. That was the undertaking of our company, as I understood our undertaking.

Q. That was a continuing obligation to defend for all time; it was not limited?—A. I supposed it to be as you state.

Q. Do you know whether those contracts are in writing?—A. I take it for granted that every one of them is, and that they are in the papers that the committee has possession of.

Mr. OATES. I do not care to put any more questions.

By Mr. MILLARD:

Q. On whose judgment did you embark in this enterprise?—A. I embarked in it wholly and purely upon my own judgment.

Q. I ask you that question by reason of a statement I saw in one of the New York papers of yesterday, which said that you, Mr. Garland, Casey Young, and General Johnston were all the dupes of the Rogerses.—A. Well, in further answer to your question I will say this, but it is a repetition—

Q. I do not care to go further with it.—A. My attention was called to these inventions by a note addressed by one of the Rogerses to Mr. Atkins expressing a wish that Mr. Atkins and I should become interested in them. That negotiation, if it can be called such (the conversations and notes upon that subject), extended to two or three weeks.

Q. That is all I care to ask on that point.—A. Finally I fixed a time when I would go and see the inventions. I could not tell you how many inventions were shown me, quite a number, but there were three of them that struck my eye and ear as things of utility and of probable value. I so stated to them, and then went on and stated the terms, and the only terms, upon which I would consent to become connected with the enterprise at all.

Q. And one of those conditions was that you should name how many of the directors?—A. It was that I should name the persons. No number of persons had been previously named, but my statement was that I would not consent to become interested unless I had the right to name the persons who should absolutely control the enterprise, I stating in advance that it was an unreasonable condition, and Dr. Rogers acquiescing in the fact that it was unreasonable. With that I left. The next day, or the day following, either by note or personal interview, I was informed that they conceded to me not only the right to name the persons, but to fix the terms. The latter I declined to do, and then the proposition came from them that "we propose to divide this matter into ten-tenths, and you shall name three persons in addition to

yourself and Atkins, making five" (that was the first time that any number of persons had been named), and that each one of the five should have a one-tenth, Harry Rogers to retain four-tenths, and the tenth tenth to be left in the hands of the association to be disposed of as it might choose.

Q. I understand that. Well, the three who came in with you, who were they?—A. Some time subsequent to that—

Q. I do not care to go into the whole of it; I simply want to call your attention to a single fact.—A. The three that were named were General Johnston, named by myself; Mr. Atkins suggested to me the name of Mr. Garland, and I acquiesced in it promptly, having never thought of Mr. Garland in that connection before, however, and then Dr. Rogers turned to me and said, "What do you think of Casey Young?" I said I had not thought of Casey Young in that connection at all, but that he was certainly entirely unobjectionable to me.

Q. Then you gave your sanction to those three?—A. I did, and the three were then and there agreed upon as the parties named.

Q. And they have remained in the company up to the present time?—A. They have.

Q. You reside at Memphis, I understand?—A. Yes, sir.

Q. How long have you known Mr. McCorry?—A. I have known him from his boyhood. He is a younger man than I am. I practiced law in the same courts with his father.

Q. Did you know that he was an applicant for this position of district attorney?—A. Yes, I did.

Q. Did you indorse his application?—A. Upon the contrary, I recommended Mr. J. E. R. Rea for the position, and was overruled.

Q. Who is Mr. Rea?—A. He is a young lawyer at Memphis. The court sits at Memphis, and I recommended Mr. Rea, preferring him to Mr. McCorry. I recommended him very earnestly both to the Attorney-General and to the President. The Attorney-General informed me that he recommended Mr. Rea's appointment to the President, and I think the President so informed me also.

Q. Now a single word in regard to the Government suit. I do not want to traverse the ground again, but I understand that you got some communication from Colonel Gantt, either by letter or telegram, which you took to Mr. Goode. Am I correct in that?—A. Yes.

Q. Was it a letter or telegram?—A. I am not sure which it was.

Q. Have you got that communication?—A. I stated the other day that I did not retain it at all after having answered it.

Q. Was Casey Young here in Washington at the time or in Memphis?—A. I think he was here, and I think Casey Young went with me to the Department of Justice. I think I met him near the Riggs House on my way to the Department of Justice and told him where I was going, and for what, and he said he would go with me.

Q. You understood that he had been in Memphis making this application to Mr. McCorry?—A. I suppose so; I have no distinct recollection; but I heard him state on the witness stand that he was in conference at Memphis with General Wright and Colonel Gantt, and other parties.

Q. Why was the telegram or letter sent to you instead of Colonel Young?—A. I cannot answer that. I do not know that it was known that Colonel Young was here. My impression is that he had just arrived here.

Q. You understood that Colonel Young had come directly from Memphis?—A. I do not remember what I understood as to where he had come from, but I would naturally have supposed he had come from Memphis in the absence of any explanation, because he lives at Memphis, and seeing him here, I should naturally have supposed that he was from there; but I do not remember to have known anything on that subject at all.

Q. I understand you went directly to Mr. Goode?—A. Directly. I was on my way there and met Colonel Young; perhaps it was the first time I had seen him.

Q. You were on the way there after getting this dispatch?—A. Yes, sir; and it was, perhaps, the first time I had seen Colonel Young since his arrival; but I stated to him that I had such a letter or telegram, and was going to the Department to get the information.

Q. After you got there was the suit discussed at all between him and Mr. Goode?—A. It was not, further than I have already explained.

Q. And the next morning it was not discussed?—A. Not a word was spoken between Mr. Goode and myself on the next morning that I have not already detailed. I do not think I was there two minutes the next morning.

Q. He told you the next morning that he had ordered the suit brought?—A. He told me the next morning that "the application arrived within an hour of the time you were here the other day," or yesterday, as the case may be, "and I have ordered the suit."

By Mr. HALL:

Q. You mean the next time you saw him?—A. Yes, sir.

Q. You used the expression "the next day." I understood you to say it was either

one or two days after.—A. I say when I called the next day or the day after, whichever it may have been. But it was the second time I called that that interview occurred, and it did not take more than a minute or two to dispose of it.

By Mr. MILLARD:

Q. You knew that Attorney-General Garland was out of the city?—A. Of course I did.

Q. Did it not occur to you that that was a very remarkable thing for the Assistant Attorney-General to do without consulting the Attorney-General?—A. It did not, because I supposed that the Solicitor-General understood his rights, powers, and duties a great deal better than I did.

Q. Do you know of any similar case or any similar act on the part of any Assistant Attorney-General, the ordering of a Government suit without prior consultation with or without prior direction from the Attorney-General?—A. I do not know.

Mr. OATES. The Solicitor-General is not the Assistant Attorney-General.

Q. I am asking for information.—A. I do not know of any similar suit. I have not looked at the record of suits of a similar character that have been brought, or at the methods of bringing them. I am in blissful ignorance of the methods of doing it or the law which controls it, for I never have looked at the question at all.

Q. I understand, when you went in the next morning or the next time you went there, the first thing that he said to you was, "I have ordered that suit."—A. You understand me, then, incorrectly.

Q. I desire to learn what the fact was.—A. I knocked at the door and was told to come in, and as I entered the door Mr. Goode arose and met me half way between his seat and the door and waved me to a chair. I said: "No, I do not care to sit down; I only come to ask if that application has reached you and what action, if any, is taken upon it." He said: "The application reached my desk within an hour of the time you were here yesterday," or the day before, as the case may be, "and I have ordered the suit." I said, "that enables me to answer my correspondent," and turned and walked out.

Q. I understand you, then, correctly. One question further. Did you ever see any of the Commissioners of the District of Columbia in regard to using your telephone—

Mr. RANNEY. I have been over that matter.

Mr. MILLARD. I was not in the room at the time and did not know that you had. I think that is all.

By Mr. HALL:

Q. When you first consented to become one of the promoters of this Pan-Electric Company, was it understood or supposed at that time that any contention or litigation would arise between it and any other company?—A. The idea of litigation springing out of it did not occur to me until some time after. The matter of infringement and patent litigation was one that I had never given any attention to, and I do not think I gave any thought to the probable or possible litigation springing out of it at the beginning, at the time I consented.

Q. Then you went into it simply upon what you supposed to be the merits of these inventions?—A. Purely and wholly so.

Q. And understanding that patents had been regularly issued by the United States to this patentee?—A. Understanding that some two or three or four had (I do not remember the number, but our contract will show what patents had been already issued), and that certain other applications for patents were pending, and if entitled to a patent I took it for granted they would be issued, and certain other inventions supposed to be patentable were in the course of completion and perfection, for which patents would be applied for.

Q. Will you state whether, so far as your knowledge extends, any of the gentlemen named by you were at that time selected by reason of their being learned in the law or otherwise, with a view to taking part in any litigation between this company and any other company interested in electrical apparatus or appliances?—A. I have no knowledge as to what motives other gentlemen may have had, but the question of professional attainments was a much lesser consideration to me than certain other qualities might be, when I demanded the right to name the men so as to secure myself against being identified with a business enterprise that might be controlled by persons whose business methods would not meet my approval. Hence I was resolved, so far as I could control it, to be associated with no person in that enterprise in whose capacity, integrity, and scrupulous care in the management of business affairs I could not rely as I could upon my own. And, with the persons named, Governor Brown included, there was not a man of them in whose integrity, prudence, and justice I did not have as much confidence as I had in my own.

Q. Then I understand you to say that in talking with parties and making these selections, there was no contemplation of making war upon any other company or any other enterprise and getting up litigation?—A. I had no such thought at the time, none whatever.

Q. Subsequently, when you entered into these articles of association between yourself and these gentlemen, and agreed to capitalize these properties at \$5,000,000, state whether or not there was present, directly or indirectly, any purpose in using such large figures to create a fund to influence or control in any manner whatever either the judicial, executive, or legislative departments of the Government, or any members thereof.—A. No intimation from any quarter was ever made to me of any such purpose, and certainly I had no such purpose. My recollection is that when that contract was first drafted the capitalization was one or two millions, whichever it was—

Q. One million is mentioned as between the associates.—A. Very well, that smaller amount as between the associates. My recollection is that was the first draft. I think I called the attention of Colonel Young, who drafted it, and of all the other associates, to the fact that "Harry Rogers has promised \$170,000 of stock upon a basis of \$5,000,000 of capitalization, and therefore, that that matter may be conveniently adjusted, hadn't you better incorporate that idea, so that the \$170,000 of the Rogers's outstanding promises may be kept?"

Q. I will ask you whether the question of litigation and contention between this and any other company had arisen at that time?—A. I have no recollection of any such question having arisen or having been considered.

Q. The fact, I think, has been suggested a great many times that no money consideration was paid by any of these gentlemen for any of their interests in these telephone properties.—A. No consideration, except as you will find it embraced in that written contract.

Q. The obligation to respond to assessments, and also your personal and business capacity and influence, was a consideration?—A. Yes; the aid of our business capacities and personal attention to the development and utilization of these inventions, such of them as we should find, after thorough experiment, to be of utility.

Q. Now, in regard to the largeness of the amount of stock authorized. You probably contemplated that if these properties proved to be successful and could be successfully placed upon the market in the various States they might eventually be worth the amount of capital expressed?—A. I understood and supposed the fact to be true (as I suppose it now to be true), that the Bell telephonic patents had developed into a capitalization of immense value.

Q. Greater than that named in these articles?—A. Very much greater. It is my impression it ran up to many millions greater, and my opinion then was, as my opinion now is, that our telephonic transmitter is not only superior to the Bell transmitter, but very much superior to any telephonic transmitter that I have ever experimented with.

Q. Some allusion has been made in the interrogatories propounded to you as to the propriety of authorizing so large an issue of stock, and the providing for the issuing stock where money—where the actual funds for the stock—was not paid in. Now, I will ask you whether it was not contemplated unanimously by the parties to these articles that no such stock should be issued until a future period in the success and prosperity of the company when its issue would be justified?—A. I can state that such was my resolve and such were my expressions, and I do not remember to have heard any dissent when I expressed such views.

Q. Then, again, some allusion has been made to institutions with a "balloon" capital. Was there, and has there ever been, any purpose in the management of this company to obtain credit or enter into any obligation whatever that could not be met by these limited assessments that are provided for in the association?—A. If we have ever owed a dollar that we have not been able to pay on demand, either by assessment or by moneys in the treasury, I have no knowledge of it. If we have a creditor or contractor of any character complaining of us I have no knowledge of that, nor have I had. We have met all of our obligations and never have sought to borrow a dollar from anybody I have ever heard or known of.

Q. In regard to the contracts under and by virtue of which the Pan-Electric Telephone Company conferred the territorial right in the States named, do you remember whether or not the company agreed to, or did not agree to, respond in damages where such companies or local companies might be declared to have infringed upon any other patent right?—A. My construction of the contract is that it did not agree to respond in damages, but it agreed to defend with its own lawyers and with its own means any lawsuit that involved the validity of the patent.

Q. In other words, it recognized these local companies in that respect as its mere agents or licensees?—A. The idea in my mind was this: a suit against the local company to which we had sold the right to use our instrument, involved the validity of our patents and we could not afford—

Q. It was in effect a suit against you?—A. Yes, in effect, and its effect would be ruinous to us and to whatever property we had. Hence, we could not afford to trust the defense of such a suit to anybody other than ourselves, and that we were to control and to defend it was my understanding of the contract.

Q. Did your company, the Pan-Electric Telephone Company, have anything to do in organizing these local companies, or was that left entirely to the promoters?—A. It

was left entirely to the promoters of the local companies, so far as I know. I never had anything to do with the organization of a single one of the local companies, and I do not know that anybody else of our company had.

Q. Those companies determined the amount of stock to be issued for themselves?—

A. Yes, sir; I do not think our contract fixed any amount or limit. But I remember we were consulted in one instance (at least I was consulted; I do not remember that any formal application was made to our board) with regard to an Illinois company when they desired to diminish their capital stock, I think, to \$40,000—perhaps from a million—and my answer was, “The Pan-Electric Company does not care a straw what you fix your capital stock at, whether you fix it at \$40,000 or at \$1,000,000. Your stock will cover your property, whatever that may be, much or little, and if you fix your capital stock at \$40,000, and your property shall develop into millions, your \$40,000 will represent those millions.”

Q. You would not have been inquired of in that instance, would you, if it had not been that a portion of the stock of that company had been transferred to your company?—A. That is the only reason, I suppose.

Q. Has there been any complaint from any person in the United States, as creditor or owner of the paper of the Pan-Electric Telephone Company, that he has not been treated justly or that he has been unable to receive pay for his claims?—A. I know of no complaint of any creditor; I know of no complaint of any stockholder, except that Dr. Rogers has frequently demanded that we issue the stock and turn it over—

Q. I do not mean that.—A. The persons to whom he had given orders for stock have probably complained—not to me, but I have heard of their different complaints—that we did not issue and deliver this stock.

Q. But there has been no complaint that the stock has been imposed upon them as paid-up stock, when in fact no money was paid in?—A. So far as I know, no human being has ever made any such complaint.

Q. About when was it that you first became cognizant of the fact that there was likely to be trouble between your company and the Bell Telephone Company?—A. In that, as in respect to almost every other question, it is impossible for me to fix, with any degree of accuracy, or perhaps approximately, the time. But sooner or later I was led to believe that litigations were probable, and just so soon as that idea occurred to me, I suggested to Mr. Garland that he look carefully to it, investigate the legal questions thoroughly and well, and some time later he furnished me a brief of authorities, and I thought I would go through the case myself, but I found my engagements were so numerous that I threw it aside and determined to rely upon him and others. Subsequently I asked Mr. Marble, on account of his experience as Commissioner of Patents and as a lawyer, to investigate the matter, to look at our telephonic patents and see if they infringed any other and older telephonic patents.

Q. Have you already fixed the time that you first heard of the proposed application to have a suit brought by the Government?—A. As near as I could. The first I heard of it was the letter that I received from Dr. Rogers, and I think he fixed the 24th of May as the time that he wrote to myself and others upon that subject. That was the first suggestion I had.

Q. That was in 1885, was it?—A. Yes, sir; the 24th of May, 1885, I think, was the date fixed. I could not, from my own memory, have fixed any date, yet I do remember to have received such a letter.

Q. I will ask you whether you were able to say if that question arose or was considered at all, so far as your knowledge extends, before or after the 4th of March, 1885?—A. Oh, our board has never considered it at any meeting; our board has never taken any action in respect to any such matter.

Q. What I want to get at is this: whether you have any knowledge or information that the matter was ever existing in Mr. Garland's mind that he would be called upon, or that this question of a suit by the Government would be presented before the 4th of March, 1885, so far as your knowledge extends?—A. I never heard the matter suggested by anybody until I received Dr. Rogers' letter, and when I received it I had never looked at the question, and indeed did not remember that such suits were being brought, and the question also occurred to me upon receiving his letter, that even if the name of the Government were needed about the bringing of such suits, that Mr. Garland being at the head of that Department no application should be made to him; certainly I never would make any such application to him, and I knew, in my own mind, from my knowledge of the man, that he would not entertain any suggestion made, if it was made to him by the company.

Q. I will ask you to state whether you ever, by letter or by conversation, had any communication with Mr. Garland upon that subject?—A. Never. The subject was never mentioned between him and myself until after the newspaper notoriety that was given to that matter.

Q. So that you had no knowledge or information as to what he might do or say with reference to that subject?—A. I had no knowledge, but I had a very well defined opinion.

Q. I do not ask for that, because that we understand. Your attention has been

called to a number of persons who have become the owners of these inchoate shares of stock in this Pan-Electric Company; do you know of any of that stock having been transferred or given to any person connected with this company, to the persons who now or at any time owned the same, with a view of affecting their official conduct, or the official conduct of any person connected with the Government?—A. I do not.

By Mr. MOFFATT:

Q. Do you know Mr. A. B. Upshur?—A. Yes, sir.

Q. Who is he?—A. He is one of the gentlemen who organized the Alabama company. He is now a clerk in the Indian Bureau in this city.

Q. In General Atkins's bureau?—A. Yes, sir; he is now here. I saw him this morning for a few moments.

Q. At the time you were here and called upon Solicitor-General Goode, you spoke of meeting Colonel Young near the Riggs House. Were you aware before that that he was in the city, do you recollect?—A. I do not know that I was. My present impression is that Colonel Young had just arrived in the city. I could not be certain, but Colonel Young's memoranda will doubtless show with absolute accuracy when he did arrive, and then the date of ordering that suit will show when it was ordered. Hence it was within one or two days of the bringing of that suit.

Mr. RANNEY. The date of the order is the 3d of September.

The WITNESS. Well, I should say it was one or two days from the date of that. It was either the day the suit was brought or the day before that I met Colonel Young.

Mr. RANNEY. He says he did not get here until the 2d.

The WITNESS. I cannot say as to that. I cannot fix the dates any more accurately than I already have done.

Q. The meeting, so far as your memory serves you, was accidental?—A. Purely accidental; wholly so.

Q. And you informed Colonel Young at that time that you were going to Solicitor Goode's office?—A. I informed Colonel Young that I had received a letter or telegram, whichever it was, from Colonel Gantt, asking if an application had been sent through the mails from the district attorney, Mr. McCorry, to the Department of Justice, and I was requested to inquire if it had been received and to inform him if it had been received, and what, if any, action had been taken upon it.

Q. Do you recollect what remark Colonel Young made? Did he say that he was going there?—A. No; I think his remark was, "I will go with you."

Q. Did Colonel Young indicate to you why he was going there?—A. I do not think he did.

Q. Did you have any conversation on the way up there in regard to this application?—A. I do not think we did. Our conversation, I think, was in respect to home matters.

Q. You do not recollect that Colonel Young said anything to you to the effect that he was here in the city looking after that suit, to see that it was brought on the relation of your company?—A. I do not think he said a word to me at the time, and I do not think he said a word to Mr. Goode about it.

Q. Did Colonel Young ever have any conversation with you in regard to a suit being brought on the relation of the Pan-Electric Telephone Company?—A. I do not think he ever discussed that question with me. That is one of those matters I do not claim to have any familiarity with, as I have not looked into it nor discussed it.

Q. You have not any recollection of his saying to you that he was going up there to look after it?—A. No, sir; I have no recollection of his making that statement to me then or at any other time.

Q. I understood in your original evidence, and also in reply to a question by Mr. Hall, that you said that you and your associates went into this matter, the Pan-Electric Company, without investigating at all the question of the legality of the patents, or inquiring whether you had anything of value in there or not?—A. At the time I consented to go into the matter (exactly how long a time it was after, I cannot say), the idea of infringement had not occurred to me at all; I had not thought of it.

Q. And did not until after the papers were signed, perhaps?—A. I do not know as to that; perhaps not.

Q. I think Mr. Marble's opinion is dated some time in February. It was about that time that your attention was first called to it?—A. My attention was called to it before I asked Mr. Marble to investigate the matter, or about the time I asked Mr. Garland to look carefully to the question, as questions of infringement possibly might arise.

Q. In answer to a question, I think of Mr. Ranney's, as to why this contract was signed in New York and why you gentlemen all went over there to perfect this arrangement, in addition to the fact that you said you were going as well on other matters of business, you suggested that perhaps it was because you were about incorporating under the statutes of the State of New York. Now, it was not necessary that that contract should be signed in the same State that the incorporation was obtained?—A. I do not suppose it was, but you do not quite accurately give my former

statement. My statement was that I had to go to New York on other business; that I had understood from some one here that a very recent statute of New York probably was broad enough to cover all of these electrical inventions under our charter. But my idea was that we would get one charter broad enough, if we could, to cover all of the electrical inventions that were being or were to be conveyed to us, and we wanted to see whether that fact was true, and if there was such a statute exactly what its provisions were, and no such statute was to be found here in the library. My impression is that that furnished part of the motive for going to New York.

By Mr. HALE:

Q. Have you been able, as yet, to fix the date of that visit to Mr. Goode's office in the summer of 1885, or about the date?—A. I have been able to refer to events that will enable you to fix it. From my own memory or any data I have looked to, I am not able to fix the date as a matter of memory; but you have the date at which that first suit was ordered, and it was one or two days prior to the date of the order of Mr. Goode bringing that suit.

Q. You have seen this agreement (it is called, I believe, a supplementary agreement) with Mr. Van Benthuyzen?—A. It was shown me here this morning.

Q. I will get you to state whether or not that agreement was authorized by your company to your knowledge?—A. It was not. I had no knowledge of any authority; indeed, believing myself that I had probably signed that agreement, I so stated to the last meeting of the board of directors that my impression was that I did sign it; that I had been shown such an agreement; and my impression now is that it will be found that I signed it as vice-president of the company.

Q. You refer to the original, I suppose?—A. I refer to the only one I have seen.

Q. The one you saw to-day is a supplemental one.—A. I am not sure whether it was a copy of this or another, but I understood it to be about the agreement that the two companies should each furnish whatever it had, including all electrical instruments, for both companies had models of the Reis and other telephones.

Q. This contract I refer to related to another matter; that they should unite in their efforts to secure the bringing of a suit by the Government against the Bell Telephone Company. That was the one of August 27, 1885, which I think refers to a prior agreement of August 4, 1885. You think you signed the one of August 4, to the best of your recollection?—A. I could not state from memory which one I signed, but I have a decided impression that Colonel Young brought an agreement to me, and my impression is it was in his own handwriting, but I think it had the signature of Mr. Van Benthuyzen or the National Improved Company to it. Since answering this question I have seen from the record of the Inter-State Commerce Committee, upon which I served during the summer and fall of 1885, that we were in session at Saratoga, New York, on the 25th, 26th, 27th, and 28th of August. Hence, I can now state positively that I was not here, but at Saratoga on the 27th of August, 1885. Therefore, if I signed the contract of that date it was signed long after that date, but I have never believed, and do not now believe that I signed the contract dated August 27. The more I have thought about it, the more confident I am that the paper I signed was signed in my office at Memphis, and I did not return to Memphis from Saratoga until some time late in September.

Q. Do you remember whether the agreement of August 4 was substantially the same as that of August 27, called the supplemental one?—A. I did not read the supplemental one this morning, but I can state what my impression was as to the meaning of the paper I signed.

Q. I will call your attention to the language of this supplemental agreement [handing the paper in question to the witness].—A. The substance of this paper is, I think, substantially the same as the one to which I refer.

Q. It corresponds substantially to the one of August 4 referred to, which you think you signed?—A. I cannot undertake to say that it corresponds with any other paper, for I do not remember ever to have seen but one. But it is perhaps proper that I state, after what I have stated, that from the fact that Colonel Young and Colonel Gantt were here in conference with Mr. Van Benthuyzen and his attorney, and from the additional fact that Colonel Young and Colonel Gantt made arguments before Secretary Lamar when the question was recently pending there, I assumed (while I have no knowledge of our company's having taken any action and do not think it ever has taken any action in respect to the matter) and believed, and if I had been asked the question six weeks or two months ago if the Pan-Electric Telephone Company was one of the petitioning parties to bring this Government suit, should have said I believed it to be so, and did suppose it to be so; yet that was based simply on the fact that I knew Colonel Young and Colonel Gantt had been in conference here looking to that question, and on the fact that they had made an argument before Secretary Lamar. But in some conversations of Colonel Young within the last two months, I do not remember when (he and I had not talked on the question of whether our company was or not before, but in conversation I assumed that the Pan-Electric Telephone

Company was a petitioning company), I was then informed by him that the Pan-Electric Telephone Company was not a petitioner in either case.

Q. Is it or not your understanding that your company assented to the agreement of Mr. Van Benthuyzen, or one of a similar nature?—A. The company has never taken any action in respect to the agreement that I know of, except that I stated at the last meeting that I had signed a paper, stating at the time of signing it that the understanding between the parties, as I understood from Colonel Young, was that it was not binding upon either company without ratification; that neither Mr. Van Benthuyzen was authorized to act for his company nor I nor any other officer of our company for our company, but I mentioned the subject to those gentlemen present at the last meeting of the board, saying that "I have signed such an agreement without authority to do so, and I want your approval." There was no formal action taken then, but I understood all the gentlemen present as acquiescing in or approving the act.

Q. You notice this contract says that your company, as well as the other company, were to use their influence to secure the bringing of the suit by the Government, and also to secure the employment of your attorneys in those suits?—A. My understanding was that we agreed to do this, that we assumed our part of the expenses that the companies were to pay out in respect to the matter and to furnish all the scientific information we had, to be used in that suit, and to furnish all the models and instruments we had manufactured for the purpose.

Q. But I speak particularly with reference to what is stated in that contract.

Mr. RANNEY. There is one other element you did not state, and that is to share the expenses.

The WITNESS. To share any expenses that the companies were put to, and to give the joint aid of the attorneys of the companies.

Q. Was any effort ever made on the part of your company to your knowledge to carry out that part of this agreement by which you were to use your influence to get the Government to bring the suit and to secure the employment of your attorneys by the Government?—A. Never that I ever heard of or know about.

Q. Was that matter ever discussed by the company, and how, if you know, was that contract brought about, that is, who authorized the contract that your company is regarded as having assented to?—A. As I understood from Colonel Young, Mr. Van Benthuyzen and himself had entered into an agreement before the Government suit was agitated at all that the Pan-Electric Company and the National Improved Company should make common cause in respect to two suits that were then pending by contributing each all the electrical information they possessed, and all the models they had, and by the general services of the attorneys of the companies. Subsequent to that, some considerable time subsequent (probably after this suit had been commenced, but I cannot say as to that), the contract that I signed, my impression is, was brought to me at my office in the city of Memphis by Colonel Young. It is a contract that I did not scrutinize at the time, but I understood it to be—

Mr. RANNEY. We do not want the contents of that contract until they produce it.

The WITNESS. As I say, after the suit was brought, and I suppose it was brought at the instance of the Pan-Electric Company as well as other companies, I supposed that every telephone company in the United States was interested in the litigation involved in the Government suit—

Q. This is the point I am trying to call your attention to, and I regard it as important in this investigation. The members of your company under this contract are bound to use all their influence to secure the institution of the suit by the Government and also the employment of your lawyers by the Government?—A. Well, the idea of its committing us to use influence to secure the bringing of a suit is one that never occurred to me.

Q. That is the language of the contract.—A. Until you called my attention to it—

Q. That places yourself, Mr. Garland, and others in the same attitude of agreeing to use your influence to have a suit brought by the Government?—A. He was not present at the meeting; Mr. Garland was not.

Q. Still he is a stockholder of the company, and that contract places him in that attitude.—A. I had no contract before the board at the time I spoke of it, but verbally stated simply that I had signed the contract binding us to give the services of our attorneys in these suits and to pay our part of the expenses of those suits, and to furnish our models. That was about the statement I made to the gentlemen present. None of them I suppose have ever seen the paper.

Q. You could not state now from memory whether your visit to the Solicitor-General's office was prior or subsequent to the signing of that contract I refer to?—A. I could not fix that date.

Mr. RANNEY. He has fixed the date of that interview, so that shows it was subsequent.

The WITNESS. The contract will evidently be forthcoming and its date will fix the time. I do not know that even the date of that contract will fix it, for it is my impression that it was signed by Mr. Van Benthuyzen, and Mr. Van Benthuyzen was not

in Memphis at the time I signed it, if I signed it there, and it may have been presented to me for signature subsequent to the time. But Colonel Young, from his memoranda and his recollection of those matters, will be more accurate, I imagine, as to those dates, for I have no memoranda to control me, and he probably has.

Q. If your visit was subsequent to the date of that contract it might place you in the attitude, unless explained, of carrying out, or having an intention to carry out, that portion of the contract?—A. Well, my visits to the Department, the object and purpose of them, will be very clearly shown, I imagine, by the testimony of Mr. Goode, as well as by my own, or by the testimony of every man in the Department who knows anything about the matter, because it went only to the extent I mentioned, and I think Mr. Goode will so state.

Q. I believe everything you have stated, but I am speaking of the attitude it places you and your company in in connection with the Government suit and in regard to the effort you were to make to secure the employment of your attorneys by the Government. Now, whether the members of your company understood the full force and meaning of that contract when it was given out and signed is a thing I should like to know?—A. Well, the face of the contract I know was not stated to the gentlemen who were present at the last meeting of the board. I had no contract before me, and was only speaking from memory I had of the signing of a paper to divide the expenses; to pay our part of the expenses.

Q. This goes beyond that, you will notice, and relates to the institution of the suit and the employment of the attorneys?—A. Yes; it does.

Q. What is the date of that order, as shown by the records, for the bringing of the suit?

Mr. RANNEY. It is dated the 3d of September. The communication of the district attorney was dated August 31.

The WITNESS. This contract now under my eye says:

"In addition to the agreement made and entered into between the above-mentioned companies at the city of Washington, D. C., on the 4th day of August, A. D. 1885, it is hereby further stipulated," &c.

Now, that contract purports to be signed, "The National Improved Telephone Company, by W. Van Benthuyzen, president."

Mr. RANNEY. And he was here at the time.

The WITNESS. He was here at the time? Well, that does not correspond with my recollection, because the paper I signed, I think when you see it you will find, is signed by Van Benthuyzen, and was signed by me when it was presented to me. When presented to me it was presented by Colonel Young. Colonel Young certainly showed me a paper on the subject of the two companies contributing evidence, models, attorneys, &c., in pending suits, and I think he did request me to sign it as an agreement.

Q. Do you think you drew any of these agreements yourself?—A. Oh, no; not one of them. My impression is that Colonel Young showed me the paper, and it was signed by me and returned to Colonel Young; that is my recollection, and I think it was at Memphis, and if Mr. Van Benthuyzen was at Memphis at the time I have no knowledge of it.

Q. Do you know what lawyers were employed to assist in this Government suit when it was brought?—A. I did not know that any lawyer was employed.

Q. I mean the first suit that was brought?—A. I did not know that any lawyer was employed for that purpose; I know that Colonel Gantt and General Wright were both employed in the prosecution of the suit that the Pan-Electric Company brought against the Bell Company in Memphis, and I heard from Colonel Young that he and Van Benthuyzen had agreed that our lawyers and their lawyers would join in prosecuting that suit and in defending the New Orleans suit. Then hearing that Colonel Young and Colonel Gantt were here in conference with those gentlemen in respect to a Government suit, I inferred that they were co-operating in that matter as well as in the other.

Q. It is your understanding, then, that those attorneys who represented your company were engaged in the Government suit that was instituted by Mr. Goode?—A. I only understood so from the fact that they were here in conference. I understood that they were conferring upon that subject, and subsequently understood that Colonel Gantt and Colonel Young made an argument before Secretary Lamar when the case before him was argued.

Q. That Government suit was brought some time in September, was it not, the suit against the Bell Company?—A. I understood Mr. Ranney to state that the order to bring the suit was dated in September.

Mr. RANNEY. The order to bring the suit was dated September 3. It is on the record and in evidence.

Mr. MILLARD. Let me suggest to you, Mr. Hale, that the application of Mr. McCorry to Mr. Goode asks for the appointment of those attorneys, and also the letters.

Q. So that all of these contracts were made before the order for the suit was made by Mr. Goode?—A. I do not know as to that.

Q. That is, if the suit was ordered on the 3d of September, both of these contracts date prior to that time, one August 4 and the other August 27?

Mr. RANNEY. You will find that Mr. McCorry's application to the Attorney-General was dated the 31st of August, 1885, and in that he requests the employment of Messrs. Gantt and Wright, and Mr. Goode authorizes the employment of those gentlemen jointly.

Mr. OATES. But without fees on the part of the Government. They had been employed by their companies and agreed to serve in the suit without compensation from the Government.

Mr. HALE. It was not to cost the Government anything for the attorneys' services.

Mr. RANNEY. No.

Mr. MILLARD. They were to have charge of the suit, but were not to be compensated by the Government.

The WITNESS. My understanding was that Colonel Gantt and General Wright were attorneys of the Pan-Electric Company, and that certain attorneys had been retained as attorneys of the National Improved Company before a Government suit was ever thought of; that they were representing those two telephone companies in matters of litigation then pending, and that in the course of investigation of the matters involved in those litigations the idea of a suit upon the part of the Government, or rather the idea that the gaining of either of those suits would not finally settle the question, but perhaps only settle it as to the parties to the suit, led to the idea that a Government suit was the only thing that could finally and definitely settle the question of the validity of the broad claim of the Bell patent.

Mr. HALE. I only meant by my questions to call your attention to that feature in the contract that appeared to me to be a little unusual. The contract that you signed is not before the committee, I believe. Do I understand you correctly to say that this contract you have read to-day corresponds substantially with the one you signed?

The WITNESS. Oh, I say distinctly that the agreement that I understood to have been made and to have been incorporated into the contract that I signed, went to the extent of dividing expenses in the litigations pending. I inferred (for I had no knowledge of the action of our company, and I have no knowledge to-day that we have a lawyer employed to prosecute the Government suit) from the fact that Colonel Young and Colonel Gantt were here in conference with the National Improved Company, and were investigating the question of a Government suit, that they were representing their respective companies in doing so.

Q. Do you or not, on the part of the company, or as one of the representatives of the company, disavow this contract that has been read here to-day, or was anybody authorized to sign that by the company?—A. No one has been authorized to sign it by the company, so far as I am aware.

Q. These measures were not discussed by the company at any meeting of the board?—A. By no action of the company that I have any knowledge of, but upon a verbal statement I made at a meeting of the board that I had signed a contract between us to share the expenses of the litigations pending at the time, and to furnish our models, and I understood the gentlemen present—

Mr. HALL. This contract does not include anything about the models or evidence.

The WITNESS. I understood the gentlemen present to acquiesce in my signing it, but so far as I know they had no knowledge of what the contracts were except as they derived it from my statement to them, and they can speak for themselves as to how much knowledge they had.

By Mr. EDEN:

Q. At that time had you ever seen the supplemental contract that is spoken of now?—A. Unless it is the one I signed I have never seen it, and I do not think it is probable it is the one I did sign, for I never would have agreed—

Q. Do you say the supplemental contract is the one you signed?—A. Oh, the paper here I have not signed; this one I have not signed.

By Mr. RANNEY:

Q. You do not know that the one Mr. Van Benthuyzen has got has not your signature?—A. I do not; I think probably the paper I signed he has possession of.

By Mr. MILLARD:

Q. You have possession of the one he signed and he has possession of the one you signed?—A. I only know that Colonel Young brought me a paper at Memphis, that is my impression, and that he showed it to me and talked to me about it. My impression was that it was at my own office at the city of Memphis that he showed me the paper, and my impression is still that way.

By Mr. HALE:

Q. Until you saw this contract to-day had you any knowledge that there was any contract of the sort binding on your company to carry out the objects as specified in

that contract, that is, to secure the institution of a suit by the Government, and to secure the employment of counsel by it?—A. I did not think there was but one contract existing. I do not think I ever signed but one, though I may have signed it in duplicate. I do not think it contained the provisions you recite.

Q. Did you think that anything the company had done authorized you to enter into obligations to use your influence with the Government authorities to have them bring this suit?—A. The idea of being under obligation to use our influence, do you say? It never occurred to my mind until you called my attention to it here.

Mr. HALE. That is the feature I wanted to draw attention to. Have you anything more to say about it?

The WITNESS. I think not.

By Mr. RANNEY:

Q. At the time you signed that contract were you an officer of the company?—A. I have been an officer of the company from its organization.

Q. What officer?—A. Vice-president.

Q. Who was president at that time?—A. General J. E. Johnston.

Q. I want to call your attention to one letter suggested by the questions of Mr. Hall. It is a letter from you to Dr. J. W. Rogers, dated October 26, 1885, and is as follows:

UNITED STATES SENATE,
Washington, D. C., October 26, 1885.

DEAR SIR: I want to see you when you come to the city, but not knowing when you are in, don't know when to call.

My object is to talk to you about the telephone, and chiefly to say to you that everything in the way of newspaper, hotel, or street discussion from our side of the question is hurtful, and I beg that you say nothing on the subject through the press or otherwise, except so far as you may choose to discuss the matter with us who are interested.

Respectfully,

ISHAM G. HARRIS.

Dr. J. W. ROGERS.

Do you remember that letter?—A. Oh, yes, sir; I remember it very well.

Q. That was while this hearing was going on before the Secretary of the Interior, was it not?—A. I expect it was after the Secretary's opinion, but I am not sure. On reflection, I am sure that it was some months before the opinion of Secretary Lamar was delivered, and don't remember whether it was before or after the application was referred to him, but the record will show as to that.

Q. It was before these newspaper publications?—A. It was before the recent publications. Dr. Rogers had previously written a letter to the New York Tribune, some time before that. But my letter was written under exactly these circumstances: General Upshur stated to me that a night or two before the time of the conversation he had seen Dr. Rogers at the Metropolitan Hotel, drunk, reading a manuscript, perhaps in verse, ridiculing and satirizing the President, the Attorney-General, General Johnston, perhaps Mr. Atkins and Secretary Lamar, and the Administration generally, and suggested that he was making a very ungainly figure of himself with a group of people in the lobby of a public hotel at nine or ten o'clock at night, intoxicated and going on in the way he was going on. I wrote him that letter perhaps the night after that conversation. I did desire at the time to see if I could not restrain him from that sort of folly. I did not think he was doing himself or anybody else any good by that sort of criticism upon those gentlemen. I simply meant that the attorneys that had investigated the question were doubtless giving it all necessary attention, and if Dr. Rogers wanted to talk about it, I thought he had better confine his talking to those of us who were interested in the telephone, rather than to be writing and repeating doggerel at a public hotel while in a state of intoxication.

Q. You considered that a suit which would result in vacating the Bell patents would result in great advantage to your interests and the interests of the Pan-Electric Telephone Company?—A. Oh, a decision against the broad construction of the broad claim of the Bell patent, I supposed, would open the entire telephonic field for every mechanical device, and allow it to stand upon its own merits, and that would be of advantage to every telephone company in the country, and to every man in the country who used the telephone.

Q. You believed, did you not, and still believe that the vacating of the Bell telephone patent would enhance the value of the stock in the Pan-Electric series of companies?—A. The vacating of the broad claim by a judicial decision construing it not to extend to the entire art of telephony would open the field to all mechanical devices for transmitting articulate speech over a wire by means of electricity—do you ask if that would be of advantage to our company?

Q. Yes.—A. It would be to every telephone company in America, and to every man

in America who uses a telephone ; that is what I then considered and what I now consider the effect it would have.

Q. You were aware that the Government suit was to vacate the letters patent obtained by Bell?—A. I supposed the Government suit was for the purpose of testing its validity in all its parts, but I supposed the weak point of the Bell patent, or the weakest of the weak points, was his fifth claim, which gives him the exclusive right to transmit articulate speech over a wire by means of electricity, no matter by what method.

Mr. RANNEY. I have no more questions to ask the witness.

By Mr. MOFFATT:

Q. Following the line of Mr. Ranney's last question in regard to the benefits to be derived by your company and the whole people and every other company, I will ask you whether you consider your telephone as the best one there is?—A. I have considered it and do consider it the best I have seen, but invention is going on all the time, and I do not know how long it may continue so.

Q. Then, on the ground of "the survival of the fittest," if the Bell Telephone were set aside, the Pan-Electric Telephone would have a chance for development?—A. I should think its merits would assert themselves.

Q. And therefore your patents would become of great value if you have the best telephone?—A. If the public should decide it was the best telephone I suppose they would.

Mr. EDEN. I move that the committee adjourn until to-morrow at 12 o'clock.

The motion was agreed to, and the committee then adjourned.

WASHINGTON, D. C., *Friday, April 2, 1886.*

The committee was called to order at 12.20 p. m.

Mr. OATES (to Hon. J. D. C. Atkins). I understand you have expressed a desire to testify, General Atkins.

Mr. ATKINS. Yes, sir; I made the request the other day.

Hon. J. D. C. ATKINS was then sworn and examined.

By Mr. OATES (in the chair):

Question. Do you hold any official position under the Government at this time?—Answer. I am Commissioner of Indian Affairs.

Q. How long have you held that office?—A. I was inducted into the office on the 26th day of March, 1885.

Q. Prior to that time were you in any way connected with the Government of the United States; did you hold any office?—A. Yes, sir; I was a member of Congress from the 4th of March, 1873, until the 4th of March, 1883—ten years; I went out of Congress on the 4th day of March, 1883.

Q. You were not in office from that time until you were appointed Commissioner of Indian Affairs?—A. I was not; no, sir.

Q. Are you a member of a company or association known as the Pan-Electric Company, and alleged to have been formed in March, 1883?—A. Yes, sir; I am a stockholder and one of the original incorporators.

A. Are you also a member of what is known as the Pan-Electric Telephone Company?—A. Well, if I understand the proposition, I think I am. Do you mean the Pan-Electric Telephone Company that was incorporated under a charter in October, 1883?

Q. Yes; a company springing out of the Pan-Electric Company.—A. Yes, sir.

Q. Have you seen the resolution under which this committee was raised, expressing the objects and purposes of the inquiry to be made by the committee?—A. I read it at the start, but I have not seen it now for four or six weeks, that I know of.

Q. You may now proceed, if you desire, in your own way, to describe to the committee the formation of the Pan-Electric Company and the Pan-Electric Telephone Company, together with a general history of the matter as far as you deem it important.—A. Along about the latter part of February, 1883, I received an invitation in the form of a note or a letter from Dr. J. W. Rogers, stating that his son had some valuable patents, and asking if I would like to become interested in them, and suggesting to me that he would like to have me interested in them. I replied to Dr. Rogers. Possibly I received two notes from him before I replied that I was then engaged actively during all of my time in considering the appropriation bills that were before Congress, being myself a member of the Committee on Appropriations; that the conference committees upon those bills required my entire time and strength, and that I could not see him until after Congress adjourned and I had a day or two to rest, and then I would see him upon the subject. I have no recollection of having seen Dr. Rogers at all or Harry Rogers at all until after the expiration of the session. I met with

Senator Harris because in this letter addressed to me a suggestion was made of a desire upon the part of these parties that Senator Harris should become interested in these patents. I mentioned the matter to him, and I think he said he had himself received a letter on that subject. I think so. That was while the Forty-seventh Congress was in session, but about the last days of the Congress. After the 4th of March, when I had had a little time to rest, Senator Harris and myself met, talked about it, and concluded we would go down and see the patents put in operation in the laboratory upon Four-and-a-half street. We did go there; we saw his telephone operated, and I think we saw what he called his telegraphic repeater operated. Well, there was a good deal of talk one way and another about forming a company, &c., &c., but nothing was definitely determined.

In the mean time, before I get too far along, I should say that when it was proposed Senator Harris and myself should invite other gentlemen into this company, I suggested Mr. Garland, and Senator Harris suggested General Joseph E. Johnston; I was Mr. Garland and asked him if he would like to go into that company, provided those patents should strike him, after examination, as being of value; he said he would think about it, and rather thought he would; that was about the way he expressed himself. After Congress adjourned, as I say, Senator Harris and myself went to this place, and I think once Senator Garland went there with us too; I think so. The inventions were examined, and while I did not then and do not now know much about telephony or telegraphy—I know very little of the scientific features of telephony or telegraphy—I thought, I confess, very well of these patents; I thought that they might be of considerable value, though I did not know; it was an experiment and had to be tried; so Mr. Rogers and his son, Senator Harris, myself, Senator Garland, General Johnston, and Mr. Young, after a consultation, agreed that we would form an association, and went to New York still considering the subject, having come to no definite terms.

At New York we made a contract, which was signed by J. Harris Rogers, the owner of the patents, on the one part, and by Senator Harris, Mr. Young, and myself, in person, and by General Johnston and Senator Garland by Senator Harris, as their attorney in fact. We made the contract covering these patents, a telephone patent, a telegraph patent, an electric-light patent, and some other patents—I do not know what they were—which we agreed should be divided into ten parts. Mr. Harris, Mr. Garland, Mr. Young, General Johnston, and myself under the contract were to own five parts—a tenth each; Mr. Rogers was to own four parts—four-tenths—and one-tenth was to belong to the joint association. We agreed that whatever assessments were necessary for the development of these patents should be made, fixing, I believe, in the contract, that not more than \$150 should be assessed without the consent of the company. I think we assessed ourselves, in that contract, \$150 each. The understanding was that we were to pay, in the development of these patents, whatever assessments were absolutely necessary, and to give such time and attention to them as would bring them before the public, and see whether or not there was really anything in them. That was done. The \$150 was paid. Some wires were hired, I don't know of whom now, and experiments were made.

Perhaps I may as well mention right here, as I have noticed in the newspapers something said about it, that Mr. Abram S. Hewitt, of New York, was spoken of as probably a party who would go into this company, and it was suggested by somebody, I don't know by whom, that I had better see him and ask him if he wanted to go into it. I told them I had no objection; that I had a very high regard for Mr. Hewitt; he and I had served together on the Committee on Appropriations; I regarded him as a very pure man and a very good man, and I would be very glad if he would go into it as far as I was concerned. So I went to see Mr. Hewitt, and I think young Rogers went with me, and told him of the existence of the patents—that was before the contract was made, I believe—and asked him if he would like to go into it. He said no; he had so much business of his own and was not in very good health, and that he did not desire to enter into any new enterprise of any kind. There the matter dropped.

That was all that occurred at New York, that I remember, that is at all material. We simply agreed to take these patents and to bear whatever assessments were necessary to place them before the public to experiment with them and to see whether they were of value or not. We did experiment with them and my appreciation of them grew wonderfully; wonderfully; so much so that I regarded them and do regard them now as a very valuable property, provided they do not infringe upon anybody's patents; if they do, I should like to know it, as far as I am concerned. I believe that was the feeling of the company; and to ascertain whether there might be any question upon that subject the opinions of two gentlemen were asked for. Mr. Garland was one, and Mr. Marble, the ex-Commissioner of Patents, was the other. Mr. Marble was then living in Washington (I don't know whether he lives here now or not) and he had been Commissioner of Patents, but was not at the time. He was applied to and his opinion was given, as I understood. I never saw it, but I understood his opinion was given to the point and to the effect that the Rogers telephone patent

did not infringe the Bell patent, either in its transmitter or receiver. No corporation was formed until, I think, about the latter part of October.

Q. 1883?—A. 1883; yes, sir; this contract was made the 13th of March, 1883, in New York. The charter of incorporation came into existence, I think, about the 30th or 31st of October, 1883; the latter part of October, at any rate.

Q. What did that incorporate?—A. I think that incorporated the Pan-Electric Telephone Company. Then a paper, I hardly know what you might call it, was issued or given to the stockholders saying that they were entitled to so much of the stock of the company, for it was then capitalized. They capitalized the company at that time, according to my understanding, and each stockholder was given his particular share of the stock. Of this tenth that belonged to all in the company, there was a certain portion given to other parties, I don't know how much. Dr. Rogers claimed \$150,000 or \$200,000, and he disposed of it, how I do not know, to some other parties. This paper or evidence of the ownership of the stock, was given to each of the stockholders. I was given mine and kept mine, until at a subsequent meeting of the Pan-Electric Telephone Company a demand was made of me for the surrender of that certificate or evidence of ownership with the view of issuing to me a certificate for 10 per cent. less, and one was issued to me for \$450,000; that I have got. The other was \$500,000. I never sold any of my stock or any evidence of stock, or any of my interest. I never sold a cent's worth. Although frequently applied to to sell it I declined to do it at any figures. I regarded the thing as not—well, the company had, in fact, enjoined any stockholder from selling any of its stock without the consent of the executive committee; but I did not desire to sell it any way, and would not have sold it any way, although frequently applied to to do it. Besides, the original contract provided that no stockholder should sell when the stock was issued, as I understand it, any of his private interest, without the consent of the company. I suppose some of the stock was sold by some of the stockholders. I have heard so. I do not know that it has been sold, but I have heard so, and I have heard that my name has been published in the papers as a member of the company referred to, either a stockholder or as a director—and I never was a director—as an advertisement for the sale of that stock. I state here that that publication of my name by anybody was wholly unauthorized by me and never would have had my consent if it had been asked. It was not asked. I have never felt comfortable under the idea that anybody could use my name in any such connection, because it was wholly without any authority from me.

Q. Do you know why that deduction of 10 per cent. in the stock was made?—A. I understood that the purpose was to sell the stock for the purpose of defraying the legitimate expenses of the company, should it have law suits or anything of that sort. That was what I understood.

Q. That was the Pan-Electric Telephone Company?—A. That was the Pan-Electric Telephone Company; yes, sir.

Q. Do you remember the date of that?—A. I do not, but I think it was in 1884. I am not sure whether it was in 1884 or the first of 1885.

Q. Do you state that the Pan-Electric Telephone Company did not sell stock or that they did sell stock?—A. I state that I did not sell any of my stock. I understand the fact to be that the Pan-Electric Telephone Company did sell some stock. It sold some stock to three or four parties, to Senator Vest, a couple of ladies—I do not know who they are—and a gentleman by the name of Howard. I do know him. I always understood that those parties solicited the purchase of that stock themselves. So far as my intercourse with the directors is concerned, and the president of the company, my information from them has always been that they did not want to sell the stock; that they did not want to put it on the market; but they sold it to those parties at their own solicitation.

Q. Why was it, if you know, that they did not desire to sell any stock?—A. Well, I should suppose the reason why they did not desire to sell the stock was that they preferred that time should develop better the value of the property, and that they did not desire to sell the stock until they knew it had a certain value. I should think so. Not being a director, of course, I was not in their counsels, and I never was at more than one or two meetings in my life. I was at one or two stockholders' meetings. Of course I do not know what their reasoning was, but I think that was the reason.

Q. They did sell territorial rights, however?—A. Yes, sir; in order to put telephones into operation they sold to parties who, I understood, solicited the purchase—some local parties who obtained the right to operate the telephones. The license or rights or whatever you might call it, was disposed of to four or five different local companies.

Q. Do you know anything about the contracts made with those local companies?—A. No; I do not know anything about them. I never saw one of them.

Q. Not being a director, you are not informed as to the particulars of those contracts?—A. I never saw one of them, and do not know anything about them. I have a general impression about them, but it is simply from what I have heard, and really I do not know anything at all. I never saw them.

Q. How much money did you pay to develop and test the utility of any of these inventions?—A. Something over \$400; that is my recollection.

Q. You say you became satisfied that the telephone was of utility?—A. Of very great utility; yes, sir. I regarded it as a very valuable property, and I regard it now as a valuable property. But the telegraphic repeater I do not, for the simple reason that upon some tests made with it it seemed that it was not so considered. Perhaps the same instrument had been previously patented; that was my impression. I do not know whether that is so or not; but I know the general impression of the company is still that the telegraphic repeater is worth but little, if anything.

Q. Did not you and your associates organize a company for telegraphic purposes based on that invention?—A. I do not know whether we did or not. Since this discussion and since this investigation has been going on I have heard something of that. I heard something of it here the other day, but I did not even know of it before. I did not know that there was a charter for a telegraphic company, if one exists.

Q. If a charter was obtained and any stock issued or any effort made to form such a company and put it into operation, you say you did not know of it?—A. I did not know, absolutely, that a step had been taken in the world for the organization of a telegraphic company; not one single step, except what I heard Senator Harris say here with regard to having it investigated by a man by the name of Marean—I believe that is his name—and that it was not a very favorable opinion. I know the impression I have received from conversations with members of the company for perhaps a year or so has been that that telegraphic repeater is not of any value.

Q. What was done at the stockholders' meetings which you attended?—A. I attended one meeting in Mr. Young's room. I believe that was a stockholders' meeting. No; that was not a stockholders' meeting; I believe it was a directors' meeting. I don't know whether it was or not, but I was present. They passed a resolution saying that none of this stock should be sold without the consent of the executive committee controlling it; an executive committee of three, I think. That is all I recollect.

Q. Why did they pass a resolution against the sale of stock?—A. Well, I do not know; but I am inclined to think the reason was the reason I gave you a while ago; that they wanted to wait and see, and be certain of the value of this property. I should judge that to be the reason.

Q. Do you remember the date of that meeting?—A. I think it was in the fall of 1884; it might have been in the spring of 1884; I don't know which.

Q. Some suits were brought against local companies in the territories where you had sold the right to operate the telephone, were there not?—A. I understand so; yes, sir. I understood there were some suits brought.

Q. Was that resolution passed before or after any of those suits were brought?—A. Upon my word I could not say, because I do not know when the suits were brought, and I do not know exactly when this meeting took place; but I think the meeting to which I refer was in the fall of 1884.

Q. Do you know anything about any suit being brought in the name of the Government for the purpose of vacating the Bell patent?—A. Nothing in the world of my own knowledge; nothing except what I saw in the papers and what I have heard here; nothing so far as my own knowledge is concerned.

Q. Did you ever take any part in or solicit any person, either the Attorney-General or the Solicitor-General, or any of your associates, to try to have a suit of that character brought?—A. Never on earth, sir. The first time that I ever heard of the agitation about a Government suit I saw in the papers at the same time that the suit was ordered. That was the first time I ever heard there was any agitation of the question. I had never opened my mouth during the pendency of that suit before the Department of Justice or the Department of the Interior on the subject to any living man connected with either Department, never; nor to anybody else on behalf of bringing it. I may have talked about it, as everybody else has talked about it, seeing it in the papers, and all that sort of thing; but I never raised my finger towards trying to bring about that suit by the Government.

Q. Then you had nothing to do with obtaining the services of counsel?—A. Nothing on earth, so far as that is concerned; and I will say right here now upon that point that I asked Mr. Young, after this case had been brought before the Interior Department, and I saw that he was appearing in the case, whom he appeared for. Said I: "Do you appear for the Pan Electric Company? Is the Pan-Electric Company before this Department?" He said: "No, sir; it is not." Said I: "Whom do you appear for?" He said he appeared for some gentlemen in Louisiana and in Memphis; and, with rather a defiant expression, that he had a right as an American citizen, if he wanted to, to petition the Government to bring a suit, or something of that kind.

Q. When was that?—A. That was when this case was pending here before the Department of the Interior, in January.

Q. I understood you to state that when you first saw these inventions put in operation you did not even know whether they had any utility or not, but had an impression or opinion that they possibly had?—A. Of course I did not know anything about

them. I just thought this, that they might be of great value, and they might not be of any value. I did not know how that was. Of course it was to be tested, and I could not tell. I was willing to pay whatever assessments were necessary to see whether the inventions were of value or not. After the experiments were made I became satisfied the inventions were of very great value. You asked me a moment ago if I had been at any stockholders' meeting. There was another stockholders' meeting that I was at, which, before it passes out of my mind, I had perhaps better refer to. That was the stockholders' meeting at Senator Harris's room, some time in the month of January last, I think, to which I was invited. I attended that meeting.

Q. At that meeting or at any other time do you remember to have heard Senator Harris say anything about having entered into a contract for the Pan-Electric Telephone Company with the National Improved Company, represented by Van Benthuyssen, of New Orleans?—A. Yes, sir; I heard him say that night that the Pan-Electric Company and the National Improved Company had an understanding. That was the first time I had ever heard of it according to my recollection. He said that they had an understanding that they would unite, and that they would bear the expenses equally; that each company should pay its own lawyers, but that they should divide the expenses, and put in their machinery, models, and so on, whatever they had, in the suit in New Orleans and in Memphis—private suits. Nothing was said about a Government suit.

Q. Suits against what company?—A. Against the Bell Company. Nothing was said about a Government suit on that occasion.

Q. Nothing was said about a Government suit?—A. Not that I heard.

Q. Was any paper shown?—A. None that I saw.

Q. No written contract was exhibited?—A. None that I saw.

Q. Do you remember what Senator Harris said?—A. That is just what he said; that the meeting was called to apprise the stockholders of the fact that an agreement had been reached between the National Improved Telephone Company and the Pan-Electric organization or company; that they would unite, put in their instruments, and each company bear equal expenses, and each pay its own lawyers in the prosecution of the private suit at New Orleans brought against the National Improved Company, and the suit brought at Memphis, I believe, by the Pan-Electric Company against the Bell Company.

Q. For the purpose of making a joint fight against the Bell Company in each of those suits?—A. Yes, sir.

Q. Were you ever at any meeting of the Pan-Electric Company, or the Pan-Electric Telephone Company, or were you ever a party to any understanding or agreement with any member of that company, by which an effort was to be made to induce the Department of Justice to bring a suit against the Bell Company for the purpose of testing or setting aside its patents?—A. Never, sir; never in my life; and did not know that any effort of that sort was being made by anybody connected with the Pan-Electric Company.

Q. Then you state that if the Pan-Electric Company was a party to any such arrangement, or any of its members joined in an effort to induce the Department of Justice to bring a suit against the Bell Company, it was without your knowledge or participation?—A. Absolutely without my knowledge or participation, and would have been without my consent if I had known it.

Mr. OATES. That is all I have to ask.

Mr. RANNEY. I was not here during most of your examination. I have a very few questions to put to you.

By Mr. RANNEY:

Q. You reside in Tennessee?—A. Yes, sir.

Q. You were a member of what Congresses?—A. The Forty-third, the Forty-fourth, the Forty-fifth, the Forty-sixth, and the Forty-seventh.

Q. It has been said you were a candidate for Clerk of the House?—A. I was.

Q. Of the Forty-eighth Congress?—A. I was; yes, sir.

Q. And you now occupy what position under the Government?—A. I am now the Commissioner of Indian Affairs.

Q. I believe you were not a director in either of these companies?—A. No, sir; I was not.

Q. Did you go to New York when the contract was signed?—A. Yes, sir; I did.

Q. Who obtained you as one of the associates?

The WITNESS. Who obtained me?

Mr. RANNEY. Who spoke to you about it?—A. Mr. Rogers.

Q. You paid Dr. Rogers or Harris Rogers nothing for the interest which you received?—A. Nothing at all. I would not have paid anything for it at that time except what I agreed to pay.

Q. And you, under the agreement, like the rest, entered into an obligation that you might be assessed to the extent of \$150?—A. Yes, sir; and any other assessments that the committee might make. I did not know how much it would amount to.

Mr. HALL. You did not mean "the committee," did you?

The WITNESS. I did not mean "committee."

Mr. RANNEY. What you meant was such other assessments as the directors might fix?

The WITNESS. Yes; such assessments as the directors might determine upon.

Q. As you understood it, the assessments were to be made upon all the interests?—

A. I never was very definite about it, but that was rather my opinion; yes, sir.

Q. Did you look into the patents to see whether they were of value or not?—A. Well, so far as that is concerned, it would have been like a child opening a Greek Testament. I would have known about as much before I looked into it as I would afterwards.

Q. From whom did you get your idea about the value of the enterprise?

The WITNESS. At the start?

Mr. RANNEY. Yes, sir.

A. Well, I got my idea about it mostly from talking with Harris Rogers. Dr. Rogers talked a great deal about it, but I had very little confidence in his scientific knowledge—not intending to make any slur upon him at all.

Q. At that time were you a member of Congress?—A. I was not. You were not here when I made the statement, and perhaps it is proper I should say that the first time I heard of this thing was during the last days of the Forty-seventh Congress; but my recollection is that I had no interview whatever with Dr. Rogers during the time of the existence of the Congress.

Q. Not having been elected to the succeeding Congress, Dr. Rogers did not expect you would be a member of that Congress?—A. He ought to have known I would not be, because my successor was elected. But I will say this, so far as that is concerned, that it never occurred to me in that connection that being or not being a member of Congress had anything to do with the matter. I should have gone into that company just as soon if I had been a member of the Forty-eighth Congress as I did being a private citizen.

Q. It never would have occurred to you that making a gift to you of a valuable property might not— A. No, sir; and I deny now that it was a gift. I do not think it was a gift now. I agreed to pay whatever assessments were necessary to develop an unknown quantity, a patent that I did not know anything about.

Q. At the same time, the assessments were to be made upon Dr. Rogers as well as yourself for the mutual benefit of the enterprise?—A. That is all. I would not have been willing, so far as I am concerned, to have done any more than that, with my understanding of the matter at that time, because I did not know whether the inventions were worth anything or not.

Q. You would not consider, if you were a member of Congress, that there was any impropriety in taking a gift?

The WITNESS. Taking a gift?

Mr. RANNEY. Yes, sir.

The WITNESS. You are putting the question in a very different form. I deny it was a gift. If you mean to ask by that question whether I would accept a present for the purpose of influencing my action as a member of Congress, I do most emphatically deny it.

Mr. RANNEY. I have no doubt you would not do it.

The WITNESS. I do, indeed, deny it.

Q. Nor if you supposed that the object of a man in making a present to you was some indefinite idea that you might possibly be availed of for his own benefit, you would not do it?—A. I would not have anything to do with him.

Q. I do not understand what you mean when you say that the conveyance of a tenth part of the interest in those patents, which you admit you paid nothing for and were to pay nothing for, was not a gift, when the only assessment that was to be made upon it was to be for the mutual benefit of all, including Dr. Rogers. How can you call it a purchase?—A. You can make your own argument; but I repeat that the only consideration I would have given was just the one I did give, and that was that I agreed to bear whatever assessments were necessary to develop it, and to give such time and attention to it as I might be called upon to give.

Q. But you do not mean to be understood that the conveyance of a tenth part of the interest in those patents for which you paid nothing to Dr. Rogers was a purchase of itself, do you?—A. I think it was; yes, sir. I think it was as much a purchase—

Mr. HALL. I object to this manner of inquiry.

The WITNESS. I am perfectly willing to answer it. I think it was a purchase. I think it was a purchase to the extent that I paid whatever money I paid for it. It was as much as I would have been willing to pay at the time, because I knew nothing about the value of it.

Q. But you paid nothing for the transfer of the tenth interest?—A. I did; yes, sir. I gave my obligation to pay whatever assessments were necessary to see what was in it.

Q. That was to be paid to the company?—A. Oh, well, you may refine and go into metaphysics on the subject, but the simple fact is, that that was the consideration that I gave, and not official influence, as has been intimated in the papers, about which I wish to speak in a moment.

Q. Not being connected with Congress at that time as a member, you had a right to accept a gift without any consideration, and therefore I do not care to pursue that matter farther.—A. I do not consider that I accepted any gift. You asked me a question a moment ago, and I did not know whether you intended to ask a further question or not, but as it occurs to my mind, I will say I would like to have you ask any question you desire with regard to that matter. I refer to the fact that I was a candidate for clerk.

Mr. RANNEY. That has already been testified to, and I simply wanted to identify you.

The WITNESS. My candidacy for the clerkship had no connection in the world with this telephone matter—none on earth—nor would it have had if I had been elected.

Q. Senator Harris spoke yesterday about your being present at a meeting where a contract that he had made with Mr. Van Benthuyzen was discussed. Do you remember that?—A. I was at a stockholders' meeting—

Mr. OATES. He was examined in regard to that.

Mr. RANNEY. Mr. Oates says you were examined on that, and I do not care to repeat the inquiry.

The WITNESS. I did not see the contract.

Mr. RANNEY. I was not in when you were examined, and so I will not pursue the examination further, but will leave it to Mr. Millard, when it comes his turn, or to the other members.

By Mr. EDEN:

Q. Were you acquainted with Dr. Rogers prior to the making of this arrangement that you speak of?—A. Oh, yes; I knew Dr. Rogers by reputation as an Episcopal minister a good many years before I knew him personally. I never knew Dr. Rogers personally until I met him here during the Forty-fourth or Forty-fifth Congress. I was here as a member of Congress, and I met him here about the Forty-fourth or Forty-fifth Congress. That was the first time I ever saw Dr. Rogers to know him, although I knew very well who he was. He had been an Episcopal minister in the city of Memphis. I knew very well whom he married. I knew the lady by reputation and knew the family well.

Q. Did you know the young man personally?—A. Yes, sir; I knew him very well, because he was the electrician of the House in the Forty-fourth Congress.

Q. Did you know anything of his capacity as an electrician?—A. Well, sir, he was regarded as a young man of very extraordinary capacity in that respect; was so considered by Mr. Adams, the Clerk of the House, who appointed him, and I never heard anything but compliments paid to his abilities as an electrician. I never heard anything against his reputation in any way, so far as that is concerned, at that time. I have heard some intimations since that he was not, perhaps, a young man of the most steady habits, but still I do not know much about them, or anything about them, for I never saw him intoxicated, that I know of, in my life.

Q. As the head of the Indian Department, I suppose you have no connection whatever with the business of telephoning?—A. Well, we have got a telephone of the Bell company in our office, which we use about fifty times a day; that is all that I know of.

Q. That is the same as they have in all the offices?—A. I suppose so. I understand it is the Bell patent. I would not know the difference to-day between the Bell patent and the Pan-Electric patent, or any other patent, so far as I am concerned.

Mr. RANNEY. You do not say whether you would prefer the Pan-Electric telephone or not?

The WITNESS. I am not so certain but what I think it is the best property. I don't know about that. However, I do not care to put that remark in, as I remember now I am on oath.

Mr. RANNEY. I made the remark facetiously.

The WITNESS. Yes, I supposed so; but I wish to say I have not quite as high an opinion of the Bell Company as a great many people have, and I have a great deal better opinion of the Pan-Electric Company than a great many people have. That is the answer I will put in on my responsibility here as a witness.

Q. Have you made any use of your office to promote the interests of the Pan-Electric Company?—A. None on the face of God Almighty's earth, and there is not a man who will look me in the face and say so; not one on earth. I would cut my right hand off at the wrist before I would do it.

Q. I understand you to say you not only had nothing to do with the bringing of the Government suit, but that you had no knowledge that your company had anything to do with it?—A. I never heard of the agitation of this Government suit until I understood and saw in the papers that it was brought, never. So far as knowing

about its being brought, or any of the details, I know nothing more than what is known to the public. I will say this, that when the question was being agitated in the Interior Department, I, like any other man that reads the papers, was not oblivious of the fact that the case was being brought to the attention of the Secretary of the Interior.

By Mr. RANNEY:

Q. And you knew Casey Young was engaged in that case?—A. I did, and I said to him, "Colonel Young, has the Pan-Electric Company anything to do with this suit before the Interior Department?" He said, "No, sir." "Well," said I, "how do you appear in it? I see you are reported as counsel in it somehow or other." He said, "I am appearing for certain friends in Memphis and certain friends in Louisiana," and with rather an energetic manner he said that he had a right to appear and petition the Government as an American citizen himself if he wanted to do it.

Q. Did he say he had a contract with Van Benthuyzen by which they had combined?—A. He did not say so.

Q. He never told you that?—A. He did not tell me so.

Mr. HALL. That has all been gone over.

By Mr. EDEN:

Q. I believe you said you did not hear of this Government suit that was brought until after you saw in the papers that it had been brought?—A. Not until it was published in the papers that it was ordered. That was in September.

Q. Of course then you did not speak to Solicitor-General Goode about it?—A. Never in my life. I never opened my mouth to Mr. Goode on the subject.

Q. Did you speak to Senator Garland about it?—A. I never spoke to him on the subject of the suit. I saw Mr. Garland once since July last, only once, and I remember very distinctly when it was, and what the object of my seeing him was. It was after the case had passed from the Interior Department, having been decided by Mr. Lamar; several days afterwards. I called to see Mr. Garland—

Mr. RANNEY. I suppose a conversation then would not be of any consequence.

Mr. EDEN. I am not particular about it.

The WITNESS. Just as you please. I am willing to state what took place between Mr. Garland and myself.

Mr. RANNEY. I do not think any conversation between him and Mr. Garland since this matter has come out would be competent.

The WITNESS. It was not about the suit. We had no conversation about the suit.

Mr. HALL. Let us pass on the objection.

Mr. OATES. As the witness states what he said did not relate to the bringing of the suit, it seems to me it is not material.

Mr. HALL. It may relate to something anterior to the bringing of the suit. This investigation is not limited to any time.

The WITNESS. I am perfectly willing to answer.

Mr. EDEN. It probably refers to some relation that he had to this company. If it does, I should like to have it.

Mr. RANNEY. You are proposing to take a man's statement subsequent to the fact. If you are going to enforce any rules of evidence—

Mr. HALL. It seems to me we should hear it.

Mr. OATES. Let us hear it first. (To the witness.) You may proceed.

The WITNESS. I will state what occurred between Mr. Garland and myself. Mr. Garland and I had always been great personal friends. As I stated to you before, it was I who first suggested the idea to him of going into this company. I went to see him and asked him this question: As this whole matter had passed from the Interior Department, I wanted to know his opinion whether I, as the Commissioner of Indian Affairs, being under Mr. Lamar, should go to Mr. Lamar and tell him I had an interest in this Pan-Electric Telephone Company, and state all my connection with it. He said he thought it would be a very proper thing for me to do. That was the substance and all of the conversation that we had bearing upon that subject.

By Mr. RANNEY:

Q. That was after it had passed beyond him?—A. That was several days afterwards. I know very well when it was. It was the last of January, several days after Mr. Lamar had made his final decision on the question. Then I did go to Mr. Lamar and I stated to him my connection with this company and that I owned stock in it. Said I, "I don't know whether you ever knew it or not. I never mentioned the matter during the pendency of the case, as a matter of course."

Q. Did Mr. Lamar say whether he did know it or not?—A. I don't think Mr. Lamar intimated whether he knew I was connected with it or not; but I suppose that he did know it, because it was pretty generally understood that I was. Still, I don't know whether he did or not.

Mr. RANNEY. I have no objection to all of this statement going in, if you gentlemen desire it.

Mr. OATES. I do not think it is necessary, but I withdraw the objection, if the committee insists on it.

The WITNESS. I was asked if I had met Mr. Garland, and I stated that was the only time I had seen Mr. Garland.

Mr. RANNEY. I was the objecting party, and I withdraw my objection to it.

Mr. EDEN. I don't think it is very important in any way. It simply shows what his feelings were about it, that is all.

Mr. HALL. This whole investigation had its origin in the declarations of the public press and in animadversions upon the people concerned in this company, and I think it is entirely proper that every gentleman should be allowed to testify in regard to any conduct of his own that he wishes to bring out.

Mr. RANNEY. Yes; if it refers to Mr. Atkins' own conduct in relation to the matter it should go into the record, if he desires.

The WITNESS. I don't care a cent whether it goes in or not. It is perfectly immaterial to me. I don't care a cent. That is all there is of it, and the motive I had in doing it was simply to get Mr. Garland's opinion whether or not he thought it would be a proper thing for me to mention it to Mr. Lamar after the matter had passed from the Interior Department.

Mr. RANNEY. If the committee is so disposed, we will put it in. I do not see that it has any particular bearing upon the case.

The WITNESS. I am perfectly willing to have it in or out. I don't care a cent. That is the simple fact.

Mr. RANNEY. I think it had better go in.

Mr. OATES. Then the statement must be made again, so that the stenographer can take it down.

The WITNESS. I called to see Mr. Garland after this suit had passed from the Interior Department, several days after the decision of the Secretary of the Interior had been made, and asked him his opinion whether he thought it would be a proper thing for me to mention to Mr. Lamar the subject of my connection with the Pan-Electric Company. He said he thought it would be a proper thing to do.

Q. That was after the action of the Secretary?—A. Four or five days afterwards. I asked him his opinion, and he said he thought it would be a very proper thing for me to do; and I did state to Mr. Lamar just what I have stated here.

By Mr. EDEN:

Q. I understand that is the only time you ever spoke to Mr. Garland about it?—A. That is the only time I ever spoke to him about it, and all I ever spoke to him about it. I never had any further conversation with him or communication with him.

By Mr. HALL:

Q. No communication by letter?—A. No communication by letter, by word, by telegraph, by telephone, or by any other means on the earth. That was all I ever had to say to him upon that subject, in any manner, shape, or form, directly or indirectly; and that was just simply because I wanted his opinion. He was a special friend of mine, a particular friend of mine, and he was a Cabinet officer, and I wanted his opinion as to whether it would be a proper thing for me to mention to Mr. Lamar, being a Cabinet officer, and I being under Mr. Lamar.

Q. I understood you to say you communicated with Mr. Lamar afterwards?—A. I did. I told Mr. Lamar I was connected with the company and I said to him this: The idea grew out of the fact that these criticisms had been made upon gentlemen who owned this stock and held Government positions, and said I "I was invited into this position of Commissioner of Indian Affairs, and if you think that my association with this administration, or with you, or if Mr. Cleveland thinks my association with this administration, in consequence of my ownership of this stock, is the least embarrassment to you or to him, the most remote—if, in a word, there is a shadow of a shadow of a shade of embarrassment about it, I want you to say so, and I could not be tied here." That is what I said. His reply to me was, "I can see nothing you have done that is censurable or wrong. You attend to your official duties. That is all I ask of you."

By Mr. MILLARD:

Q. Do I understand you to say that you knew of the proceedings pending before the Secretary of the Interior at the time it was pending?—A. Why, of course. It was in the papers. That is all the way I knew it. I saw it in the papers every day.

Q. And you spoke to Colonel Young about the impropriety of his appearing there?—A. No, sir; I did not speak to him of the impropriety of it.

Q. Will you state just what you said to him?—A. Exactly; you can draw your own inferences. I asked Mr. Young if this Pan-Electric Company was represented before the Interior Department in connection with this Government suit, and he said no.

Q. Where was that conversation?—A. Oh, I do not know where it was; I cannot tell, as far as that is concerned; but that is the fact.

By Mr. HALL:

Q. It was here in Washington?—A. Oh, yes. Then I said to him, "How is it that you are before the Interior Department?" He said he was appearing as the counsel of certain parties in Memphis and certain parties in Louisiana; and that he had a right, so far as that was concerned, if he wanted to, to petition the Government himself as an American citizen.

By Mr. MILLARD:

Q. You knew he was the secretary and treasurer of your company?—A. Of course I did.

Q. Did you also know that Colonel Gantt, one of your attorneys, was before the Interior Department?—A. Yes, sir; I understood he was; but I did not understand he was representing the Pan-Electric Company.

Q. You also knew that prior to that time an application had been made to Goode to have a suit brought against the Bell Telephone Company?—A. Oh, yes; I had seen that in the papers.

Q. And such a suit had been brought?—A. Yes, sir; I think it was brought and probably countermanded.

Q. Before the matter was decided by the Secretary of the Interior did you see Garland?—A. I did not; no, sir.

Q. Did you see anybody connected with your company or any one of its officers to call their attention to the impropriety of Young and Gantt all being there?—A. I did not, for so far as that is concerned, I did not know anything about Mr. Gantt's status, and Mr. Young had told me he was not appearing as the representative of the Pan-Electric Company, but appearing for people in Memphis and Louisiana.

Q. It was not until after Lamar's decision that you saw the Attorney General?—A. No, sir; several days afterwards, and it had no reference to the suit in any way except just as I have detailed it. That is all.

Q. To go back. I want to ask you some other questions as to matters prior to that— A. I might state right in that connection, while I am speaking about Mr. Young, that Mr. Young said to me that Mr. Garland—

Mr. MILLARD. I don't suppose that would be proper.

The WITNESS. Very good. I am willing to state it. He said to me Mr. Garland was mistaken in supposing that the Pan-Electric Company had ever made an application to him.

Q. The application was made by the National Improved Company, but by reason of a combination between the two companies, was it not?—A. Not that I know of.

Q. Did you not so understand afterwards?

The WITNESS. That the two companies were united for that purpose?

Mr. MILLARD. That there had been a consolidation between the National Improved and the Pan-Electric Company.

The WITNESS. To bring a Government suit?

Mr. MILLARD. That there had been a consolidation.—A. I understood from Senator Harris, on the night of the stockholders' meeting at his house, that there was an understanding between the National Improved Company and the Pan-Electric Company that they would unite in paying the common expense, each party paying its own lawyers and putting in its telephones and other machinery, &c., in prosecuting these private suits, one at New Orleans and the other at Memphis, but not a word was said about the Government suit.

Q. Did you hear Senator Harris's statement yesterday in regard to that?—A. I did not.

Q. That is your recollection of what took place at that meeting?—A. That is what did take place that night at that meeting of the stockholders.

By Mr. EDEN:

Q. When was that?—A. I can date it pretty nearly. It was a day or two before these publications. A scene occurred there that night that imprints it upon my mind. There was a scene between Mr. Young and Mr. Rogers, and then these publications came out a day or two afterwards, which I supposed was by the consent and agency of the Rogerses. Right there I want to state to the committee that I was here on the 13th of March last and heard Mr. Harris Rogers depose. In speaking about that difficulty he said that General Johnston and myself constituted a committee of referees, who retired and came back with the report or verdict or understanding that Mr. Rogers was to apologize to Mr. Young. The gentleman's memory is at fault. I was not one of the referees.

By Mr. MILLARD:

Q. There was such a reference.—A. There was; but I was not one of them. He said I was.

Q. Who were they?—A. Senator Harris and General Johnston.

Q. I understand you were in New York at the time this contract was made?—A. Oh, yes; I was.

Q. Before going to New York, with whom did you converse in regard to the organization of this company?—A. I conversed with Harris, and some with Garland, and some with General Johnston, and some with Young, and some with Dr. Rogers, and some with Harry Rogers.

Q. What was your object in going to New York to make the agreement? Did you go over there for that purpose?—A. We went there for the purpose of making the agreement, I suppose; I do not know for what else. Some of the gentlemen wanted to go there. Some of the gentlemen stated they had to go there anyway; and I went that way from here. I went immediately home from New York.

Q. You were not a director, as I understand it?—A. No, sir.

Q. You were present at the first meeting, in November, 1883, were you not?—A. I am inclined to think I was.

Q. And Mr. Garland was there?—A. Yes, sir.

Q. And Senator Harris?—A. Yes, sir.

Q. Were not the directors elected on your motion?—A. They might have been. I would not say they were not. I don't know how that was. I was present at that meeting, according to my recollection. You fix it better than I could fix it. I believe it was in November, 1883. I believe you are right about it. I think that was the time.

Q. The organization of the Pan-Electric Telephone Company was under date of November 23, 1883?—A. Yes, sir; it was at Mr. Young's room, on Sixth street.

Q. (Reading from journal.) "On motion of Mr. J. D. C. Atkins the meeting proceeded to elect a board of seven directors."—A. Yes, sir; I expect that is so. I had forgotten it.

Q. "Whereupon the following named gentlemen were chosen to constitute such board: Joseph E. Johnston, Isham G. Harris, Augustus H. Garland, Robert F. Looney, John C. Brown, J. Harris Rogers, and Casey Young."—A. Yes, sir.

Q. That refreshes your recollection?—A. That is so, sir. I recollect being at that meeting. I referred to it in my statement, but I did not know when it was. I said I believed it was in the fall of 1884, but I think it was the fall of 1883 that that meeting occurred.

Q. Upon your return from New York did the Rogerses assign to you and transfer to you an undivided tenth, and an undivided tenth to Senator Harris?—A. So far as I know the only assignment that was made was in that contract. I don't know whether there was any other or not. I don't know anything about that.

Q. Don't you recollect about that?—A. I do not.

Q. You understood that you received a tenth interest, did you not?—A. I did.

Q. From the Rogerses?—A. Under that contract.

Q. In answer to Mr. Ranney I think you stated that you did not pay Mr. Rogers anything for it?—A. I paid nothing except to agree to pay whatever assessments were made.

Q. That was to utilize. Do you know of any of the others paying anything?—A. I don't know anything about it. I expect they just paid the same as I did, whatever assessments were necessary. It was a mere patent; that was all that Rogers had at the time. He had no stock at the time, none in the world, and there was never any stock issued at all that I know of.

Q. How much stock have you now in the Pan-Electric Telephone Company?—A. I have got all the interest I ever had except the 10 per cent. that was surrendered to the general company.

Q. How much is that?—A. Four hundred and fifty thousand dollars. That is what I have got with the 10 per cent. off.

Q. Have you also your proportion of the stock issued by each of these subordinate companies?—A. No, sir; I have none of the stock at all.

Q. Do you know that you have an interest in each of them?—A. I know that I have a tenth interest in the property of that company; of course I do.

Q. You have received your proportion of the dividends that have been paid?—A. I have received some dividends; I do not know how much. I have received, I think, between \$1,700 and \$1,800.

Q. Did you receive your proportion of the purchase price of the stock sold to Senator Vest?—A. I do not know. I suppose I did. I don't know how that was. I did not know anything about the sale to Vest until long after it was sold to him, as far as that is concerned. I suppose I did receive my proportion, as a matter of course. I suppose the money was divided equally, if it was not retained in the treasury.

Q. I will ask you only one or two questions more. Did you know an application was to be made to the Department of Justice to have a Government suit brought, before it was brought?—A. Never, sir; I never did.

Q. Would you have joined in any such application?—A. I would not.

Q. Why not?—A. I would not, simply because I am connected with the Interior Department as a Government officer.

Q. You would not, because you are connected with the Department of the Interior?—A. Yes, sir; I would not for that reason. As I told you before, I never heard of the agitation of the Government suit until I understood it was ordered. That is an answer to the question.

By Mr. EDEN:

Q. Do you refer to the suit Mr. Goode ordered?—A. Yes, sir.

By Mr. MILLARD:

Q. When did you first learn of the commencement of that suit?—A. I think it was in September that I heard of the suit being agitated.

Q. When did you first learn that Solicitor-General Goode had ordered the commencement of that suit?—A. I think in September, about the time it was ordered.

Q. How soon after it was done?—A. Oh, I do not know—when it was published in the papers.

Q. What did you do when you learned that fact?—A. I did not do anything. What could I do?

Q. I understand you said you thought it was an improper proceeding?—A. I did not.

Q. And you would not have concurred in it?—A. I beg your pardon; I did not say it would be an improper proceeding for the Government to bring a suit. I said it would be an improper proceeding for me, as a Government officer, to have been a party to it. I said that, and I say it again.

Q. You say it now?—A. I do.

Q. I did not misunderstand you, then. Did you take any individual action when you learned of the commencement of the suit?—A. I took no individual action in regard to the matter until I asked Mr. Young, seeing that he was connected with the suit—

Q. That was when it got to the Interior Department?—A. Yes, sir. I had no dream or knowledge that the Pan-Electric Company had anything to do with it at all. I had no right to suppose it had anything to do with it. Nobody had told me so.

Q. Mr. Young or his associates had not taken you into their confidence?—A. My understanding was that the National Improved Company had made the application.

Q. Had Mr. Young or any of his associates taken you into their confidence in regard to what took place in Memphis?—A. No, sir.

Q. Or in regard to what did take place or was to take place before Mr. Goode?—A. No, sir; I heard nothing about that at all. I heard Mr. Young say that Mr. Van Benthuyzen, the president of the National Improved Company, wanted him to unite with them in making an application to Garland, and he said he would not do it, because he said he knew Mr. Garland would not have anything to do with it and ought not to have anything to do with it; and then he said that Mr. Van Benthuyzen asked him to introduce him to Mr. Garland and he said he would not do that, and then reflected a moment and said, "Well, I will introduce you, so far as that is concerned, but I will not have anything to do with making an application to Mr. Garland to bring this suit." I heard Mr. Young say that two or three times, several months ago.

Q. Was not Mr. Gantt, your attorney, also present?—A. No, sir.

Q. Did you not know the fact that Mr. Gantt was with Mr. Van Benthuyzen?—A. Oh, I knew he was here, yes, sir, as far as that is concerned; but I did not know in what capacity he appeared, for it was none of my business; none whatever. I asked Mr. Young, the secretary of the company, whether or not the Pan-Electric Company was a party to the suit, and he said no; and that was the end of it. I did not run around to inquire of counsel here and there whom they represented. It would have been a piece of impudence on my part to have asked a gentleman whom he appeared for.

Q. Let me see about that. I only want to get at certain facts, if they exist. Did you ever meet Mr. Van Benthuyzen?—A. Never but once in my life.

Q. When and where was that?—A. I don't recollect where it was. I recollect having a passing introduction to him. I never had a word of conversation with him in my life that I know of.

Q. Do you remember who introduced you?—A. I do not.

Q. Was it here in Washington?—A. I think it was; but where and when I do not know anything about. I would not know Mr. Van Benthuyzen if he was to come in the door now.

Q. Where were you on the 30th and 31st of July, 1885?—A. I think I was in the Indian Office.

Q. Here in Washington?—A. Yes, sir; I think so. I went home in the last of August, but what day I left here I do not know.

Q. Was not that about the time that you saw Mr. Van Benthuyssen?—A. I declare I don't remember.

Q. Do you know Mr. Huntington?

The WITNESS. Which Mr. Huntington?

Mr. MILLARD. Mr. C. P. Huntington.

The WITNESS. The vice-president of the Union Pacific?

Mr. OATES. Yes.

A. Oh, I know him well; yes, sir.

Mr. MOFFATT. I think that is not the same man, although the initials are the same.

Mr. HALL. The witness is referring to another man.

Q. Do you know a Mr. Huntington who was interested in or attorney for the National Improved Telephone Company?

The WITNESS. Is he the vice-president of the Union Pacific Railroad?

Mr. MILLARD. I do not know.

The WITNESS. If he is, I know him; if he is not, I do not know him.

Q. Is that the only Huntington you know?—A. The only one I know.

Q. Do you know Mr. Zenas F. Wilbur?—A. No, sir; I do not.

Q. Do you know Mr. Gantt?

The WITNESS. George Gantt?

Mr. MILLARD. Yes.

A. Oh, I know him like a book.

Q. How long have you known him?—A. Thirty-five or forty years. I met him when we were boys in the legislature, away back yonder in 1849, and have been intimate with him always. I have not seen much of him for the last ten or twelve years; I have seen very little of him.

Q. Did you ever talk with him in regard to your company or its interests?—A. No, sir. I called to see him when he was here.

Q. When?—A. When he was here.

Q. At the conference?—A. No, sir. I called to see him in the presence of Mr. Young. He was in Mr. Young's room. He was not in his room, but he was in Young's room, and I went in and simply paid my respects to him. He was reading a brief, and he stopped and we had a few moments' conversation, and he got up and walked out.

Q. Was that at the Ebbitt House?—A. Yes, sir.

Q. He was reading a brief?—A. Yes, sir; he said he was.

Q. In what case?—A. He did not say what case it was, as I remember, but he was reading a paper that looked like a brief, and I think he said it was a brief. I think it was this case.

Q. He was reading some legal paper that he was preparing?—A. Yes, sir; that was what he was doing. I had no conversation with him about Government suits or any other kind; I recollect nothing of the sort.

Q. Did you know there was a conference between the Pan-Electric Company and the National Improved Company?—A. I did not.

Q. Is it not a fact that that was the time and the place when you saw Van Benthuyssen?—A. I don't know whether it was or not. I did not see him at any conference.

Q. May it not have been the very place where you saw Van Benthuyssen?—A. It was not if it was a conference. I was at no conference.

Q. Might it not have been on that day and at that place, the Ebbitt House?—A. I can't say whether it was, because I told you I did not know when it was. It would be just as impossible for me to tell you when I saw Van Benthuyssen and where I saw him as it would for me to tell you what I was doing this day a year ago. I could not do it to save my life, nor could I tell you what ideas were uppermost in my mind this day a year ago. I did not charge my mind at all with the meeting of Mr. Van Benthuyssen. I attached no importance to it in the world, and had no conversation with him. There was certainly no conference and no business of any sort that I had any knowledge of.

Q. Did you know that prior to that time your company and the National Improved Company had been at war with each other?—A. I did not know we ever had been at war with each other.

Q. That there had been litigation between your company and the National Improved Company?—A. That is the first I ever heard of it.

Q. To-day is the first time?—A. The very first I ever heard of it. If I ever heard of it before, I have forgotten it.

Q. Did you ever see any of the papers that were used in the Interior Department?—A. I never saw a paper in my life connected with it. I never even read what I saw in the papers that might have been published about it.

Q. Why not?—A. Just because I have plenty of other work to do, and did not desire to take the time or labor or trouble to do it. That is the reason.

Q. What did you understand was the nature and purpose of the proceeding before the Interior Department?—A. I understood it was to bring suit by the Government to ascertain whether the patents of the Bell Company were valid or not.

Q. Precisely. It was to test the validity of the Bell patents, was it not?—A. That is what I understood.

Q. Did you not also understand that to have been the purpose of the suit that Goode ordered?—A. Oh, well, yes, I did, as far as I know. I only had the same impression about it that anybody else would have had in reading the papers. That was the general understanding, I believe.

Q. I do not suppose you have given your attention especially to this subject, but did you not understand that if the Bell patent is broken down the Pan-Electric patents would become much more valuable?—A. Well, I would suppose that they might be so, provided the Bell patent was entirely broken down. If it was entirely broken down, I suppose the Pan-Electric and all other telephone companies probably would be benefited to some extent; but still I do not think it would inure to the benefit of the Pan-Electric any more than other telephone company. That is my opinion, and it is simply an opinion. I do not know whether it is worth anything legally or scientifically.

Q. Do you know Mr. Elisha Gray?—A. I do not think I do.

Q. You understand that suit has now been ordered by the Government?—A. Yes, sir.

Q. Against the Bell Telephone Company?—A. Yes, sir; that is my understanding.

Q. From whom did you get that information?

The WITNESS. That the suit was brought?

Mr. MILLARD. Yes.

A. I saw it in the papers; I read the daily papers.

Q. Have you had any conversation with any of your associates in regard to the bringing of the Government suit that has now been brought?—A. Only in connection with these late attacks that have been made upon members of the Pan-Electric Company.

Q. With whom have you talked?—A. Oh, I do not know. I have talked with Mr. Young; I have talked with Senator Harris, and I have talked with General Johnston.

Q. Anybody else?—A. No, sir. I have not met the Rogerses and I have not met Mr. Garland only as I told you, and the subject was not mentioned then except as I detailed it, and the conversation about the Government suits was in connection with these attacks; that is all. I knew nothing in the world about it until it was ordered, and of course I never opened my mouth about the Government suit during its pendency in the Interior Department or the Department of Justice.

Q. Do you know as a fact that the Government suit that has now been brought was brought upon substantially the same papers on which Goode ordered the suit?—A. I do not know. I cannot say. I suppose it was, but I do not know, because I have never read a legal paper about it.

Q. You have trusted the management of this matter to your associates?—A. Yes, I have trusted the management of this matter to the gentlemen who had charge of it.

Q. Who were they?—A. The directory. General Johnston, Senator Harris, and Mr. Young were the principal ones.

Q. There has been no change in the organization that you know of?—A. None that I know of.

Q. From the first?—A. None that I know of.

Q. Have you expressed your opinion as to the propriety or impropriety of the present suit that has now been instituted?—A. I don't know whether I have or not. I may have. I do not know anything about the legal propriety of it. I may have expressed this opinion, which I am very willing to express now: That if the Bell Company has obtained its patents fraudulently, as is alleged, as I understand, as a matter of course, every just man should desire to see them upset and overthrown.

Q. You may have said that?—A. Well; I will say it now. I don't know that I ever did say it before. I will say it now, and I suppose you would say the same thing.

By Mr. HALL:

Q. When your attention was first called to these patents they had never been put to any practical application, had they?—A. No, sir; except in the little laboratory that Mr. Rogers had.

Q. I mean in the matter of bringing them prominently before the public?—A. Oh, no, I suppose not. I suppose they had never seen the light of day outside of the laboratory.

Q. So that they had no possible market value?—A. None in the world, was my judgment; none upon the living earth.

Q. They possessed just such value as the owner by manipulation might give them; they were worth whatever could be made out of them?—A. Precisely.

Q. He could have given away part or have sold part, or done whatever he pleased to induce men to go in with him?—A. I simply regarded it as an unknown quantity. That was the way I looked at it. If it had been estimated at \$100,000,000 and we had

paid \$100,000,000 and it had only been worth \$50,000, the fact that we paid \$100,000,000 would not have made it worth \$100,000,000.

Q. The first positive agreement that was entered into between yourself and associates, including the Rogerses, was the agreement of March 13, in New York?—A. Everything connected with the company simmered down to that contract; every understanding or every conversation, everything connected with it came right down to that contract.

Q. Do you remember when the transfer was made?—A. I do not. Which transfer?

Q. The assignment to the Pan-Electric Company.—A. The assignment of this association to the Pan-Electric Company?

Q. Yes.—A. No, sir; I do not know when that took place. I suppose that was done when the charter was obtained.

Q. Do you remember how it was that the association came to capitalize the properties consisting of these various patents at \$1,000,000 or \$5,000,000, as was done?—A. Well, I have only this idea about it: A good deal was said by Mr. Rogers about what he thought this patent was worth, and all that sort of thing, and after we had made experiments with it and had seen it operate we thought exceedingly well of it. We did not know but what it might be a very valuable property, and might be a very large matter.

Q. In other words, if successful, it might become a very valuable property?—A. Yes, sir.

Q. At the time you consented to enter into this association had the question of a contest between your association and the Bell Telephone Company, or any other corporation, arisen?—A. No, sir; I never heard of anything of that sort until after this.

Q. Was this association or incorporation organized and set on foot for the purpose or as a means of attacking the Bell telephone patents?—A. Oh, no, sir; not that I ever heard of or dreamed of.

Q. It was, then, an enterprise entered into because it was thought possible that there was some merit, some value, some outcome to it?—A. We believed it was a better instrument than the Bell instrument, and we did not believe that it infringed the Bell instrument. I had a right to believe that, because Mr. Garland, as a lawyer, gave his opinion that it did not, and Mr. Marble, ex-Commissioner of Patents (who ought to know about the value of patents and whether one patent infringes another), had given his opinion that the transmitter and receiver of the Pan-Electric Company did not infringe the transmitter and receiver of the Bell Company.

Q. Do you remember whether those opinions were taken before you had concluded to form the association?—A. We formed the association in March, before those opinions were procured.

Q. I understand you to say that at the inception of the organization of the company there was no design to institute proceedings for the purpose of attacking the Bell telephone patents?—A. None that I ever heard of.

Q. Was there at any time any legislation contemplated by the corporation to aid you in any way?—A. Never, that I ever heard of; never.

Q. Was there at any time any design or purpose to originate or have originated in Congress this postal telegraph system?—A. I never heard of the postal telegraph system until the agitation of this question this winter. There might have been measures of that kind introduced in Congress when I was in Congress; I do not know whether there were or not; I do not know now whether the records will show that or not.

Q. In fixing the capital at \$5,000,000 was there any purpose or design thereby to create a fund or to use the stock for the purposes of influencing anybody in his official conduct, directly or indirectly?—A. None on the earth that ever I heard of or dreamed of; no, sir.

Q. Has any stock or evidence of stock or interest in that corporation ever been used for any purpose of that kind?—A. Not that I am aware of.

Q. Do you know what persons now profess to claim or own interests in this Pan-Electric Telephone Company?—A. I do not know that I know them all.

Q. I do not care about going into the details; you know some of them?—A. Oh, yes.

Q. I will ask you whether the interest that is claimed to be owned by those persons, so far as your knowledge extends, has been obtained by them in consideration of any official act or acts on their part or for the purpose of influencing the official action of any other persons?—A. I do not have any idea that any such thing was done or thought of.

Q. It was not very long after you became associated in this manner that your attention was directed to the fact of a probable conflict between the patents of the Bell Telephone Company and those of your company?—A. Well, I do not know, Mr. Hall, how that is. I was at home in Tennessee, and I do not remember to have heard anything about any conflict between the Bell Company and the Pan-Electric Company for a year or such a matter, may be more; I do not know when it took place.

Q. When it was known that litigation would probably arise between the Bell Telephone Company and your company, or its licensees in the States where those sub-companies had been organized, there was a resolution on the part of your company to insist upon its rights to resist the claims of the Bell Telephone Company, was there not?—A. I understood that, I believe, but really I am not advised about much that took place in the proceedings of the company, because I never attended its meetings.

Q. It was expected that the Pan-Electric Telephone Company would insist upon the validity of its patents?—A. Oh, yes; as a matter of course, because it believed in the validity of them; I did.

Q. Do you know anything about the suit that had been brought in the State of Pennsylvania?—A. I heard something about it, but I did not know anything in the world about it.

Q. You were not familiar with the details of the affairs of the company?—A. No, sir; I was not much familiar with those matters. I heard, though, about that suit, but I just heard that there was such a suit. I understood that there was a suit brought against the subcompany; I believe that is the way I understood it; I never paid much attention to it.

Q. Then, in brief, so far as the subsequent steps are concerned that have been taken, either by corporations or individuals, to secure this suit to be brought in the name of the Government, you state that you had never known, up to the time of the proceedings before Secretary Lamar, that the Pan-Electric Company was a party to those proceedings?—A. No, sir; I did not understand that it was then. Mr. Young told me it was not.

Mr. HALL. I do not think of anything else.

By Mr. MOFFATT:

Q. Have you understood since that the Pan-Electric Company was directly or indirectly a party to either or both of those applications?—A. Not that I have heard, except what may have been said in this investigation. I have been reading the proceedings of this committee.

Q. Neither Colonel Young nor Senator Harris has ever informed you that such was the case?

The WITNESS. That the Pan-Electric Company had anything to do with it?

Mr. MOFFATT. Yes.

A. Upon the contrary, they told me it had not, at least Young did; and so far as Senator Harris was concerned, I have always understood that that was his position, although I never had any special talk with him about it.

Q. Let me call your attention to a clause in the contract entered into between the National Improved Telephone Company and the Pan-Electric Company, that contract having been introduced in evidence here.

Mr. EDEN. What contract is that?

Mr. MOFFATT. What is called the supplemental contract. Among the agreements which the parties entered into is this, with reference to setting aside the Bell Telephone patents:

“And for the purpose of accomplishing the same they shall obtain, if possible, the action of the Government of the United States by bringing proceedings in its name or at the relation of some agent or officer,” &c.

Was that ever brought to your attention?—A. Never in the world; never until I heard it mentioned here in the last few days.

Mr. EDEN. Is that paper signed by the Pan-Electric Company?

Mr. MOFFATT. No, sir; the evidence is that there were two contracts.

The WITNESS. That does not relate to the understanding that existed, to which I referred awhile ago, between the Pan-Electric Company and the National Improved Company, in regard to the prosecution of their suits with the Bell Company at Memphis and New Orleans.

Mr. MOFFATT. That is not mentioned here at all.

The WITNESS. I never heard of that.

Q. You never heard of that agreement?—A. Never until it was brought out in the last few days.

Q. You are not aware that this contract was made before the first application was made to the Attorney-General to institute suit?—A. I never heard of that at all until the last day or two, when it has been developed here in this investigation.

Q. Were you not aware that, as a member of the Pan-Electric Company, you were bound, as well as the rest of them, by that agreement?—A. I should hardly think that I would be bound by an instrument that I did not sign.

Q. But the company was bound by it, probably, was it not, if it was done by the directors of the company?—A. I am not aware that it was done by the company, and I don't believe that it was.

Mr. OATES. It has not been proved to have been done by the company.

Mr. MOFFATT. Senator Harris thinks he signed it.

Mr. OATES. Not that one. He says he thinks he signed one contract.

Mr. MOFFATT. I think when we get Mr. Van Benthuyzen here we shall find out that this is the contract that Mr. Harris signed.

Q. Did Senator Harris, in speaking at the meeting of the stockholders in regard to the arrangement between these two companies, mention any other telephone companies that were included in the arrangement—the Overland or the Globe?—A. I do not think he did. I do not remember whether he did or not; but I do not think he did. I am not certain that something was not said possibly about the Globe Company, that it might possibly be connected with the contract. But I remember very well that he said that the principal purpose of the stockholders' meeting was to bring to the attention of the stockholders the fact that there had been an understanding arrived at by the Pan-Electric Company and the National Improved Company that they would unite for the purpose of prosecuting these private suits.

Q. But nothing about the Government suits?—A. Nothing in the world about them.

Mr. RANNEY. You are going into a written contract that we have not here.

Mr. MOFFATT. I was referring to what Senator Harris or Mr. Young told him at this meeting.

Mr. OATES. The written contract is the best evidence

Mr. EDEN. He is testifying about a conversation at the time the information was given to him.

The WITNESS. I am stating what Senator Harris said at that stockholders' meeting.

Mr. MOFFATT. I think that is all I care to ask you.

By Mr. HALE:

Q. One question, general: When this application was pending before Mr. Lamar last winter, you say you were aware of that fact?—A. Oh, yes; I would have had to be blind, deaf, and dumb not to be aware of it.

Q. Were you present at any of the hearings before the Secretary?—A. Never. I never heard a word of the testimony; never went to the rooms where the hearings were conducted; I attended to my own business.

Q. Did you consult with Mr. Lamar about the matter?—A. Not a word.

Q. You took no part whatever in the proceedings?—A. None in the world. I never spoke to Mr. Lamar, or Mr. Muldrow, Mr. Jenks, Mr. Montgomery, or anybody else connected with the Department of the Interior, on that subject.

Q. You never heard of this supplemental contract, as it is called, until it was brought out the other day?—A. No, sir; I never did.

Q. So far as you knew from conversations with Senator Garland, Senator Harris, or any of the other members of the concern, were they aware of it?—A. I never had any conversation with Senator Garland, except the little conversation I detailed awhile ago; and so far as Senator Harris is concerned, I have heard him say half a dozen times that he knew nothing about the Government suit being brought; that the Pan-Electric Company had nothing to do with it, so far as he had any knowledge.

Q. Was there any combination with this other company—what is its name?

The WITNESS. The National Improved Telephone Company?

Mr. HALE. Yes.

The WITNESS. Do you speak of a combination with that company?

Mr. HALE. I mean a combination to induce the Government to bring suit.—A. Oh, no.

Q. All that was said was simply in regard to private suits?—A. Private suits altogether.

Mr. HALE. That is all.

By Mr. RANNEY:

Q. Had you anything to do with the Washington Telephone Company?

The WITNESS. Had I?

Mr. RANNEY. Yes.—A. No, sir; I had not.

Q. You have no stock in it?—A. Not a bit that I know of. If the Pan-Electric Company has any stock in it, I suppose I have an interest in it, but I do not know that it has.

Q. Did you know that the Pan-Electric Company was one of the petitioners before the Attorney-General for the bringing of a Government suit?—A. No, sir; I did not know that; I did not know that they were one of the petitioners.

Q. You did not know that they had an application?—A. No; I did not.

Q. When Mr. Young told you that the Pan-Electric Company had nothing to do with it, did he tell you that the Washington Telephone Company was one of the petitioners?—A. He did not; that was not mentioned. I did not know that they had anything to do with it at all.

Q. He told you pretty emphatically that he did not appear before Mr. Lamar in behalf of the Pan-Electric Company in any way?—A. He did; he said he did not appear there as their representative at all, and they had no representative there.

Q. Did he tell you who the citizens were for whom he appeared?—A. No, I never asked him.

Q. Did he tell you that he was appearing for Colonel Gantt, or Mr. Beckwith, or other counsel?—A. He did not tell me so.

Q. Did he tell you that in Mr. McCorry's application to the Attorney-General there was a request that he (Colonel Young) should be one of the counsel?—A. He did not say anything to me about Mr. McCorry.

Q. Or that Mr. Goode had appointed him and Gantt as counsel in the suit?—A. He did not say anything to me about it; not a single word.

By Mr. OATES:

Q. Mr. Millard asked you if you intrusted the whole thing to the management of the directory, and the substance of your answer was that you did. That was when he was questioning you with reference to the bringing of the Government suit. I would like for you to explain to the committee what you meant by that, whether you meant to intrust to the directory the procurement of the Government suit, or what you meant?—A. Oh, no; the general management of the company. If I had had any idea that the Pan-Electric Company intended to be a party to the bringing of a Government suit it would have met with my remonstrance as a stockholder.

Mr. OATES. The record was not clear to me and I wanted to know.

Mr. MILLARD. I so understood him to testify.

Q. One other question. Were you ever chairman of the Committee on Appropriations when you were a member of Congress?—A. Yes, sir; I was for four years chairman of that committee.

Q. Were you chairman in the Forty-seventh Congress?—A. No; I was not.

Q. I have seen some reference to that as a fact in newspaper publications, that you were chairman of the Committee on Appropriations in the Congress preceding the present?—A. I feel that a very great outrage has been perpetrated upon me by that publication.

By Mr. MILLARD:

Q. You were a member and you were chairman of that committee?—A. Yes, sir; I was a member and was chairman of that committee for four years, as I have said; but I was not a member of Congress, so far as that is concerned, when the company was organized; and as I said awhile ago, I should have gone into this company if I had been a member of the Forty-eighth Congress; I consider that I would have had as much right to go into it as any private citizen, so far as that is concerned. And right on that point, Mr. Chairman, I want to say one word: A very foul aspersion has been published in the New York World against me in the paper of the 6th, in its telegraphic dispatches from this city.

By Mr. OATES:

Q. The 6th of what month?—A. Of February.

Q. This year?—A. Yes, sir; in that paper is printed a letter which it seems that I, in my innocence, wrote to Dr. Rogers; I never expected to hear of it again. Of course I kept no copy. I never wrote a letter in my life of which I kept a copy, and I never keep anybody's letter to me. If I could hang a man with his letter I would not do it. This is what is published:

“PARIS, TENN., April 19, 1883.

“Dr. J. W. ROGERS:

“MY DEAR SIR:”—It is not necessary to read it.

Mr. OATES. Read it if you desire.

Mr. MILLARD. Let us see what it is.

The WITNESS. (Reading:)

“I have been absent on a visit to a place down in another county, where I have been for a few days farming and fishing; hence the delay in answering.”

That is an answer, I suppose, to one I had received from him, but I do not find that letter from him.

“I am very glad to find that you and General Johnston are well satisfied; and while I have far greater respect for yours and his opinion upon scientific subjects, especially the further possibilities of electricity, than I have for any one's, I would like to know what Harry thinks of the experiments also. Did you read an article in the last issue of the American Register, published at Washington? The suggestion of the editor that perhaps the doctrine of the transmigration of souls was being illustrated in the person of yourself being the reappearance of the old Grecian philosopher, Thales, one of the Seven Wise Men of that classic old state, for whom the honor of the original discovery of electricity is claimed, will amuse you very much.

“Yours,

“J. D. C. ATKINS.”

That letter is published in the World, in a dispatch from this city dated February 5, 1886. This language precedes that letter :

"A letter from Chairman Atkins. In publishing the letter to Dr. Rogers the other day, an interesting one from the Hon. J. D. C. Atkins was unintentionally omitted."

I am very glad it was published.

"At the time of the writing of this letter he was chairman of the House Committee on Appropriations."

My letter was dated April 19, 1883. My services as chairman of the Committee on Appropriations expired March 4, 1881, and my term of service expired March 4, 1883, and I had been for six weeks a private citizen when I wrote that letter. And yet I am held up to the country by this great metropolitan paper, the New York World, to its 200,000 daily readers—if it has that many—as chairman of the Committee on Appropriations at that time. Well, I do not care anything about that. There is nothing in it. All I have to say about that is this: that I suppose the motive for publishing it was a base one; that is my opinion; and the man who sent that dispatch is either a fool or a knave.

Now, I want to say another word. I am glad this is brought up.

Mr. RANNEY. What is the date of that letter?

The WITNESS. April 19, 1883.

By Mr. MILLARD :

Q. Is it your letter?—A. I think it is. I do not know exactly whether it is or not, but I think it is.

Q. You were not the chairman at that time, but were a member of the committee as I understand?—A. I had been a member of the committee.

Q. You were a member of the committee at the time the letter was written?—A. I was not.

Mr. OATES. It was long after his term had expired.

The WITNESS. It was written April 19, 1883, which is subsequent to the 13th of March, and that was the date upon which that contract was made so far as that is concerned. Now, sir, that letter was published on the 6th of February. On top of that here is the World of February 10, in which it alludes, in a long editorial, to this letter of February 6, 1886, published in the paper, and which I will read, if the committee desire.

"Mr. Rogers's most valuable profits so far consist of Wintersmith's letter of uncontrollable gratitude and Chairman Atkins's reference to the suggestion of an imaginative editor that he (Rogers) was the habitation of the transmigrated soul of the Greek philosopher Thales. Possibly Thales's idea of the proper uses of official influence was not very clear, and hence the obtuseness and innocence of Rogers. The mixture of business, official influence, effusive gratitude, transmigration of soul, and administrative embarrassment, which enter into this case, is truly remarkable, but it in no way detracts from the pathos of the situation of Rogers or from the moral obligation on the part of Garland and his associates to return the unearned stock."

Now, there is an unmistakable intimation and declaration that "Chairman Atkins" used his official influence to promote this telephone, or as part consideration for this telephone. I pronounce that, sir, in the presence of this committee, with all proper respect for this committee, an infamous slander and a base lie, and I put that brand upon the brow of Jo. Pulitzer, who said he was responsible for this, and he shall wear it while I live. I wanted to make that remark, sir, and to make it here upon the solemn responsibilities of my oath, and with a perfect knowledge of what the language means. I have been held up all over this country as using official influence, bargaining my official influence, when the record shows—not my oath, which would be good, I hope—but the record shows that I was not a Member of Congress, and consequently was not chairman of the Committee on Appropriations, and consequently had no official influence to bargain. And yet that fact has been published to the country, and when the Critic and the Post of this city denied the truth of the original publication and stated that I was not a Member of Congress at that time this paper has never contradicted its statement, so far as I have seen, but has let it float to the country. If that is journalism—decent journalism—then I have no knowledge of what decency is.

By Mr. MILLARD :

Q. I would like to ask Mr. Atkins a scientific question. You speak there in your letter of the transmigration of souls. If the Government had set aside the Bell telephone patents, and you had developed the Pan-Electric telephone to its full extent, do you not believe you could connect the two worlds?—A. I do not know, sir, that my abilities are equal to the stretch of your imagination. You had better write a book on that subject.

Mr. MILLARD. That was suggested by the character of your letter.

The WITNESS. As every gentleman must understand, my letter was a mere jesting

allusion to the comparison made between Dr. Rogers and the Grecian philosopher, Thales, in the American Register.

Q. You said you never kept private letters, and that if you could you would not hang a man on a letter; what did you mean by that?—A. I meant by that that I would not divulge private letters.

Q. Do you mean that you would destroy private letters so that they could not be used to hang a man in the interest of justice?—A. I do not mean any such thing.

Q. You have letters from Dr. Rogers?—A. Yes, certainly I have.

Q. And from Johnston?—A. Yes, but I never retained any of them.

Q. And from Casey Young, all of them relating to this business?—A. I do not know about Casey Young.

Q. And you destroyed every one of them?—A. Oh, no; I did not destroy them. I have not thought of destroying them, I simply took no care of them.

Q. Was it in pursuance of what you have said was a design in not keeping letters?—A. What I meant by that is this—let me explain: If a gentleman writes me a private letter I do not expect to publish it.

Q. Suppose it relates to public business?—A. I have never had any correspondence with anybody, so far as I am concerned, with reference to which I would have any objection to any part of it being published; but I do not propose to publish the private letters of anybody else to myself. That is a matter of taste, however.

Q. I just ask you whether you did not receive letters from your associates in relation to this business.—A. Oh, yes; more or less.

Q. And you have destroyed letters which related to business likewise?—A. I have taken no care of any letters that I have ever gotten.

Q. Have you looked to see whether you have them?—A. No; I have not.

Q. Will you be kind enough to do so?—A. My letters are all in Tennessee, and I do not know where they are. I have no private letters of that character or of any kind that have been preserved, so far as I know. I may be able to find them; I do not know.

Q. Do you mean that you have destroyed all the letters you have received, both business letters and private?—A. I have no business letters of any consequence. I presume I might find three or four letters from Senator Harris, perhaps, informing me about the dividends that were sent me. I believe I have them; I don't know. I expect he has mine.

Q. You have been asked about the Bell Telephone Company. I want to call your attention to the last clause in the contract made with Wellington Adams, the contract being dated January, 1885, the one that was put in evidence yesterday: "It is further agreed, however, that if the party of the first part [the Pan-Electric Company] shall sell its patents to the American Bell Telephone Company, or otherwise terminate in its favor any suit or suits that may be brought, then and in that case the last \$1,000 shall be due and payable." Do you know anything about this contract?—A. Not a thing in the world.

Mr. MOFFATT. What is the date of that contract?

Mr. RANNEY. January, 1885; the day is left blank.

The WITNESS. Is that the contract that has reference to the two companies uniting to prosecute the private suits?

Mr. RANNEY. No; this is the contract made with Dr. Wellington Adams, whose affidavit was put in as testimony. One thousand dollars was to be his fee, contingent upon the success of the suit in which he was to testify.

The WITNESS. I do not know anything about it.

Mr. EDEN. Does the contract say that Adams was to testify?

Mr. RANNEY. As an expert.

Mr. EDEN. Does it say anything about his testifying?

Mr. OATES. The contract speaks for itself.

Mr. MILLARD. He furnished an opinion, besides.

Mr. RANNEY. This is a contract made with Wellington Adams, by which he was employed as an expert, and directly afterwards his affidavit was taken and put into the case.

Mr. EDEN. But the contract, as I understand it, does not say a word about any affidavit. I just suggest that as hardly a fair way to state the question.

Mr. RANNEY. I made the allusion to the contract. I suppose if he was employed as an expert, it was to give an opinion as an expert, of course, and his opinion was taken by means of an affidavit put in, in accordance with a provision in the contract that if they succeeded in the suit \$1,000 was to be contingent on the success of that suit.

The WITNESS. I do not know anything about that.

Mr. RANNEY. I observe in the contract also that it is provided, as late as January, 1885, that that \$1,000 shall be paid in case the Pan-Electric Company sold out to the Bell Telephone Company.

The WITNESS. I do not know anything about that.

Q. You had nothing to do with the making of that contract?—A. No, sir; I never heard of it before. I think this is the first time I ever heard of its existence.

Q. Did you know anything about endeavors to sell out to the Bell Telephone Company as late as January, 1885?—A. No, sir; I did not know anything about it selling out to the Bell Telephone Company.

Q. The Pan-Electric Company selling out to the Bell Telephone Company?—A. No, sir; I do not know anything about it.

Q. It seems that that was in contemplation under that contract.—A. I never heard of that contract before.

Mr. MILLARD. That is not in the case; it was not put in.

Mr. RANNEY. By some mistake that contract got into my papers and I carried it away; I brought it back this morning. So the stenographer was not able to put it into the record; he has left a space for it.

Mr. OATES (in the chair). Has any other member of the committee any question to put to General Atkins?

By Mr. MOFFATT:

Q. I see by the minutes that you were present at the first meeting of the association, at which a resolution was passed looking to the negotiation with the Bell Telephone Company; do you call to mind what that was?—A. No, sir; I do not know that I do. I heard that there was some negotiation between the Bell Company and the Pan-Electric Company, but I do not know anything about the details of it, except as stated by Senator Harris.

Q. It seems that almost the first business the company did was to pass a resolution of that character?—A. I do not recollect anything about that, but I know that there had been some negotiation between the Bell Company and the Pan-Electric Company, represented by Senator Harris. Yes, I knew that, because Senator Harris told me about it, and I heard him detail it in his testimony here the other day.

Mr. OATES (in the chair). General, I believe we are through with you.

Mr H. O. SEIXAS then came before the committee and was duly sworn.

By Mr. OATES:

Question. Where do you reside?—Answer. At New Orleans.

Q. Have you any connection with any of these telephone companies or matters that are being inquired about here?—A. Yes, sir; I am a director in the National Improved Telephone Company and generally, in the absence of the president, act as its president.

Q. Who is the president of that company?—Mr. W. Van Benthuisen.

Q. You can proceed to make any statement of facts within your knowledge pertaining to these inquiries that you desire to make.—A. I have no particular statement to make. There seemed to be some desire on the part of some gentlemen of the committee to know something about what happened during the pendency of the attempt on the part of the National Improved Company, through its president, to bring about this Government action, about the preparation of the bill and things of that kind, matters which fell to my lot to attend to as the officer in charge of the company in New Orleans.

Q. What efforts were made by your company to induce the Government to bring a suit against the Bell patents?—A. Everything possible.

Mr. RANNEY. State what you did personally.

The WITNESS. I will state what my company did, and that included myself and what I did.

Mr. RANNEY. Your company is impersonal.

The WITNESS. Well, I was the representative of it at that time. I represented the company in New Orleans. The president was absent and my company did all that it possibly could, and I, as its executive officer, did all I could, in that direction.

By Mr. RANNEY:

Q. State what you personally did.—A. I did everything that a man could possibly do to have it brought about. Mr. Van Benthuisen was here, and after an attempt to have a suit brought under a bill that we supposed had passed Congress, Mr. Van Benthuisen wrote me—

Q. You need not state what he wrote you unless you can produce the letter.—A. Well, I cannot produce any letters, because the letters were of a private nature from Mr. Van Benthuisen to me, and I do not know that I have any of those letters, but I will state what was in them.

Q. That is the very thing I object to.—A. Then I will state what I did as the result of them.

Q. Where are the letters?—A. I don't know where they are.

Q. Have you looked for them?—A. No, sir; I haven't looked for them.

Mr. EDEN. He can state what he did without producing the letters.

Mr. RANNEY. I do not object to that.

The WITNESS. I told Mr. Ranney that I proposed to state what I did as the result of that correspondence, what I did with or without the letters; I will state both together.

Mr. RANNEY. Avoid stating the contents of those letters.

The WITNESS. I will not state the contents of them because I am not accurate enough in memory to remember them, but I will state what I did as the result of the contents of those letters.

Mr. RANNEY. Nobody objects to that.

The WITNESS. Very well. I knew that the company through its president was going to make an application under this bill that we supposed had passed Congress, and I knew that a letter had been written on the basis of that bill to the Attorney-General, asking the right to have an action brought against the Bell Company to set aside its patent, as a right that we had, supposing the bill had been passed. I knew afterwards that later on, when this letter was written, on the 12th of July, from New York, after consultation in New York with our attorney there, Mr. Von Briesen, that we afterwards found out that that bill was not in existence, that there was no such bill, and the advice of counsel given to us by our attorney, Mr. Von Briesen, in New York, was that it was not necessary to have that bill; that that did not deter us from carrying out our intention of having the Government bring this suit. He pointed out to us what our rights were, and said that our rights were to go forward and make a *prima facie* case before the district attorney; and that if that *prima facie* case would sufficiently warrant the district attorney to make an application to the Government, that was the mode we had to proceed in, and that was the right that we had. And with that understanding we asked for the withdrawal of the letter of the 12th of July, as it amounted to nothing, and we did not propose to proceed on that letter, as it was not a proper mode to proceed, but we proposed to proceed properly, and did then proceed or make a motion to proceed; and after it was decided to proceed through a district attorney, the matter was referred to me in New Orleans as the acting president of the National Improved Company as to whether I would bring the suit in New Orleans or elsewhere. After consultation with my attorneys there in New Orleans as to whether I would bring the suit in New Orleans, through the district attorney, or not, or at another place, I decided that the suit could not be brought in New Orleans, and that the next nearest forum to us where we could bring the suit was Memphis, and I so telegraphed to Mr. Van Benthuyzen that I had decided, and that Memphis had been selected as the place to bring the suit.

By Mr. OATES:

Q. Why could you not bring the suit in New Orleans?—A. There were three reasons why I could not bring the suit there. First, there is a habit or practice in the Federal courts in New Orleans of taking a summer vacation. Judge Billings, who is the judge of the district court, lives in Connecticut; Judge Pardee lives in Ohio, and takes the summer off, and it is the practice of the Federal courts there, and of all our courts, to take a recess from the last of May until the middle of October or the 1st of November, provided there is no sickness in the city. And at the time this matter was referred to me the court was in vacation; there were no courts in session, they had adjourned. Another reason was, that Mr. Albert Leonard, who was the district attorney at that time, was about to give up his office, his term was about to expire, and his successor would be appointed before the courts convened again. In consequence of that, he had packed his effects up and had left New Orleans and gone home to Shreveport where he lives, and of course as the courts were not in session there was no necessity for him to stay, and I did not think I could induce him to come back to New Orleans where I could make this *prima facie* statement as I wanted to. I thought he would object, because his term of office would expire in a short time and the name of his successor was being canvassed at that time, to taking any action. But whether he objected or not, I considered that we had better go to some new forum where there had been a new attorney appointed who would be in office during the whole of the litigation, and who would be familiar with the case from the beginning. Then, again, we were somewhat in doubt in regard to the jurisdiction we might get in New Orleans, as the New Orleans company was the subcompany of a subcompany, was a subcompany of a licensed company, and the parent company from which it got its authority was located in Memphis, and we could get better service on them.

On those grounds I decided that the only and the nearest place we could go to would be Memphis, and Memphis should be selected as the place to bring the suit. At that time Mr. J. R. Beckwith was leading counsel in charge of our affairs in New Orleans, the counsel that I consulted with, and after I had decided that the case, should be brought in Memphis, I telegraphed the information to Mr. Van Benthuyzen, and he then directed me to have Mr. Beckwith meet him in Memphis, and I instructed

Mr. Beckwith to go to Memphis and meet Mr. Van Benthuyzen. I then directed instruments to be sent to Memphis, and I think ordered the instruments that we had withdrawn from the case in Pittsburgh to be forwarded to Memphis for the purpose of making a demonstration before the district attorney.

By Mr. HALE:

Q. You are talking about the private suit down there?—A. No, sir; I am talking about the negotiation for the Government suit. The instruments were ordered there, Mr. Beckwith met Mr. Van Benthuyzen, and I think possibly Mr. Huntington, who is also one of the directors of our company.

By Mr. OATES:

Q. What Mr. Huntington is that?—A. Mr. C. P. Huntington, a railroad man from Mississippi, a planter, and railroad man.

Q. Is it Mr. C. P. Huntington who is connected with the Pacific railroads?—A. No, sir; it is not the notorious Mr. Huntington. They spell their names alike, but one is named Charles and the other is named Carlos. They get pretty well mixed up in telephone matters.

Q. Did you ever see a written contract between your company and the Pan-Electric Company with reference to making a joint fight in the courts against the Bell Company?

Mr. RANNEY. You need not state the contents of it.

Q. Did you ever see such a paper?—A. No, sir; I never saw such a paper until I found the paper in Colonel Young's room. Calling on Colonel Young last Sunday, he told me that he had found that contract there.

Q. That is the one that was produced here?—A. Yes, sir; the one produced here.

Q. And you never have seen any other?—A. No, sir; but I will state to you that my knowledge or understanding was that there was always an understanding between the Pan-Electric Company and the National Improved Company that we should join forces and fight this fight. But whether it was put into writing or not it was nevertheless the understanding, and I distinctly knew it.

Q. We won't go any further on that if there is a writing in existence, as there probably is. Did you ever in person do anything or appear before the Attorney-General or the Solicitor-General acting as Attorney-General, to endeavor to have the suit brought?—A. Oh, no, sir; I was not here; I was in New Orleans. My associate, Mr. Van Benthuyzen, did, and I knew about it.

Q. All you know or did about it was done as head of the company, in the absence of Mr. Van Benthuyzen down there in New Orleans?—A. Oh, yes, but I have been following it up ever since we started on this fight, and have been here all the time.

Q. You know the general history of it, I suppose, as we have had it from witnesses; you have heard it detailed; you have been in the room here?—A. Yes, sir; I knew the general history of the whole thing. I knew it before these witnesses testified, and a great many things I have heard from these witnesses I had never heard before. I never knew anything about this Rogers arrangement.

Q. Do you know of any fact connected with it which has not been detailed that is of any importance to the investigation?—A. I do not know that I do specially. I think there was a matter on which Mr. Ranney seemed to lay some stress, as to whether or not this bill that was filed in Memphis had been prepared before the order was filed, as if he wanted to suggest that we had anticipated that it would be, and we previously prepared the bill, feeling confident of our action. I would state for the satisfaction of the committee in regard to that, that I ordered that bill prepared, and it was prepared at New Orleans under my instructions. I paid for printing it in New Orleans, and it was sent by me from New Orleans to Memphis to Mr. Beckwith, our attorney. I prepared it after I had a telegram from Mr. Huntington, who was here in Washington, saying that suit had been ordered, or permission had been given, to bring the suit in answer to Mr. McCorry's request, and as soon as I got that telegram I instructed Mr. Beckwith to prepare the bill, and it was prepared then and there, and he prepared it by commencing and working all day on Sunday; worked all day Sunday and Sunday night, and Monday the bill was prepared, and I made arrangements afterwards that the bill should be sent to Memphis and filed, as soon as submitted to Judge McCorry, if it was satisfactory to Judge McCorry, and he did not find Judge McCorry at Memphis—

Mr. RANNEY. You are not testifying to what you know positively of your own knowledge.

The WITNESS. I am testifying to what I did, because I told him to go there and do it. He found Judge McCorry at Jackson, and he did file that bill.

Mr. RANNEY. That is simply information you received, and not personal knowledge.

The WITNESS. My knowledge is that the bill prepared at New Orleans was filed, because I saw the bill after it was filed, knew the extent of it, and knew that it was

the bill sent from New Orleans that was filed. I did not see it filed, but I know it was filed.

Q. You saw it after it was filed?—A. Yes, sir.

By Mr. RANNEY:

Q. You have been in attendance most every day since this investigation began?—A. Yes, sir; off and on I have.

Q. Do you reside in New Orleans?—A. Yes, sir.

Q. You do not reside in Washington?—A. No, sir; I do not.

Q. How happened you to be here when the investigation began?—A. Oh, I came here to fight this fight; I have been here four months, and am going to stay here until it is through; I have come for this purpose.

Q. Have you come since this investigation was ordered?—A. No, sir; I came here in October; as soon as the Interior Department attempted to start an investigation I came here.

Q. Where is Mr. Van Benthuyzen now?—A. In New Orleans.

Q. Since we commenced the examination of Colonel Young have you been in telegraphic communication with him?—A. Oh, yes, sir; I have a good many private interests with Mr. Van Benthuyzen, he and I together.

Q. In relation to this hearing?—A. Incidental to it. I have been here, and we wanted to know when this bill was going to be formed. But in regard to this thing here, I don't think that I ever took much stock in it.

Q. Colonel Young testified to having telegraphed to New Orleans to get these contracts, and that he got an answer back asking which one was wanted; did you have anything to do with those telegrams or writings?—A. Oh, yes, sir; I had all to do with it.

Q. Did you telegraph or he?—A. Oh, yes; I and he both telegraphed.

Q. Have you your answer?—A. The answer to my telegram? Yes, sir.

Q. Did you see the one that he sent?—A. I do not know that I did, though he produced it here the other day.

Q. Did you see the one that he received?—A. I do not know that I did.

Q. Who received the telegram asking which paper he wanted?—A. I rather imagine Colonel Young did.

Q. Did you see it?—A. I am not certain I did; I think I did; I think he produced it here.

Q. Did you see the one which said that the contract had been mailed and was on its way?—A. I do not know that I did.

Q. Don't you think you did?—A. Probably; I think I did.

Q. You do think so, don't you?—A. May be I did; I am not certain about it; I will not testify positively about it.

Q. Has it not come—some contract?—A. No; no contract has come. But I will state this: That Colonel Young told me that he had telegraphed to Mr. Van Benthuyzen to send a copy of the contract or agreement here—this agreement that we had entered into about these matters, and that embraced this Government suit and these other private suits, and Mr. Van Benthuyzen wrote to me—

Q. Have you that letter?—A. I have not.

Q. I wish you would produce it.—A. I haven't got it.

Q. Why did you destroy it?—A. What did I want to keep them for? They are private matters of my own. I clean my table of them every night.

Q. Have you got that contract?—A. No, sir; I haven't got it.

Q. You knew that it had been asked for?—A. Yes.

Q. And you wrote about the contract?—A. Yes.

Q. Have you a copy of the letter you sent?—A. No, sir; I never keep any copies of them.

Q. You wrote a letter about the contract?—A. No, sir; I don't know that I wrote a letter, but I telegraphed that Colonel Young wanted the contracts, and I got a dispatch from Mr. Van Benthuyzen in relation to it. I think I wrote him about it.

Q. Didn't you get a letter from him in answer to it?—A. No, sir.

Q. I thought you said you did and destroyed it.—A. Oh, no; I didn't say that I destroyed that letter at all. I told you that I destroyed all letters that I got. Mr. Van Benthuyzen wrote me a letter saying that he did not know what Colonel Young wanted; that he had made search for such a document as Colonel Young wanted, but did not know that he had it, or could not find it.

Q. Did he write that to you or to Colonel Young?—A. He wrote it to me.

Q. Colonel Young says that Van Benthuyzen telegraphed or wrote him, asking which contract he meant.—A. No, I don't think he did; if he did, I didn't know it; may be he did. I think that as this turned up here to be a contract, it looks to me as if this contract was an original contract and that all other contracts were merged into this one, and that this contract was signed by Mr. Van Benthuyzen and sent here to be signed, as it calls for, by some officer of the Pan-Electric Telephone Company, and as

it was sent here to be signed and never was signed or returned, consequently it is not in our office, and therefore Mr. Van Benthuyzen could not find what they wanted.

Q. Your idea is that the supplemental contract merged the original?—A. Yes, sir; that is my idea. I think the contract itself will show.

Q. Are you a member of the legal profession?—A. No, sir; I am not, but I have considerable knowledge of the law.

Q. You say that your idea is that a supplemental contract which purports to be additional to another contract merges the original in it?—A. I tell you that my idea from reading this contract that was sent here is that it seems to have taken the place of all previous contracts.

Q. What telegram have you there?—A. I will read it to you when I get through explaining this matter, but I want to explain what I mean by this contract. I think from reading this contract that it is a contract or agreement that superseded and does supersede all others, because it embraced matters thoroughly and covered the whole ground. It sets forth there exactly what it is intended to do.

Q. I don't care for your opinion.—A. You asked me if I was an attorney, and I am trying now to give you an opinion.

Q. That is beyond the information I asked.—A. Then I will go back to this letter. Mr. Van Benthuyzen wrote me a letter saying that he did not know what Colonel Young wanted.

Q. Where is that letter?—A. I told you I tore it up.

Q. Why did you tear it up?—A. Because I tear them all up.

Q. Do you tear up business letters?—A. Yes, sir; unless—this is not a business letter.

Q. You tore up that letter when you knew that it was written in answer to an inquiry before this committee?—A. What Mr. Van Benthuyzen writes to me and I to him is between him and me. I wrote it just because I felt like writing it independent of this committee or anything connected with it.

Q. Didn't you write it in consequence of the inquiries made before this committee in relation to it?—A. No, sir; I did not.

Q. Why did you write it at all?—A. I didn't write about it. Mr. Van Benthuyzen wrote to me that he had received a telegram from Colonel Young, and didn't know what Colonel Young wanted and could not find it.

Q. Did you show that letter to Colonel Young?—A. I don't know that I did.

Q. Why not?—A. Because I didn't feel like it, may be.

Q. Why didn't you feel like it?—A. That is just a part of my business. Now, I have a dispatch—

Q. The letter you received you destroyed?—A. Yes, sir.

Q. Then what did you do?—A. The letter I got I destroyed and I telegraphed Mr. Van Benthuyzen—

Q. Is that a copy of it?—A. No, sir; I haven't got a copy; I told you that.

Q. What line did you telegraph by?—A. I don't know what line it is.

Q. Where did you go to the office?—A. I don't know where I went.

Q. Where do you stop here?—A. At the Ebbitt House; they have two or three telegraphs there.

Q. Did you send the telegram from the Ebbitt House?—A. I don't know; may be I did.

Q. Don't you remember?—A. No.

Q. You got a reply, did you?—A. Yes.

Q. Have you got that?—A. Yes.

Q. Why didn't you destroy that, too?—A. Because I showed this to Colonel Young, and he told me he would like to show it to the committee.

Q. What is that?—A. This seems to be an answer to—I think Mr. Ranney, that when I got that letter—

Q. Let us have the telegram first.—A. Just wait and I will tell you why this telegram came to me, now, if you please.

Q. Go ahead.—A. I think that when I got that letter that I telegraphed Mr. Van Benthuyzen to send all letters and papers—all letters of Colonel Young's and all letters of mine, and all letters, everything, in connection with this matter that he had, to send them to me here in Washington. I telegraphed him to that effect.

Q. Did you name the agreement, too?—A. I said all letters and papers of every kind, of every manner, shape, or form.

Q. At that time you knew we wanted the contract?—A. Colonel Young wanted it; yes, sir.

Q. Didn't you name that?—A. The contract?

Q. Yes.—A. I probably did; I don't know that I did.

Q. Did you?—A. I don't know positively.

Q. That was the specific thing you were after, wasn't it?—A. Well, I sent a very broad, sweeping dispatch so as to cover all and sweep in everything, and in answer to that, I have this from him: "I have no letters of any consequence, and no copies

of mine of last July to you or him, [that is, Young], as I kept no letter book at that time, while away from home. All letters of company have been examined; none of them relate to matter pending, so I can send you none."

Q. I don't see anything in that about the other papers.—A. I telegraphed him to send me all letters.

Q. Is there anything in there about the agreement?—A. No, sir; nothing about the agreement, because I sent a sweeping telegram and asked him to send all letters from Colonel Young to him and all letters from me to him, and all letters from him to me, and to examine our records and send the whole batch; and he says here that he did not have any copies of any letters.

Q. He does not say anything about the agreement?—A. Not a word about the agreement; and I don't think he had the agreement, because we find that here, you know.

Q. No, there is one we have not got here.—A. One moment—

Q. You wait a moment.—A. No, I want to tell how I answered this.

Q. Well, finish it.—A. After I got that dispatch (that was received during the day), I got that night another dispatch from him, which says: "Have determined to carry all papers and documents with me when I start for Washington"—does that cover what you want to get at?—"if called, instead of sending by mail. Show this to Colonel Young." I think that will cover it.

By Mr. OATES:

Q. What is the date of that?—A. The 24th of this month.

Mr. RANNEY. We had one here dated March 25, I think.

The WITNESS. No, that is the same one. That is the one I presented; no, sir; *here* is the one, I brought it here myself.

Q. A week had transpired since we had asked for that paper, nearly.—A. No, that was about as quick as a letter could get here.

Q. You have been here in attendance; were you not aware that the only subject of inquiry of Colonel Young, and the pressing inquiry and demand, was for that original agreement; you knew that, did you not?—A. No, sir; I think I got kind of tired and worn out during your cross-examination, and the time you were trying to get that out I didn't come, because life was too short.

Q. Didn't you know that we were pressing for that original agreement?—A. I was told that you were, and I think the last time I was up here you were, but I didn't come up the next day, and therefore I telegraphed.

Q. Did you go out and search for it?—A. No, sir; what did I have to search about it for?

Q. You knew that we wanted to get it very much?—A. I was told that you wanted to get it very much, and I telegraphed, and tried to get it for you.

Q. You knew that Mr. Van Benthuyzen had telegraphed, asking which one you wanted?—A. I didn't understand anything of the kind.

Q. Did not Colonel Young tell you that he had a telegram from him inquiring which one he wanted?—A. No, sir.

Q. He didn't tell you?—A. No, sir.

Q. Did you see the telegram to Colonel Young relating to it?—A. I don't think I did. I told you so before.

Q. Didn't he confer with you about it?—A. I think probably he did.

Q. What did he say?—A. I don't remember.

Q. Please remember.—A. Well, I can't.

Q. Do you remember anything that he said?—A. I remember his saying that he would like to get what papers there were, and so forth, and on the strength of that I sent the telegram. I was trying to help him out.

Q. You mean the first telegram?—A. Oh, yes; the whole of the telegrams, or anything in connection with it.

Q. Didn't you observe that the telegram you got back didn't say anything about an agreement which was the subject of our search and inquiry?—A. No, sir; I didn't observe anything of the kind about it.

Q. You think you telegraphed for it?—A. I telegraphed for all documents and all letters, my own and Colonel Young's, pro and con, and everything else in connection with it that they wanted to send me; and then I got that first dispatch in the early part of the evening—at least I got it late at night.

Q. Did you send one meanwhile between these?—A. No, sir; I did not.

Q. Are you aware that about a week has transpired since the date when we sent for that agreement, and Colonel Young said he had got a dispatch and it would be here the next morning?—A. Yes, sir.

Q. That an answer had been sent by letter?—A. Yes, sir; I think it was some time.

Q. A week?—A. Yes; a week.

Q. Can you show us what telegrams passed between you and Van Benthuyzen dur-

ing that week?—A. I do not know that I can, and I don't know that I would if I could, because my dispatches are private.

Q. You will not give us that information?—A. Yes, I will. I said I would not show you my private dispatches to Mr. Van Benthuisen in connection with my business.

Q. I am asking you about this agreement.—A. Well, private matters; that is a private matter.

Q. That agreement is a private matter of yours?—A. My telegrams to Mr. Van Benthuisen about the archives of my office are private.

Q. You say you never have seen any such agreement?—A. I never have seen any one, except the one here.

Q. You never have seen the original agreement to which this is supplementary?—A. No, sir.

Q. You are the vice-president of that company?—A. Yes, sir.

Q. And on intimate relations with Mr. Van Benthuisen?—A. The most intimate.

Q. And he never submitted that agreement that he signed in behalf of your company to your directors?—A. No, sir; I think not.

Q. And never told you about it?—A. Oh, I knew that we had an agreement; that there was a general understanding about it.

Q. Did you ever look after that written agreement?—A. Like going down to the written details of it, I could not be sure about it. Whatever Mr. Van Benthuisen said about it I took for granted.

Q. Do you have charge of the papers of that company?—A. No, sir; the clerks have, I reckon.

Q. Have you ever looked for that paper?—A. I haven't been home since October.

Q. You never had curiosity enough to look and see where it went?—A. No, no, no.

Q. Did he tell you that he had entered into an agreement with the Pan-Electric Telephone Company?—A. I don't know that he told me it was written, but I inferred that it was.

Q. Did you ever ask to see it?—A. No, sir.

Q. Has he ever shown it to you?—A. No, sir.

Q. Has he ever shown it to the directors?—A. No, sir.

Q. Or called the attention of the directors to it?—A. Not that I know of.

Q. Do you know of any reason why he should conceal it?—A. None in the world.

Q. He never called your attention to this?—A. No.

Q. You don't know what he meant when he sent back here, making an inquiry as to what agreement was wanted?—A. I don't know that he sent back an inquiry of that kind; he said he did not know what Colonel Young wanted.

Q. Colonel Young said that he telegraphed back, "which agreement do you want?" Did you hear him say that?—A. No, sir; I did not hear Colonel Young say that; that was one of those days you were worrying him.

Q. Did Colonel Young tell you that Mr. Van Benthuisen had sent back an inquiry asking which one of the agreements he wanted?—A. I don't think he did; I don't remember.

Q. Don't you know that he did not?—A. Didn't what?

Q. Didn't tell you that Mr. Van Benthuisen telegraphed back inquiring which one of the agreements he wanted?—A. No, sir; I do not know that he did and do not know that he didn't.

Q. You and Colonel Young both knew—A. I knew this, let me tell you plainly: I knew that Colonel Young wanted to get what you were trying to get, and I knew I was trying to help him get it, and I knew that Mr. Van Benthuisen was trying to help him get it, and I know what was the reason why he did not get it, and the reason why he didn't get it is, in all probability, because it was not in existence in New Orleans, because what Colonel Young thought was there turned out to be in the tray of his trunk, and he found it Sunday.

Q. I wish you would not argue the question, but answer my question. You and Colonel Young were boarding at the same house?—A. No, sir.

Q. You saw him after this examination began?—A. Yes, sir, sometimes; whenever I was up here I did.

Q. And he spoke to you about dispatches that he had received?—A. He told me probably, I think he did, that he had sent a dispatch to Mr. Van Benthuisen, but I don't think he ever told me about getting a dispatch from him in return, but I think I did hear about it.

Q. He did tell you about sending a dispatch?—A. Yes, I think so.

Q. What did he tell you that he sent the dispatch for?—A. To send him the agreement that existed between him and the Pan-Electric Company.

Q. Didn't he tell you that he got a dispatch in reply asking which one of the agreements he wanted?—A. No, sir.

Q. He didn't tell you that?—A. No, sir.

Q. Did he show you the one saying that it had been sent by mail and would be here, was on the way?—A. I don't remember that he did. I have heard you talk

about that; I think I received my impression from you. I know I got a letter and that he did not know what Colonel Young wanted, and that letter induced me to send a telegram to which these are the answers.

Q. And that was about a week after he got the dispatch?—A. Well, it takes about three days for the mail to get from New Orleans here.

Q. How long does it take a dispatch to get there?—A. Well it takes less time.

Q. These of Colonel Young's were dispatches, telegrams?—A. That was a dispatch in all probability, and you told me or left to infer (I do not know where I got it) that it was too late in the day, and knowing how things are situated in New Orleans, how that Mr. Van Benthuyzen leaves the office of the telephone company about 3 o'clock and goes to the railroad office, I can see how it was too late that day, because if we do not get the mail off at 4 o'clock, it is too late for that day, and the next day I presume he intended to hunt up whatever Colonel Young wanted, have a search made in the office for it, and as the dispatch said it was "too late to-day; attend to it to-morrow," and the next day the chances are that looking it up he didn't find it, or didn't know what he did want, and wrote that letter.

Q. I don't want your speculations, Mr. Witness?—A. Well, I don't know anything about it.

Q. We can speculate as well as you. We do not need speculations. Well, you did know of a dispatch about which you drew these inferences?—A. You told me about a dispatch.

Q. Don't you know that Colonel Young swore here that he telegraphed for that agreement to Mr. Van Benthuyzen, and got a dispatch from him first saying, "which one of the agreements do you want?"—A. No, sir; I don't know anything about it.

Q. And next that he got a dispatch saying it was too late that day, and that it would come by mail the next day, and that he said that he should have that here the day after? Didn't you hear his testimony?—A. Oh, you have got that all mixed up, Mr. Ranney.

Q. Didn't you hear him testify to that?—A. No, sir; but I have it in my mind whether I heard him testifying about it or not. You talked about it a good deal.

Q. With whom?—A. I heard you try to talk about it here; trying to mystify things.

Q. With what witness?—A. With Colonel Young.

Q. What was the talk that I had here with Colonel Young? It was when he was being examined on the witness stand?—A. Yes, sir.

Q. What was it?—A. You talked a good deal about this letter and this dispatch, and Mr. Van Benthuyzen's dispatch that he could not—

Q. Did I do anything more than to put questions about it?—A. Oh, I don't know.

Q. What were the questions I put?—A. I don't know, God Almighty, and I don't think anybody else does; I don't think you know yourself.

Q. But it was relating to that subject?—A. Yes, sir. Life, I think, is too short to go on with all that.

Q. But life is not too short to get that agreement, and I think we will get it before we get through.—A. I think Mr. Van Benthuyzen will bring all the papers.

Mr. MILLARD. I object to the profanity of the witness.

Q. I want to know if you were not present when I inquired of Colonel Young about that agreement?—A. I could not answer you positively; I was not here every day you were cross-examining Colonel Young.

Q. You said you were here?—A. I did not; I told you I was here sometimes, and sometimes I was not.

Q. You said you were here sometimes when I was talking with Colonel Young putting questions?—A. I heard you one day when I was here cross-examining Colonel Young on that point.

Q. You don't remember what that was?—A. What was?

Q. What that cross-examination referred to.—A. It was on that subject; as to exactly what it was I cannot say.

Q. I was inquiring after that agreement, wasn't I?—A. Yes, you were inquiring after an agreement.

Q. And wasn't it the very day that he produced the very telegram you now produce?—A. Yes, that was the day I was here; one of the days I was here.

Q. And he handed me that telegram to you of March 25?—A. Yes, sir; that was the day I was here; I handed him the telegram.

Q. Do you remember that I called his attention to the fact as much as one week after the time when he said he had gotten the other telegram that the agreement had been sent and would be here by mail?—A. No, sir; I don't know that I do. You might have done so, I don't remember. Those are details I don't go into.

Q. You now swear to this committee that you never saw the agreement to which this is supplementary?—A. No, sir.

Q. Were you in the room with Colonel Young when he found the supplementary agreement?—A. No, sir.

Q. I thought you said you were?—A. I said I was there that afternoon, and that when I came in he told me he had found this agreement in the tray of his trunk; that he had just found it.

Q. When did he tell you that?—A. Either Saturday or Sunday evening; I think Sunday last.

Q. Where was he then?—A. In his room.

Q. Did he show it to you?—A. Yes, sir.

Q. Did you read it?—A. Yes, sir.

Q. Did you talk about it?—A. No, sir.

Q. Did he say anything about the original, about the one to which that was supplementary?—A. No, sir; nothing specially that I remember.

Q. Or in general?—A. I don't know; I think I remarked, "Well, this is the reason why Van can't find this agreement; you have it here."

Q. You think you said that?—A. I think I did.

Q. Did you say anything more?—A. I don't know that I did; I don't remember anything more.

Q. That is the first time you had seen that agreement?—A. Yes, sir; because the agreement, you see, Mr. Ranney, was written away from New Orleans, and, as I stated, I was in New Orleans, and Mr. Van Benthuyzen was away, and that agreement seems to have been written here or in Memphis, I don't remember which, and as it was sent here to be signed, I never saw it.

Q. When Mr. Van Benthuyzen telegraphed to Colonel Young and asked which one of the agreements he wanted, which one did you understand that he meant?—A. I told you most positively I had not seen that dispatch.

Q. Hadn't you heard of a telegram asking Colonel Young which agreement he wanted?—A. I told you I hadn't seen that.

Q. Hadn't you heard of such a telegram?—A. No, sir; I will not answer that question again. I told you four or five times my answer, and if you want me to answer it again I ask this committee to protect me in my rights. I ask to be excused.

Q. If I have your answer that is sufficient.—A. I have answered four or five times already.

Mr. MOFFATT. You volunteered your testimony; nobody asked for it.

Q. You asked to come on here as a witness?—A. No, sir; not specially.

Q. Didn't you request the chairman to have you called?—A. No, sir; I saw I was on the list to be called, and I wanted to go to New York—

Q. Didn't you ask the chairman to be called?—A. I asked him if I was going to be put on, that I might be put on now, as I wished to go to New York.

Q. You knew that Mr. Van Benthuyzen was wanted?—A. Oh, I know that he would answer; I supposed this committee would do that.

Mr. EDEN. I think it would be proper, if there has been no subpoena for Mr. Van Benthuyzen, to have one issued for him to bring that paper.

Mr. RANNEY. I think so, and at once.

Mr. OATES. We can settle that in executive session.

Q. Have you had any other correspondence with Mr. Van Benthuyzen about that original agreement than that which you have stated?—A. I don't think I ever wrote anything about any original agreement.

Q. About an agreement?—A. About an agreement? No, sir. After I got his dispatch it was not necessary for me to write any more.

Q. The only letter you ever received relating to it you have not got; you have destroyed?—A. No, sir; I have no letters that I have received here at all on any matters.

Q. You have spoken about having gotten a bill in equity filed in Memphis that was printed in New Orleans?—A. Yes, sir.

Q. When do you say that you directed Mr. Beckwith to withdraw that bill in equity?—A. I think from the circumstances under which the bill was drawn that it must have been on Friday evening or Saturday.

Q. Was Mr. Beckwith in New Orleans then?—A. Yes, sir.

Q. On Friday or Saturday evening, when?—A. On a Friday or Saturday probably somewhere about the early days of September.

Q. Was it after you had received notice from Washington, it had been directed?—A. Yes, sir.

Q. Where did you find Mr. Beckwith then?—A. He has an office close by my office.

Q. How did you hear that a bill had been directed by Mr. Goode?—A. By a dispatch from my associate, Mr. Huntington.

Q. From Washington?—A. Yes, sir.

Q. He was here then?—A. Yes, sir.

Q. Do you remember what day you got it?—A. No, sir.

Q. That was a dispatch saying that it had been ordered?—A. It said that Mr. McCorry's request had been granted, and that McCorry would be instructed to bring suit.

Q. And then you went immediately to your attorney?—A. Oh, he has an office close by, and I sent my errand boy to him to tell him to come around to my office, and then I told him that the request of Mr. McCorry had been granted, and that it was necessary for him to prepare the bill, as it was understood that he should prepare the bill if a suit was ordered.

Q. What did he say about it then?—A. I told him I thought it was necessary for him to do it immediately (I think this must have been Friday evening), and he said that any permission granted in answer to Mr. McCorry's application could not possibly get back to Memphis until Tuesday, but that he would go to work on the bill after he got through in court the next day and work all Sunday and have the bill ready to be in Memphis on Wednesday. He told me he would begin it Saturday, and on Sunday evening he told me he had been at work since 5 o'clock in the morning preparing the bill, and had it nearly completed and was going over it that night for corrections, and it would be given to the printer the first thing in the morning. I told him that it was necessary he should complete it that night, even if he had to work all night on it; that I wanted the bill to go by Monday evening's mail to Memphis.

Q. Why were you in such a hurry?—A. Because I wanted it there in time, and wanted the other attorneys to read the bill, and wanted to be sure to have it there in time.

Q. Did he read it over to you after it was finished?—A. No, sir.

Q. Who attended to the printing of it?—A. I sent it to the printers and paid for it and attended to it.

Q. It seems that Mr. Goode ordered the bill filed, or authorized it, on the 3d of September, and it was filed in Memphis on the 9th, I think, which was just six days afterwards. You must have been very busy during that time.—A. I told you he worked every hour on Sunday; went to work before daylight and worked all day, and I got it just in time to get it put in the mail of Monday.

Q. When you first spoke to him, didn't he tell you that he had got it most ready?—A. No, sir; he did not when I first spoke to him.

Q. Had he done anything about it then?—A. I don't know anything about that.

Q. Do you know of Mr. Beckwith's having been, prior to that, at Memphis?—A. Yes; I sent him to Memphis.

Q. When did he get back from Memphis?—A. He got back from Memphis after we got through with the demonstration before Mr. McCorry.

Q. Don't you know that he brought the Memphis bill already drawn?—A. I know that he did not.

Q. How do you know it?—A. Because I know he came there to prepare the bill, and told me he wanted to consult some English authorities he had in his library.

Q. He didn't tell you that he had brought the bill already drawn, from Casey Young, at Memphis?—A. No, sir, and I don't think he did either.

Mr. RANNEY. Casey Young said that he drew the bill himself at Memphis, and that Mr. Beckwith took it home with him.

Mr. CASEY YOUNG. I didn't say that.

Q. Why do you say that?—A. Because he tells me now that he didn't.

Q. Did you hear him testify before this committee?—A. I don't think I did, and I don't think he would testify to that.

Q. But you know that he did not bring the bill?—A. Oh, I know the bill was prepared in New Orleans, Mr. Ranney.

Q. You did not go to Memphis?—A. No, sir; I staid in New Orleans.

Q. Have you that written agreement in your possession, Mr. Witness, the one to which this is a supplement, or have you ever had it, to your knowledge?—A. Do you address me?

Q. Has Mr. Van Benthuyzen, since you have been here, sent on any paper from New Orleans, to your knowledge, to you?—A. Sent on any paper to me? No, sir. He sends me many different papers connected with our business.

Q. Has he sent you any papers on this subject?—A. No, sir. The dispatch says he will bring them himself, not send them.

Q. He has sent you no letters?—A. No, sir; no letters.

Q. He has not been here yet?—A. You know that he has not.

Q. I do not know it. I should not know him if I saw him.—A. No, sir; he has not been here yet. He has been here a good deal during this matter of presenting the case before the Department of the Interior. He and I were here all the time.

Q. I am speaking of a recent time?—A. No, sir; he has not been here recently.

By Mr. MILLARD:

Q. You said you saw your name on a list of witnesses; who showed you that list?—A. I understood that Mr. Crawford was preparing a list of witnesses, and I got it; that he was furnishing a list of witnesses for this committee.

Q. Did you see it on the list of Mr. Crawford?—A. Yes, sir.

Q. You saw your name?—A. Yes, sir.

Q. Who showed it to you?—A. I got it from the desk there. When Mr. Young was talking about some witnesses the clerk told me that my name was on the list of witnesses furnished by Mr. Crawford.

Q. You got it from the clerk, then, did you?—A. Yes, sir.

Q. You have not been subpoenaed?—A. Not that I know of.

Q. And your testimony this morning was voluntary?—A. Oh, I saw my name here and stated, I presume, that I wanted to get away, and if it was proper to put me on I would like to have them do so.

Q. One thing further as to your being a witness; has it not been a matter of conversation between you and Colonel Young?—A. Since I have had this list of witnesses it has been. He never asked me, though. I wanted to go away from here—

Q. Did you not sit just back of me at the time I examined Colonel Young; were you not behind me at the time I examined him?—A. I have sat behind you several days.

Q. While I was examining Colonel Young were you not signaling to him, making motions to Colonel Young?—A. Not that I know of, except that I wanted to hand him this dispatch. He saw I had the dispatch; I had the dispatch in my pocket.

Q. Did you not indicate to him how to answer certain questions?—A. How could I indicate to him what he should answer?

Q. I was told that you did.—A. You were told wrong; Colonel Young is capable of answering questions himself without indications from me; I am not capable of it.

Q. You did make certain indications to him?—A. No, sir; I do not know that I did. I am not capable of indicating to him what questions he should answer, or how he should answer them. But I did indicate that I had this dispatch at a certain time, and Colonel Young is quite neglectful, or at least absent-minded, and when I handed that dispatch I took it and indicated that I had the dispatch which would answer your question.

Q. Was not that very dispatch produced during the examination of Colonel Young?—A. I produced it; I asked you to hand it back—don't you remember; I handed you the dispatch in an envelope.

Mr. MILLARD. I asked no question of Colonel Young about the dispatch. I think that is all.

By Mr. MOFFATT:

Q. Did I understand you to say that you had a list of witnesses?—A. Yes, sir.

Q. Where did you get it?—A. Off that table; it was handed to me by the clerk; I was told that this had been prepared by Mr. Crawford.

By Mr. RANNEY:

Q. Did you ask for it of the clerk of the committee?—A. No, sir.

By Mr. MILLARD:

Q. Have you got it in your possession now?—A. Yes, sir.

Q. Let me see it, please.—A. I think I have it here (producing the paper). Here it is. I was told that was prepared by Mr. Crawford.

By Mr. RANNEY:

Q. The clerk of this committee handed that to you, I understand?—A. Yes, sir.

Q. Did he give it to you voluntarily or did you ask for it?—A. I think it was kind of mutual. Colonel Young was writing some of the witnesses' names here, and he told me that a list had been prepared by Mr. Crawford, but had not been submitted to the chairman yet.

By Mr. EDEN:

Q. Were you advised that your testimony was desired before the committee?—A. Oh, I saw it there on the list; I did not know anything about it until then.

By Mr. MOFFATT:

Q. In whose handwriting is that list?—A. I do not know.

Q. You did not copy it off yourself?—A. No, sir; that is the list I got.

By Mr. RANNEY:

Q. Whose handwriting is it?—A. I do not know; it is not mine.

By Mr. MILLARD:

Q. Has the National Improved Telephone Company an office here in this city?—A. No, sir.

Q. What is the business that keeps you here, do you say?—A. Looking after this Government suit and attending generally to these telephone matters.

Q. The Government suit does not require you to attend here day after day, does it?—A. Well, it does. I just told you, sir, that I am generally looking after everything pertaining to the telephone business; I am always about when anything comes

up affecting the Bell telephone and my company or my interest in it; if I am not some of my associates are, in every place.

Mr. EDEN. Have you seen anybody about the building connected with the Bell Telephone Company?

Mr. MILLARD. I don't know a soul connected with the company.

Q. Was this bill that you prepared at Memphis the result of the consolidation of your company and the Pan-Electric Company?—A. There has never been a consolidation.

Q. Was it an agreement as you understood it?—A. Oh, I understood that we were to fight together.

Q. The Government suit?—A. Oh, no; but every suit.

Q. Now, I ask you this question: Whether that bill that you say you helped prepare was the result of some understanding to that effect as you understood it?—A. My understanding was that we were to fight together.

Mr. EDEN. Witnesses have not been permitted to state the contents of papers.

The WITNESS. I understood that we had agreed to fight this fight together.

Q. I will ask the question in another form. From what you have heard, the conversation you have heard, from the representatives of the two companies—

Mr. OATES. First let him state what conversation.

Mr. MILLARD. I am not going into the conversation. He has called the attention of the committee to a certain bill that he helped prepare at New Orleans.

The WITNESS. Yes, after Mr. Goode had given authority to Mr. McCorry.

Q. Did you understand that bill was in pursuance of mutual action on the part of your company and the Pan-Electric Company?

Mr. EDEN. I object to that; there is a written agreement.

The WITNESS. I will explain it outside of that agreement.

Mr. MILLARD. I want you to explain it outside of that agreement.

Mr. EDEN. I do not want it explained outside of that agreement. No one has been permitted to tell what that agreement was, and I object to the witness stating his conclusion about it. If that paper is in existence it is the best testimony, and if it is not in existence, then we have a right to prove the contents of it by whoever wrote it.

Mr. RANNEY. It seems to be a pretty certain thing that we never shall get it.

Mr. HALL. It is not fair to say that. This committee has not yet subpoenaed anybody to produce a paper of that kind. I think that remark would be more proper when the committee has taken the necessary steps to produce the paper. I make that suggestion because this all goes into the record.

Mr. MILLARD. It is a point that is very material. We must have that agreement.

Mr. HALL. If there is any desire to produce an improper impression that is the way to do it.

Mr. RANNEY. The witness has not given very much else in his testimony.

Mr. HALL. You have been asking him—

Mr. MILLARD. Let me ask my question. I ask you this question and I think there is no misunderstanding between us in regard to it if I have heard you correctly: You had heard conversations between Colonel Young and Mr. Van Benthuyzen and perhaps other parties, Mr. Huntington, and have spoken of a telegram that you received from Mr. Huntington. Subsequent to the order made by Mr. Goode, either at New Orleans or Memphis, you helped to prepare the bill of the Government suit; am I right in that?

A. In some respects you are.

Q. As to the fact of its being subsequent to the order?—A. Yes, sir. It was subsequent to the order.

Q. I ask you whether that bill, from what you heard between the parties, not from any written agreement—A. I will have to stop you right there, because you are getting it wrong. I will try to help you. I had heard of no conversations relating to anything of that kind between Colonel Young and my representatives, because all those conversations took place away from New Orleans, and I was in New Orleans, so that it was not brought about by my overhearing any conversations. But what I knew about it was brought about by information I received directly from Mr. Van Benthuyzen, who was a party to it.

Mr. OATES. And therefore it is entirely hearsay.

Mr. EDEN. Entirely.

The WITNESS. I could not hear, because I was not there.

Mr. EDEN. This was a matter that you would not allow Colonel Young to tell about, what was in that written contract.

Q. Did you understand that your two companies had united to bring that Government suit?—A. I understood that we had united to fight every fight, Government and any other kind.

Q. The bringing of a Government suit?—A. Yes; every kind of a suit?

By Mr. EDEN :

Q. You understood that from Mr. Van Benthuyzen ?—A. Yes, sir.

Q. And from him only ?—A. I did ; that was the only source.

By Mr. MILLARD :

Q. Haven't you talked with Colonel Young about the Government suit ?—A. Since I have been here before the Department of the Interior I have talked a great deal to him about it. That is what he and I came here for, and we have certainly talked a good deal about it.

By Mr. OATES :

Q. Is this the clerk's handwriting on this paper ?—A. I don't know.

Q. Did the clerk give it to you ?—A. Yes, sir.

Mr. OATES. The clerk states to me, and Mr. Crawford also, that this memorandum was merely made of those they supposed might be witnesses. Mr. Crawford says that he did not make the list, but suggested the names to the clerk of the men that he supposed would be sworn as witnesses. I can state now, Mr. Witness, that there has been no action of this committee to subpoena the parties upon this list at all.

On motion, the committee went into executive session, and subsequently adjourned until Monday, April 5, 1886, at 12 o'clock a. m.

WASHINGTON, D. C., *Monday, April 5, 1886.*

The committee was called to order at 12.15 p. m.

Mr. OATES (in the chair). Gentlemen, there is a quorum present. I want to state that in pursuance of the instruction of the committee on Friday evening last I telegraphed to Mr. W. Van Benthuyzen, requesting him to be here before the committee on Tuesday. He has not replied as yet, but Colonel Young has shown me a telegram from him stating that he cannot be here as soon as that in consequence of breaks in the roads (there have been great floods down in that section of the country), but that he will leave there on Tuesday, and will be here Friday. I have told Colonel Young to telegraph him, or have his partner telegraph him, that it will be satisfactory if he gets here this week.

I have received a letter or note this morning from Mr. Goode stating that Attorney-General Garland is still very unwell, and unable to be out, and that he, Mr. Goode, has to appear before the Supreme Court this morning as Acting Attorney-General, and cannot be here at the hour of our meeting, but will be very glad to appear before the committee if he can do so at about half-past 1 o'clock to-day. I suppose under these circumstances it would be well for us to take a recess until that hour.

Mr. RANNEY. We might, possibly, in the mean time, put some papers into the record which should appear there. There is one letter connected with the testimony of Mr. Atkins that ought to be put in, and possibly he should be called in connection with it.

Mr. CASEY YOUNG. There are some letters furnished by Dr. Rogers to the committee which were not deemed relevant to the investigation by the subcommittee, and, consequently, were not published as other letters were for the use of the committee. I would like to examine them in order to refresh my recollection in regard to the letter of August 21, 1883, which has been published.

Mr. RANNEY. I have been over some of these letters which were reported by the subcommittee as not deemed material, and I find there are some of them that I wish to have printed.

Mr. CASEY YOUNG. I wish you would take them all and have them printed. I want to refresh my memory about this letter of mine. I do not remember writing the letter or how I came to write it.

Mr. RANNEY. Which letter is it you are speaking of?

Mr. CASEY YOUNG. It is the one dated Hot Springs, Ark., August 21, 1883, addressed to Dr. Rogers, where there is an italicized sentence, in which I speak of an association with the American Postal Telegraph Company.

Mr. RANNEY. That letter has been printed.

Mr. CASEY YOUNG. I want to see that letter and others that have not been printed.

Mr. RANNEY. I wish they had all been printed.

Mr. CASEY YOUNG. I think if they were all printed it would relieve the committee as well as myself.

Mr. RANNEY. We shall have to go over them. I have been over some of them and

find them material. I see that one of them was printed in the World after Mr. Atkins gave his testimony before the committee.

Mr. OATES (in the chair). If there is no objection, the committee will take a recess until half-past 1 o'clock.

The recess having expired the committee resumed its session at 1.30 p. m.

Hon. JOHN GOODE then came before the committee and was duly sworn.

By the CHAIRMAN (Mr. BOYLE):

Question. Do you hold any office under the Government of the United States at this time?—Answer. Yes, sir; I am Solicitor-General, by appointment of the President, but have not yet been confirmed by the Senate; the matter is pending.

Q. At what time were you appointed?—A. I was appointed on the 4th of May, 1885.

Q. Had you held any office or been a member of Congress prior to that time?—A. Yes, sir; I was a member of the Forty-fourth, Forty-fifth, and Forty-sixth Congresses.

Q. At what time did your Congressional service terminate?—A. It terminated with the Forty-sixth Congress, in March, 1881.

Q. Did you hold any other office between the expiration of your Congressional service and the beginning of your term as Solicitor-General?—A. None.

Q. Are you acquainted with Senator Isham G. Harris, General J. E. Johnston, Mr. Casey Young, Attorney-General Garland, and Mr. J. D. C. Atkins?—A. Yes, sir; I know all those gentlemen.

Q. Did any of those gentlemen, to your knowledge, assist in having you made Solicitor-General?—A. I think not. I was recommended to the President by the Attorney-General. I do not think either Mr. Atkins, Mr. Young, or General Johnston recommended me for appointment.

Q. You say you were recommended by the Attorney-General?—A. Yes, sir; I was recommended by the Attorney-General to the President, and appointed by the President upon the recommendation of the Attorney-General, and I was recommended to the Attorney-General by a great number of gentlemen. I do not think, though, that either one of the gentlemen named by you was one.

Q. Had you prior to your appointment as Solicitor-General any business relations with any one of the gentlemen named?—A. None whatever.

Q. Had you prior to your appointment any conversation with any one of them with respect to any probable litigation affecting telephone patents in case of your appointment?—A. None, sir; none at all.

Q. What had been the relation between yourself and the Attorney-General prior to your appointment?—A. My relations with the Attorney-General have been friendly, but not particularly intimate. I knew the Attorney-General first as a member of the Confederate Congress, and after my election to the Forty-fourth Congress, while he was here in the Senate, I met him occasionally as a member of the House would meet Senators, but our relations were not specially intimate.

Q. Do you recall the fact of an application having been made to you by the district attorney for the western district of Tennessee to have a suit brought in the name of the Government to test the validity of the Bell telephone patents?—A. I do; not made to me, but it was addressed to the Attorney-General and came to me as Acting Attorney-General.

Q. For what reason did it come to you and not to the Attorney-General?—A. I will state—

Q. I merely wish to know whether it was on account of his absence or not?—A. Yes, sir; the Attorney-General left here on the night of the 27th of August for his summer vacation, and, under the law, after he left I became the Acting Attorney-General. Section 347, which you are familiar with, provides that in case of vacancy, or the absence of the Attorney-General, or his disability to act, the duties of the office shall be performed by the Solicitor-General. The Attorney-General left Washington on the night of the 27th of August to go to his home in Arkansas, and on the morning of the 2d of September an application from H. W. McCorry, the United States district attorney for the western district of Tennessee, came to me in the regular course of mail, accompanied by a memorial signed by several citizens and various affidavits and exhibits, which I acted upon, as I did in regard to other routine business that came to me.

Q. I will come to that directly. Had you, before the departure of the Attorney-General, any conversation with him as to the probability of an application of this character being made during his absence?—A. None whatever. I will say in answer to that that I left Washington City on the 26th of June to go to British Columbia. I was sent there by the Department of Justice at the instance of the Post-Office Department to represent the Government in the extradition case of Isaac N. Hibbs, charged with the forgery of certain post-office money-orders, and I left here, as I say, on the morning of the 26th of June. I returned to Washington on the night of the

19th of August. From the 19th of August until the 27th, the night on which the Attorney-General left, I saw very little of him; he was busy in his Department, and I was busy in mine; I saw him occasionally; but when he left the office on the evening of the 27th, knowing that he was going away, I went down and took leave of him as a matter of politeness, but he gave me no instructions about anything.

Q. Had you any conversation with him, prior to his departure, with regard to the Bell Telephone Company or the Pan-Electric Company?—A. He never mentioned the Bell Telephone Company or the Pan-Electric Company to me until, after his return, early in October, I introduced the subject to him, having seen these assaults made upon him in the public press. I did not know that Mr. Garland had any interest in the Pan-Electric or any other company until after this newspaper criticism commenced, but when he came back I mentioned the subject to him.

Q. Had any other person spoken to you prior to the departure of Mr. Garland about probable litigation, or in any way respecting probable litigation of the Bell Telephone Company with the Government?—A. None whatever. That matter came to me in the regular course of business. I will say here—I think it is proper to say it in answer to your question—that this communication of Mr. McCorry, the district attorney, reached me on the morning of the 2d of September. That morning, before I received it, Senator Harris, of Tennessee, and Mr. Casey Young came into my office and I think Senator Harris held something in his hand, a letter or telegram, and asked me if a communication from the district attorney had been received from the western district of Tennessee in regard to a suit against the Bell Telephone Company. I replied that no such communication had been received. He then said that he had information that it had been forwarded. I rang the bell and sent the messenger to inquire of the clerk if there was any such communication there, and I received an answer that there was none. Those gentlemen, I do not think, even took their seats. They said they were confident that such a communication had been sent, and then left the room. Not very long after they left (they were there early in the morning between 9 and 10 o'clock), I suppose about 11 o'clock or perhaps earlier, the communication from the district attorney came to me with other mail, and I saw it then for the first time, and proceeded to examine it.

Q. Had any person spoken to you with reference to the matter before this conversation with Senator Harris and Mr. Young?—A. No, sir.

Q. That was the first information you had?—A. Yes, sir; I never had heard of such a suit or contemplated suit. I did not really know about the existence at that time of these various telephone companies in the country. I never had heard of any controversy or any anticipated controversy in regard to it. The first intimation I had of it was in this conversation that morning with Senator Harris and Mr. Young, the morning of the 2d of September.

Q. You say the application did come to you the same day?—A. It came to me in less than half an hour after they had left the room.

Q. What did you do with it when it came to you?—A. I proceeded to examine it, as it was my duty to do under the law. I read the letter of the district attorney, in which he went on to state the reasons why the use of the name of the Government should be permitted in the suit, and he stated among other things that he had in his possession one of the Reis instruments, that he had personally experimented with it, knew personally that it could talk, and sent along with his letter a memorial signed by Watson Van Benthuyzen, C. P. Huntington—

Mr. RANNEY. Haven't you got the documents which were sent to you?

The WITNESS. Yes, sir; I have them here, but I will say that they are documents from the Department. I am willing to have them copied. Perhaps I had better read the letter of the district attorney.

The CHAIRMAN. If you please.

Mr. RANNEY. We have it already in print. You had better state all the papers you received.

The WITNESS. The letter of the district attorney had accompanying it—

Mr. RANNEY. What is the date of that letter?

The WITNESS. The letter bore date the 31st of August. The letter was written from Jackson, Tenn., and was dated August 31, and addressed to the Hon. A. H. Garland, Attorney-General.

Mr. RANNEY. We have a copy of that.

The CHAIRMAN. I think the letter and the memorial had better appear here.

The WITNESS. Accompanying the letter of the district attorney, written from Jackson, Tenn., and dated the 31st of August, was this memorial, signed by Watson Van Benthuyzen, New Orleans, La., C. P. Huntington, Mississippi, J. R. Beckwith, New Orleans, La., and George R. Gantt, Memphis, Tenn.

The CHAIRMAN. Those appear in the record of the Interior Department at page 7.

Mr. EDEN. I suppose it is well to have them go into the record.

The CHAIRMAN. Yes, they should be put in together.

The letter and memorial referred to are as follows :

OFFICE OF UNITED STATES ATTORNEY,
Jackson, Tenn., August 31, 1885

Hon. A. H. GARLAND,
Attorney-General, Washington, D. C. :

DEAR SIR: Col. George Gantt, of Memphis, and others presented me an application in writing a few days since asking an examination of certain publications, affidavits, &c., and also a personal inspection of certain telegraphic instruments, which had previously been put in circuit in Memphis, and which are those known as the Reis inventions, and the same referred to in the affidavits accompanying.

The object of the application made to me was to obtain a report by myself to you as to the propriety of instituting a suit in the name of the United States to have the patents under which the Bell Telephone Company operate declared void and vacated and recalled.

I examined the documents given me, and also made a personal inspection of the Reis instruments referred to; I heard the words over said instruments plainly and distinctly, and am fully satisfied that they are the true Reis instruments and inventions, and am sure if the papers submitted are true—and there is every reason to so believe—that Alexander Graham Bell was not the inventor of the transmission of articulate sound or spoken words over wires by means of electricity, and that such invention was that of Reis, a German, and made about 1862, and also that these facts were and must have been known to said Bell when he applied for and obtained his patents.

There appear to have been irregularities attending the issuance of these patents, but my knowledge of the practice on this point is not such as to offer an opinion.

I am of the opinion that the patents were improvidently issued, that they were obtained by false suggestion and concealment, and that Bell was not entitled thereto under the law, and that the interest of the people of the United States demands their recall if it can be done.

I have examined the authorities (cited by Colonel Gantt) upon the question of practice and am of the opinion that letters patent improvidently issued can be recalled, and that the proper proceeding to that end is by bill in equity, as was suggested, and I am impressed, not only as to the propriety of instituting such proceedings, but believe it to be a duty.

I am assured that the parties specially pressing this matter will, if required, save the Government harmless against expense, but I do not think it proper to require such of them farther than the payment of fees to the counsel whom they may desire associated with me in the case. I deem this the proper course, because the suit should be in fact, as well as in name, absolutely one by the Government, and without the power of any one to suggest that, having a pecuniary interest, &c., they should be heard specially in its management, for it might happen that such interest could be adjusted by contract, so that it would become desirable on the part of such persons to dismiss or permit the suit to fail, which should not be.

I caused the Reis instruments which were shown me, and over which I heard conversations, to be put in the hands of the marshal and under my control, so as to protect the Government in case of any compromise between interested parties, and for the same reason I shall keep control of all documents and affidavits, &c.

I inclose the papers submitted to me for your inspection and also a memorandum of the authorities.

I ask that Hon. Casey Young, Col. George Gantt, and Gen. Luke E. Wright, of Memphis, and Col. J. R. Beckwith, of New Orleans, be permitted to appear as associate counsel, without expense to the Government, and that you will direct the commencement of proceedings.

Very respectfully,

H. W. McCORRY,
United States District Attorney for West Tennessee.

Memorandum of authorities: 14 Wall., 434; 18 Fed. Rep.; 22 Fed. Rep.; 9 Fed. Rep.; 2 Wall., 525. I have not the Federal Reporters at hand to give the pages, having examined them in Memphis.

MEMPHIS, TENN., August 26, 1885.

Hon. HENRY W. McCORRY,
United States Attorney for the Western District of Tennessee:

SIR: We are in possession of information that we deem reliable, which, in our opinion, is sufficient to establish these propositions:

(1) That Alexander Graham Bell, the alleged inventor and patentee in the following letters patent of the United States, viz, letters patent No. 174465, dated March 7,

1876, for alleged new and useful improvements in telegraphy, and letters patent No. 186787, for an alleged improvement in electric telephones, was not the original and first inventor of the art of telephony, or of any substantial matter described or claimed in said letters patent.

(2) That the electric speaking telephone was known and used in the United States and Europe long prior to his alleged invention and discovery of the same.

(3) That he was cognizant of these facts; had witnessed the use of the electric speaking telephone, and had knowledge of the discovery thereof, before his alleged discovery and invention of the same. That he has no just or rightful claim to the discovery or invention of the broad art of electric telephony. That he is not the founder, or entitled to stand at the head of said art by reason of prior invention and discovery.

(4) That his oath to his application for letters patent filed in the Patent Office in patent No. 174465 of date January 20, 1876, in which he claimed that he was the first and original inventor of the art, is and was false, in these particulars:

First. He did know that the said art was known before his alleged invention.

Second. He did know that it was used prior to his alleged discovery and invention of the same.

Third. He not only had such knowledge from reliable sources of information, but actually had seen it work and practiced as a known and existing art prior to his alleged invention and discovery of the same.

(5) If said Bell had not intentionally concealed, but had fully disclosed and set forth in his application and the oath thereto for such patent, all that he knew of said art as it existed prior to and at the time of his alleged invention and discovery of the same, such disclosure would have effectually defeated his said application for said patent, by furnishing conclusive evidence that the said art existed, and that the state thereof, as it existed, and the use thereof were known to said Bell prior to his alleged invention and discovery of the same.

(6) That, at most, the alleged discovery and invention of said Bell, as set forth in said application and patent, are an improvement on a well-known art, existing at the time of said alleged invention and discovery by said Bell, and the alleged improvement itself is valueless because not useful and not used even by those owning the said patent of the said Bell, but, on the contrary, wholly discarded as of no practical value.

(7) That what is called the Bell Telephone, and now in extensive use, consists of successive improvements upon the art as known long prior to the said Bell patent; and the said improvements themselves, on the said art, are the discoveries and inventions of others and not of said Bell, and not covered by said Bell patent. That the so-called discoveries and inventions of said Bell, set forth in said patent, constitute nothing that is new, useful, or valuable in the electric speaking telephone, nor are they, in fact, employed in the same.

Yet said patent has been artfully and successfully employed in such manner as to enable the great corporation now owning it to wrongfully establish and maintain a close monopoly of the broad art and business of supplying electric speaking telephones to all the citizens of the United States. The income thus wrongfully derived amounts to many millions per annum, to the great wrong and injury of the citizens of the United States generally, who are forced to pay exorbitant prices, and get therefor a telephone service far inferior to that which would be furnished if the said monopoly were overthrown and a free and fair competition allowed. This to the great detriment also of many worthy inventors and discoverers of improvements in said art, who hold letters patent for the same from the United States, but which are rendered valueless in the hands of these bona fide inventors and improvers by reason of the close and complete monopoly thus wrongfully set up and maintained under said patent.

(8) That no grant should be allowed to stand without inquiry as to its bona fides and validity, when procured in flagrant disregard of law and established usage of the Patent Office; and such was the case with the Bell grant of March 7, 1876, as the following facts will show:

First. On the very day that said Bell filed his application for said grant (February 14, 1876), Elisha Gray filed a caveat for an electric-speaking telephone, in which the principal design and devices were set forth with such clearness and fulness as to manifest beyond question the object of the caveat.

Second. By the positive command of the act of Congress on the subject this caveat should have been filed among the "confidential archives" of the Patent Office, and "preserved in secrecy," yet, in a few days thereafter, without the knowledge or consent of said Gray, the secrets of this caveat were made known to said Bell by an official in the Patent Office; and after said knowledge, and in view of the same, said Bell, on the 29th of February, 1876, made an important and material amendment to his said application.

Third. And within a few days, and whilst the contents of said caveat were still

supposed to be held in the inviolable secrecy of the Patent Office, said Bell publicly claimed the very means and devices by which the said Gray caveat proposed to transmit articulate speech, and which means and devices were not specified, claimed, or described in the application of said Bell of February 14, 1876.

Fourth. The examiner of patents being of opinion that there was interference between the said Gray caveat and Bell application, in accordance with the practice of the Patent Office, in order that such proceedings might be had, touching the supposed interference, as the law provides in such cases, without the knowledge or consent of Gray, and in the interest of said Bell, said suspension was removed, and a grant issued without delay to said Bell. This could only be accomplished by over-riding and disregarding the established rule of the Patent Office, which forbade the counting of fractions of days; acts done on the same day were in sense of this rule done simultaneously. Yet, in this instance, said Bell, without the knowledge or consent of said Gray, was allowed the benefit of a fraction of a day upon the pretense of subserving the ends of justice. But nothing could be further from the truth, as the material matter was not whether one of these papers was filed a few hours before the other, but which was entitled to priority of discovery and invention in the interfering matter of Gray, the caveator, or Bell, the applicant; and on the question the merit of priority was with said Gray.

(9) That Philip Reis, a learned German, who died in 1874, was the real author and inventor of the electric-speaking telephone. That everything done since that day has been by way of improving the art which he discovered, made known, and successfully employed.

Every essential principle contained in the electric-speaking telephone of the present day is contained in the art as discovered and expressed by said Reis, in written description thereof, drawings, models, plates, and designs of the same, all of which were well known in Europe and in the United States prior to 1870. Yet, with unparalleled audacity and perseverance, those interested in said Bell patent assert that the said art, as discovered and expressed by said Reis, was inherently defective in principle. That it was incapable of sending and delivering speech, and that no amount of improvement in construction could by possibility make it do so. They procured a ruling from one of the inferior courts that the Reis conception of the art and his device for an electric-speaking telephone were so defective in the principles thereof that a century of improvement in construction would not make it send and deliver speech as an electric-speaking telephone. This decision has been followed by other inferior courts, not because it was right, but because it was made.

Upon the correctness of this ruling and the truth of the fundamental facts on which it rests depends the validity of the claim of said Bell to be the founder of the broad art, and that it is secured and covered by said Bell grants; because, passing by other objections to this claim, if that of Reis is good it anticipates Bell by many years and completely overthrows it. We have the proofs and means of conclusively demonstrating that this vital fact is adverse to the Bell claim, and directly contrary to the said judicial expression so procured in the interest of said Bell grant.

First. We can establish by many credible witnesses that the Reis electric-speaking telephone successfully transmitted and delivered articulate speech on many occasions in the life-time of said Reis.

Second. That it has done so since his death upon a great many occasions can be shown by a large number of credible and disinterested witnesses.

Third. We know the fact ourselves from actual tests which we witnessed.

Fourth. As conclusive and final, we herewith exhibit to you Reis instruments, made in strict conformity to the principles laid down by him, and beg that you test them for yourself, and know, as a fact beyond question or cavil, that they are capable electric-speaking telephones, and that it is a grave error to assert that they are inherently defective in principle and incurably incapable of transmitting and delivering articulate speech, and that a century of mere improvements in construction could not make them do so. And, that there may be no room for mistake, and as the highest evidence we can furnish of our good faith, when you have tested these Reis instruments, we propose to leave them in your custody, to the end that, in open court, they may speak for themselves, and thus conclusively refute and forever silence the groundless charge that they are without capacity to receive, send, and deliver articulate speech as electric-speaking telephones.

Fifth. We submit for a similar test, and to be used in the same way, what are known as the Vander Weyde instruments, which are mere improvements on the Reis art, and are capable of receiving and delivering articulate speech, antedating several years the invention and discoveries of said Bell. We propose to let them talk for themselves in open court, face to face with those who assert that they are mutes, and therefore cannot talk.

We also submit for your inspection, and to be used in evidence, the Pickering instrument, which is an improved Reis telephone, antedating the alleged Bell discoveries, and capable of transmitting and delivering articulate speech, as electric-speaking

telephone, and which was known to said Bell prior to his alleged discovery and invention in the said art of telephony.

(10) That said Bell and mesne owners of said Bell grants have suppressed and endeavored to suppress and conceal important evidence of the actual state of the art, and which, if obtained and used against their claim, would show that said Bell was not the original and first inventor of said art, and that it was not a new art, but was well known at the time of his alleged discovery and invention.

(11) That while said letters patent do not claim, in any specific phraseology, or form of words, in the specifications of the alleged discovery and invention of said Bell, the art of transmitting speech by the employment of electricity as an agency therein, and do not set up a claim to the art of telephony, yet said Bell and those claiming under him colorably use and employ the said patent of March 7, 1876, as covering and embracing said art, and as of giving and securing to them monopoly thereof.

Under this colorable claim, said Bell and those claiming under him are wrongfully usurping a franchise, in holding out and claiming that said Bell is the founder and original inventor of the broad art of transmitting articulate speech in every mode in which electricity is employed as one of the agents of said transmission, and when their pretense in this respect is contested they point to the fifth claim in said letters patent as containing such grant and as securing to them art as new, and have obtained through some of the inferior courts the erroneous declaration that said claim is warranted by said letters patent, to the great wrong and injury of the citizens of the United States.

(12) That, well knowing that he was not the founder of the art of transmitting speech by the electric speaking telephone, and also that the said letters patent of March 7, 1876, neither in the drawings, specifications, nor claims in said letters patent describes any apparatus or device by which articulate speech could be transmitted through the instrumentality of electricity as perfectly or as well as articulate speech had for years prior to his alleged invention been transmitted through the instrumentality of electricity by the use of well-known pre-existing devices, methods, and apparatus; and feeling therefore insecure in the grant supposed to be contained in said letters patent, the said Bell sought to fortify himself in his wrongful claim and more completely secure to himself the monopoly contained in said letters patent, and, to further impose on the Government of the United States and the Patent Office, on or about the — January, 1877, made another application for a patent and grant to be issued to him of the letters patent No. 186787, dated January 13, 1877, which said letters patent purport to be granted to him for the specific device and apparatus for transmitting articulate speech through the instrumentality of electricity. That at the time said Bell applied for and obtained said last-named letters patent he well knew that every material and substantial part, portion, device, element, and combination of the apparatus and device described and set forth in the drawings and specifications of said last-named letters patent were not, nor any part thereof, the invention or discovery of the said Bell, but that the separate elements, considered either separately or combined, were taken bodily by him from well-known and pre-existing apparatus and devices and plans invented and contrived by others for the purpose of transmitting articulate speech by means of electricity, for a long time prior to his pretended invention, and in common use among scientific men and in institutions of public learning; and not content with thus wrongfully claiming for himself the apparatus, combination, and device of others, he, and those claiming under him, wrongfully used his said last-named letters patent to fortify and protect them in their monopoly for the transmission of articulate speech, claimed to have been granted to said Bell in said former patent, and he so framed the several claims in said last-named letters patent as on the face thereof to give him and his assignees the practical monopoly of well known and essential devices used and combined in all instruments for the transmission of articulate speech by electricity; and now those claiming under him hold on to both of said letters patent as not only giving them a monopoly of the broad art of transmitting articulate speech by electricity, but of all the essential parts of apparatus by which the transmission of speech by electricity can be effected, and is at the present time accomplished, basing the claim to a close and complete monopoly upon said letters patent.

(13) That said Alexander Graham Bell has, by conveyances duly recorded in the Patent Office, transferred his entire interest in said patents to a corporation called the American Bell Telephone Company, which is using the same fraudulently and oppressively, to the citizens of the United States. That said company charges exorbitant prices for inferior telephone service, to the exclusion of a cheaper and better service, which would be furnished by bona fide owners of improved devices and apparatus for said art and secured by letters patent of the United States, if not so excluded by said monopoly, to the great injury and damage of citizens of the United States.

(14) That said American Bell Telephone Company has stationed its agents and emissaries in all parts of the United States, with a view of purchasing all telephone

devices and apparatus from the owners hereof, who are threatened in the event of any assertion of their rights, or in the event of using their own patented inventions, with expensive and harassing litigation, based upon said fraudulent Bell patent, and by these means said company has, in effect, rendered useless and valueless in the hands of honest owners franchise, rights, and property held by grant from the United States, and which, but for these practices, would not only be of great value to the owners, but to the citizens at large of the United States.

(15) Outside of the owners, paid agents, emissaries, and counsel of said monopoly there is a general and deep-seated conviction that said Bell was not the founder of the broad art of transmitting articulate speech through the instrumentality of electricity, and that the monopoly built upon that assumption is grossly oppressive and unjust to the citizens of the United States.

(16) In view of the importance of telephony in the transaction of business, its constantly growing use as an instrument of commerce, the vast value of property rights and interest affected thereby, the general belief that said monopoly was wrongfully and unjustly obtained, and the conclusive evidence herein laid before you, that said belief is well founded, we respectfully submit that it is of great concern to all the citizens of the United States that steps be at once set on foot looking to a prompt issue and determination, by judicial inquiry, in a suit brought by the United States Government itself, to determine the validity and the extent and range of rights granted and secured, if any, by said Bell patent. If said patents have merits, then the owners themselves should be anxious for such a decisive test. If they have not, then, to the citizens at large of the United States, it is a question of the greatest concern that there be an early and authoritative determination to that effect.

We therefore respectfully invite your earnest attention to this communication and the inclosures, and request that you report on the same to the Department of Justice to the end that leave may be granted you to institute suit, in the proper form, in the name of the United States against said American Bell Telephone Company, or whoever may be found to be the owner of said two Bell patents, so that complete judicial inquiry may be made into the validity of each of them, and a determination, upon such inquiry, whether the said patents are effected by fraud and void on that account, or void for any other cause, and, also, whether they should be recalled and vacated; and that these questions be thus put at issue by the United States Government, and finally determined in its courts.

We have the honor to remain yours, very respectfully,

W. VAN BENTHUYSEN, *New Orleans, La.*

CHARLES P. HUNTINGTON, *Mississippi.*

J. R. BECKWITH, *New Orleans, La.*

GEORGE GANTT, *Memphis, Tenn.*

The WITNESS. In connection with the letter there were some affidavits; I do not recall them all. I recollect one from a man named Wilbur from the Patent Office, and also the file wrapper and contents duly authenticated by the Commissioner of Patents, relating to the application of Mr. Bell for this patent.

The CHAIRMAN. Have you that file wrapper?

The WITNESS. I have a document here which contains that and other things which I can furnish to you.

The CHAIRMAN. Please do so.

Mr. EDEN. They had better go into the record.

Q. What file wrapper was that?—A. What they call the file wrapper and contents relating to the proceedings in Bell's application for a patent.

Mr. RANNEY. Have you that here?

The WITNESS. Yes, sir.

Q. That, you state, was on the 2d of September?—A. Yes, sir; on the 2d of September.

Q. And you took up the papers immediately?—A. Yes, sir; I took up the papers and I spent the day and night upon them. I read first the letter of the district attorney, then I read the memorial and the affidavits and exhibits, and I think there were two questions only which I had to consider; first, whether the Department had the power to order the suit, and secondly, whether the documents and papers presented to me made a *prima facie* case. I examined a good many authorities as to the power of the Department to order such a suit, and became satisfied it could only be brought in that way. In the second place I thought the papers made out a *prima facie* case; in other words, probable cause for the institution of such a suit. I did not undertake to decide how a court would finally decide it upon the merits; I formed no opinion upon that myself, and have not yet; but I became fully satisfied from the papers presented to me in that way that there was a case made out entitling them to go into court to test the validity of this patent.

Q. Did you give this application preference over other business in your office?—A. No, sir; I think not. I do not remember everything that was done that day; but I

treated it like ordinary routine business. I know I examined the papers pretty carefully and worked upon them that night.

Q. Had you been requested by any person to make a speedy decision upon the application?—A. No, sir.

Q. I believe you have stated that you had no conversation with any one before that.—A. I had no conversation or intimation from any one that there was such a suit in contemplation, and no human being ever spoke to me about it until that morning when Senator Harris and Mr. Casey Young came in and asked me if I had received such an application.

Q. Can you recall another visit from Senator Harris, a second visit?—A. Yes, sir.

Q. Will you state what occurred at that time?—A. On the next day—according to my recollection now, I am sure it was the next day—the morning of the 3d, Colonel Young came into the office first and asked me if I had received the application from the district attorney. I said yes, I had received it and acted upon it. He did not take a seat, but turned around and immediately left. Shortly after he went out Senator Harris came in and said, “I have just met Colonel Young, who tells me that you have given directions to the district attorney to bring suit.” I said, “Yes.” I got up and met him part of the way in the room, and asked him to take a seat. He said, “No, I will not sit down,” and asked me if he could see a copy of the letter. I told him it was down stairs with the clerk to be sent off in the regular mail, and he might go there and see it, but that I could tell him that it was simply a direction to the district attorney to institute the suit.

Mr. EDEN. I would suggest, Mr. Chairman, that this would be the proper place for that order to go into the record.

The WITNESS. I haven't that with me, but I will furnish it so that it may go into the record.

The examination of the witness was suspended temporarily to allow Senator Harris to make a statement to the committee.

Senator HARRIS. I desire to suggest to the committee that I have made a number of corrections, most of them merely verbal, though some of them are not, and to save time (for it would take a good deal of time to go through all the necessary corrections) I would suggest that you appoint a subcommittee of one or two on the subject that I will meet at any hour that is convenient, and go through with them, and indicate such corrections as I desire to make. This would save the time of the committee.

The CHAIRMAN. Do you think there is any need of a subcommittee for that purpose?

Senator HARRIS. Oh, I simply wanted the committee to understand the corrections that I have made in the proof of the testimony. That is the only reason I suggest it.

The CHAIRMAN. Is there any objection to allowing Senator Harris to correct his testimony as he may wish?

Mr. EDEN. I have no objection to his doing so.

Mr. RANNEY. I have looked over hastily the corrections Senator Harris desires to make, and suppose we should have the same rule apply in regard to him as to others in that matter. Of course there would be no objection to his making some of the corrections, but I observe he has made some considerable changes in portions of his testimony.

Mr. EDEN. I do not suppose Senator Harris would make any material changes in his testimony without calling the attention of the committee to it.

Senator HARRIS. Of course not. I want the committee to understand distinctly every correction I make.

Mr. RANNEY. The most of them are matters of grammar or taste.

Senator HARRIS. Yes, sir; the most of them are, either in substance or taste.

Mr. EDEN. I think that in matters of grammar or taste the witness should be allowed to correct his testimony.

Mr. RANNEY. Some of the changes are matters of substance, and, I suppose, the usual practice in such case is (and we had better adopt the rule as to all of them) that if there are any substantial changes the witness can come before the committee and indicate them. It would require considerable alteration of the construction of the testimony to change it.

Senator HARRIS. So far as I am concerned, the suggestion was made simply to save time. I will meet the subcommittee at any hour, night or morning; or I am willing to come before the committee.

Mr. RANNEY. I think if you could write out on paper the parts where you want to make changes, and come before the committee at some convenient time and state them, that would be the best way.

Senator HARRIS. How long will it be before this proof of the testimony will be put into permanent shape in the record?

The CHAIRMAN. The printer is urging us now to have the necessary corrections made.

Mr. EDEN. It ought to be done now. Has there been a motion for a subcommittee?

Senator HARRIS. I simply made the suggestion because I thought it would save time.

Mr. RANNEY. I do not object to that of course. It seems to me that on verbal questions and matters of taste there would be no accountability, but as to substance there would be.

The CHAIRMAN. I see no desire for a subcommittee to bring the matter to the attention of the committee, but if Senator Harris will come before the committee, and indicate the corrections he desires to make, that could be done.

Mr. EDEN. That would be as speedy as having a subcommittee.

Senator HARRIS. Yes; if the subcommittee had to report in detail all the changes made there would be no time saved. However, that is a matter for the committee to determine; either course is agreeable to me. My suggestion was simply made with the idea of economizing time, and I could meet one or two gentlemen of the committee at some hour of the night or early in the morning and go over the testimony with them.

The CHAIRMAN. I suggest that Senator Harris have the right to correct his testimony, and to call the attention of the committee to such corrections as he may desire to make.

Mr. MILLARD. It seems to me that that is the better way.

The CHAIRMAN. And then let it go into the record as his statement that he had corrected his testimony in certain particulars.

Mr. RANNEY. Yes, that is the best way.

The CHAIRMAN. I think that would be less trouble than any other.

Mr. EDEN. When will it suit you, Senator, to come before the committee to make those corrections?

Senator HARRIS. I suppose to-morrow or the next day.

Mr. RANNEY. I notice that one of the corrections you have noted there is, you say that when the application came Mr. Goode said that he had granted "it," and you want to change that so as to say that he had granted "the suit." There would be no objection to that, of course.

The CHAIRMAN. Of course there would be no question about that; it is only in regard to matters of fact.

Senator HARRIS. I could indicate them at this moment, except that I have not got my memorandum of the particular corrections that change the sense at all. I have not had them separated.

The examination of Mr. Goode was then resumed, and the stenographer read the last question and answer made before his examination was suspended.

The WITNESS. It might be proper to add that in giving direction to bring the suit I gave permission, as requested by the district attorney, to associate with him in the conduct of the suit certain gentlemen.

The CHAIRMAN. Can you name them?

The WITNESS. Yes. There was Mr. George Gantt, Mr. Casey Young, Mr. J. R. Beckwith, and, I think, a gentleman named Wright (but the order will show), and after telling him that he had permission to associate those gentlemen with him, I stated that it was to be with a distinct understanding that he, as district attorney, was to have absolute control of the suit, under the direction of the Department of Justice, and that the Government was to incur no obligation whatever for the fees of these associate counsel.

Q. Had you had any previous acquaintance with Colonel Gantt?—A. No, sir.

Q. Did you know that all the gentlemen named were the attorneys of or connected with another telephone company at that time?—A. I did not. There was no reference to another telephone company in the application or in the memorial. I did not know at that time of the existence of the Pan-Electric Company, the National Improved Company, or other companies of which I have heard since. I knew very little about telephone companies.

Q. In making the order for the commencement of that suit, did you, according to your understanding, follow the practice in the Department of Justice?—A. Yes; since the organization of the Department there have been not less than ten precedents, I think, for the institution of just such suits, under the administrations of Attorneys-General Brewster, Williams, Pierrepont, and Akerman. I think there have been ten or a dozen suits ordered by the Department.

Q. Did you follow the practice of the Department in those suits in ordering this suit?—A. I followed the practice so far as giving the direction was concerned. I will say that I departed from the usual practice in one respect. It has been customary in the Department, when application is made for permission to use the name of the Government to bring a suit to cancel or recall a patent, to refer the application to the Interior Department for any information which the files of that Department may show, or any suggestions which they may think proper to make. I did not follow that practice in this case, for the reason that the application brought along with it the file wrapper and contents relating to the application of Bell, which furnished the

information which could be obtained at the Patent Office. I did not send the papers to the Interior Department for report, for I supposed I had all the information which the Patent Office could afford, and I did not think it necessary or proper to send a question of law to that Department.

Q. Has the practice of referring applications of that kind to the Patent Office been invariable?—A. I think not. It has been the usual practice, but I do not think it has been invariable.

Q. Were these references, as you understand the matter, made for the purpose of obtaining information from the Patent Office, or for the purpose of obtaining an opinion from the Commissioner of Patents or the Secretary of the Interior?—A. Exclusively for the purpose of obtaining information, such information as the Patent Office afforded, in regard to the subject-matter of the application.

Q. And that you say you had already?—A. Yes, sir; that I supposed I had. I had the file wrapper and contents relating to the application of Bell, and the various steps taken which led to the issuance of the patent, and it occurred to me at the time that I could get no further information by sending the papers to the Patent Office.

Q. Did you gather from the first visit of Senator Harris to you, on the 2d of September, that he was personally interested in this application?—A. I did not. The interview was very brief, as I say. I do not think the gentlemen sat down; if they did, they did not sit more than a minute or two. I inferred from all that occurred, and from Senator Harris's manner, that he had been telegraphed or written to by some constituent or friend at Memphis who was interested. But he did not state who was interested, or at whose instance the application was made, or anything about it. He said that he had understood the district attorney, H. W. McCorry, had sent an application for permission to use the name of the Government in the institution of such a suit. But as the papers had not come, and I was busy about other matters, we had no further conversation about it, and that conversation was a very brief one.

Q. I understand you regarded it, then, that he was applying for a constituent in making this application?—A. That was the impression made upon me; that he had come there to get information for a constituent. I think he held in his hand either a telegram or letter.

Q. Did you know, from your second interview with him and Colonel Young, that they were interested in these matters?—A. I did not. Nothing was said except, as I say, Colonel Young came in and asked me if the application had been received, and I said, "Yes, and acted upon;" and he immediately turned around and went out, and pretty soon Senator Harris came in (I think he may have met him in the building or on the elevator), and he said "Colonel Young tells me you have sent direction to bring this suit," and I said "yes," and he did not sit down or remain a minute; and I never did know, if you will permit me to say it, until the newspaper criticism commenced, that Senator Harris had any connection with any telephone company, or Colonel Young either. Neither one of them disclosed to me on either occasion that they were acting on behalf of any company.

Q. You have already stated that you did not know that the Attorney-General had any interest.—A. No, sir; I never knew until the Attorney-General came home; and I wish to state now, in justice to him and myself, what occurred. After seeing in the newspapers these criticisms on the action of the Department, when Attorney-General Garland returned to the office, about the 1st of October, I called on him, and brought his attention to these newspaper assaults, and said to him, "If any mistake has been made or any wrong done, I am responsible," and I never knew until that interview with him, which was early in October, that he had any interest whatever in any telephone company, or had any connection with them. But in connection with that matter I thought it my duty to make the same statement to the President, and I called, at my own motion, on the President, and said to him that I had seen these newspaper attacks on the Attorney-General, and I felt it due to him to say that if any wrong had been done, or mistake committed, I alone was responsible, and I assumed the entire responsibility of the suit.

Q. You say you had no knowledge until that interview that the Attorney-General had an interest in these telephone patents?—A. None.

Q. Had not the newspaper publications you speak of informed you of that?—A. Well, I had no knowledge from the Attorney-General. I had seen in the newspapers that he was interested in the Pan-Electric Company, but I never heard from the Attorney-General until some time early in October that he had any connection with the Pan-Electric or any other telephone company.

Q. Where was this suit directed to be brought?—A. It was directed to be brought in the United States court for the western district of Tennessee.

Q. Was there any reason, to your knowledge, for selecting that particular place for bringing a suit?—A. The district attorney made application for permission to sue in that court; he was the district attorney there, and my response was to his letter. There was no other reason that I am aware of.

Q. The suit was brought in that district?—A. Yes; the suit was brought accord-

ing to the direction contained in my letter in reply to his and afterwards discontinued.

Q. Do you know when it was discontinued?—A. The order to discontinue was made on the 9th of October, I think. I had a newspaper here containing the date, which I have mislaid, but according to my best recollection now, the order to the district attorney to discontinue the suit was made on the 9th of October.

Mr. EDEN. Can you furnish us a copy of that order to go into the record?

The WITNESS. Yes; I brought it with me here to-day, but cannot find it now. It was a newspaper containing the President's letter to me, and my answer, and the statement of Mr. Garland in connection with the paper. I recollect what was in it, and thought I had the paper here.

Q. Did you know that an application had been made by W. Van Benthuyzen to the Attorney-General on the 12th of July, 1885, for the institution of a suit in the name of the United States to test the validity of the Bell telephone patents?—A. I never knew that until Mr. Garland returned, early in October. In this interview with him he told me what had occurred between himself and those gentlemen. I was at that time in British Columbia. I called upon him, as I have stated, and introduced the subject myself, and in the course of the conversation he told me that those gentlemen had called upon him and asked permission to use the name of the Government to bring the suit, and he told them that he could have nothing to do with it, and that one of them commenced to argue the question with him, and he dismissed them and said that he could not talk about it.

Q. That refers to a different occurrence, I think. There seems to have been a letter addressed to the Attorney-General on the 12th of July.—A. I never knew of that. I never heard of that.

Q. What do you say was the date of your return from British Columbia?—A. I got back here on the night of the 19th of August; I left on the morning of the 26th of June.

Q. You knew nothing then of the presentation of that letter, its filing in the Department, and its withdrawal?—A. I never heard of it; in fact I never heard anything about it until I had ordered the suit, as I have described.

Q. After the discontinuance of the Memphis suit, was an application made for the institution of another suit in the name of the Government?—A. Yes, sir; Mr. McCorry (here is his letter) renewed his application, and about the same time, or within a few days of his renewed application, I received an application from the Globe Telephone Company of New York, the Washington Telephone Company of Baltimore, and from a gentleman named Cushman, in Chicago, Ill.

Q. What was the date of Mr. McCorry's second application?—A. I have it here. [Looking at the original paper.] This bears date Jackson, Tenn., October 14, 1885. His original application bore date August 31, 1885.

Q. This second application was addressed to you, was it not?—A. It was addressed to me as Acting Attorney-General, yes, sir.

By Mr. RANNEY:

Q. October 14, you say it was?—A. Yes, sir; October 14. The statement made by the Attorney-General to the President and Cabinet had then been published, in which he said that so far as this matter was concerned, feeling himself to be under disability, he had sat out of the case as it were, and I was Acting Attorney-General as to this matter, and in no sense his deputy or agent.

By the CHAIRMAN:

Q. Had you any knowledge that this second application would be made to you as Solicitor-General?—A. Not at all. In accordance with the suggestion of the President, on the 9th of October, I think (I will furnish the letter), I wrote to Mr. McCorry, directing him to discontinue the suit, and saying nothing about any renewal of it. I did not know that it ever would be renewed until the letter came.

Q. Have you a copy of your letter to Mr. McCorry?—A. I will furnish it.

Q. Please do so. You say you have the application of Mr. McCorry?—A. Yes, sir.

The CHAIRMAN. The reporter will find the letter referred to on page 17 of the record of the Department of the Interior. The following is the letter:

OFFICE OF UNITED STATES ATTORNEY,
Jackson, Tenn., October 14, 1885.

SIR: William Van Benthuyzen, of New Orleans, La., Charles P. Huntington, of Mississippi, George Gantt, of Memphis, and J. R. Beckwith, of New Orleans, La., the same parties who preferred the former petition asking the institution of the suit in the name of the Government to have the patent of March 7, 1876, No. 174,455, issued to A. G. Bell vacated, recalled, and annulled, have again applied to me to renew the application, and in addition to the paper formerly submitted they have presented to me a copy of an application made by the Globe Telephone Company directly to the

Department of Justice seeking somewhat similar relief, which paper I inclose herewith, together with the same papers forwarded to you on the first application.

I now again ask permission to institute such a suit, or that you permit a continuance of the suit already begun, and which is now in abeyance awaiting the next session of our court at Memphis, to have an order of dismissal as heretofore directed by you.

I have examined this matter very fully, and am now more confident than at first that the suit was within the jurisdiction of the court, and that the patent referred to was improvidently issued to Mr. Bell, and I would like to demonstrate the propriety of the original proceedings by carrying a suit, with the same object in view, to a successful termination.

Very respectfully,
[L. S.]

H. W. McCORRY,
United States Attorney for West Tennessee.

Hon. JOHN GOODE,
Acting Attorney-General, Washington, D. C.

DEPARTMENT OF JUSTICE,
Washington, October 17, 1885.

SIR: Yours of the 14th instant, renewing the application for permission to institute a suit in the name of the United States to test the validity of the Bell telephone patent has been received, and forwarded with accompanying papers to the Interior Department for examination and report.

It seems that you have omitted to send the exhibits from the Patent Office which accompanied your original application. This Department desires those exhibits to be forwarded for use here, if they are now in your possession.

Very respectfully,

JOHN GOODE,
Acting Attorney-General in this instance.

H. W. McCORRY, Esq.,
United States Attorney, Jackson, Tenn.

Q. Had you had any conversation with the Attorney-General with respect to the institution of this second suit?—A. None. The Attorney-General has declined to confer with me on any occasion about this suit. I have had no conference with him about it in any shape or form. I have had with the President, but not with the Attorney-General.

Q. On the receipt of this second application, what was done in respect to it?—A. It was sent to the Interior Department, with a request that they submit any views they desired to submit in regard to it.

Mr. RANNEY. Does the inquiry extend to that? That was subsequent.

The CHAIRMAN. In my view, the resolution covers an inquiry as to the second suit.

Mr. EDEN. It will cover the inquiry in regard to the second suit, I think, at least up to the time of the passage of the resolution under which we are acting by the House.

Mr. OATES. That was after the Interior Department had ordered the suit.

The CHAIRMAN. That is my view of it.

Mr. RANNEY. And that is mine.

Mr. EDEN. I think so, up to the time of the passage of the resolution, which was February 26. That was after the suit was ordered by the Interior Department.

The WITNESS. Yes. I sent the application to the Interior Department with the request to be furnished with any views they desired to submit with regard to it.

Q. You said that you did receive application from the Globe Telephone Company?—A. Yes, sir; the Globe Telephone Company of New York.

Q. And from the Washington Telephone Company?—A. Yes, sir; of Baltimore, and from a gentleman named Cushman in Chicago, I do not remember his first name; but they were all sent down to the Interior Department.

Q. Did you also receive resolutions of the New York Board of Trade and Transportation?—A. Yes, sir.

Q. You referred those, you say, to the Interior Department?—A. Yes, to the Interior Department, with a request to communicate any views they desired, in regard to the application, and, as you know, the matter was under investigation for some time, and I suppose the committee knows the result.

Q. Have you a copy of the letter referring those papers?—A. I haven't it with me, but I will furnish it to the committee to-morrow.

Q. Has the Interior Department replied to that reference?—A. Yes; the Secretary of the Interior replied in a somewhat lengthy opinion, sending along opinions delivered by the Assistant Secretary, Mr. Jenks, the Assistant Secretary, Mr. Muldrow, and

the Commissioner of Patents, Mr. Montgomery, in which they advised that the Department of Justice should permit the use—

Mr. RANNEY. One moment. Those papers should go in and speak for themselves.

The CHAIRMAN. Will you furnish the committee copies of those papers?

The WITNESS. I will do so. I will furnish the opinion of the Secretary and his assistants. They all agreed in the opinion that the suit should be ordered.

Q. Was suit ordered?—A. Suit was ordered.

Q. Where?

Mr. RANNEY. They should show for themselves.

The CHAIRMAN. He can state the fact.

The WITNESS. At Columbus, Ohio; in the southern district of Ohio.

Q. Will you furnish the committee with a copy of the order?—A. I will.

The following papers, referred to in this connection, were subsequently furnished by the witness:

DEPARTMENT OF JUSTICE,
Washington October 20, 1885.

SIR: I have the honor to transmit herewith, for such suggestions as you may think proper to submit, the petition of the Globe Telephone Company praying that the Attorney-General will order the institution of a suit for the purpose of testing the validity of the Bell telephone patent. Please return the petition with your reply, and oblige,

Yours, very respectfully,

JOHN GOODE,
Acting Attorney-General in this instance.

Hon. L. Q. C. LAMAR,
Secretary of the Interior.

DEPARTMENT OF JUSTICE,
Washington October 31, 1885.

SIR: I transmit herewith a letter from Millard R. Powers, attorney for S. D. Cushman, and also a communication from the North American Telephone Company, referring to the pending proceedings before you in regard to the Bell telephone patent.

Please have these papers returned to this Department after you have examined them, and oblige,

Yours, respectfully,

JOHN GOODE,
Acting Attorney-General in this instance.

Hon. L. Q. C. LAMAR,
Secretary of the Interior.

DEPARTMENT OF JUSTICE,
Washington, November 6, 1885.

SIR: I have the honor to transmit herewith some additional affidavits and other papers which have been forwarded by the Globe Telephone Company to be read as evidence on the hearing of the application now pending for permission to use the name of the United States in bringing a suit to cancel the letters patent heretofore issued to Alexander Graham Bell. After you have examined them, please have them returned to this Department, and oblige,

Very respectfully,

JOHN GOODE,
Acting Attorney-General in this instance.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF JUSTICE,
Washington, March 17, 1886.

SIR: You are hereby authorized and directed to institute a suit in equity in the circuit court of the United States for the southern district of Ohio, in the name of the United States of America, complainant, vs. the American Bell Telephone Company, a corporation under the laws of Massachusetts; the Central Union Telephone Company, a corporation under the laws of Illinois; the Erie Telephone and Telegraph

Company, incorporated under the laws of the State of Massachusetts; the Central District and Printing Telegraph Company, incorporated under the laws of Pennsylvania; the Cleveland Telephone Company, the City and Suburban Telegraph Company, the Miami Telephone Company, the Buckeye Telephone Company, the latter four companies incorporated under the laws of Ohio, and Alexander Graham Bell, respondents.

The object of the suit is to test the validity of certain patents issued to the said Alexander Graham Bell. You are requested to proceed to Columbus without delay, and sign the bill which has been forwarded to Hon. A. G. Thurman as special counsel. You will also confer with him about the service of process, and the conduct of the suit generally.

Very respectfully,

JOHN GOODE,

Solicitor General and Acting Attorney-General in this case.

Hon. PHILIP H. KUMLER,

United States District Attorney, Cincinnati, Ohio.

Q. Do you know whether suit has been brought?—A. Suit has been brought; the bill was filed on 23d of March. I will state that, in his communication, Secretary Lamar advised that it should be a suit on behalf of the Government for the benefit of all the people, and in no sense—

Mr. RANNEY. Isn't that in his document?

The WITNESS. Yes.

Mr. RANNEY. Then I think it should speak for itself.

Q. Yes, unless you did something in pursuance of that opinion.—A. I was going on to say, that being a matter of importance, I associated with me special counsel for the conduct of the suit Hon. Allen G. Thurman, of Ohio, Mr. Grosvenor P. Lowrey, of New York, Messrs. Hunton and Chandler, of this city, and Charles S. Whitman, of this city, and upon consultation we deemed it best not to order the suit in Tennessee, where it had been brought originally, but to select a different forum.

Q. Had any person requested you to order it in Tennessee?—A. Not specially. I think perhaps there were some suggestions made why the suit should be brought in Tennessee.

Q. Do you know what they were?—A. Yes, sir.

Q. It may not be material, but by whom were they made?—A. I think Mr. Gantt, of Memphis, and Mr. Casey Young, of Memphis, suggested that inasmuch as the original suit had been ordered there, and there was no doubt whatever about acquiring jurisdiction in Tennessee, because they knew the nature of the contracts made by the parent company with local companies there, that it would be a proper place to bring it. But upon consultation among my associates, we determined that it would not be best to bring it in Tennessee because we did not want it to have the appearance to the country of being in any form a renewal of the old suit. We wished it to go out to the country as a suit entirely on behalf of the Government and the people, and in every way disconnected with any private or local interests.

Q. Our investigation here is founded upon newspaper reports, and I have seen something said in the newspapers as to the reason for directing the suit to be brought at Columbus. Will you state what reason there was, if any, for bringing the suit there?—A. I will do so. I say we considered many places, Boston, Washington City, Memphis, Saint Louis, and perhaps other places, and we came to the conclusion that under all circumstances it would be better to bring the suit in Columbus, because there had been no decision in that court of any question bearing upon the telephone suit. We learned that the question in some form or other had been before the courts in nearly all the Eastern States, and thought that in going to Columbus we would get a perfectly fair and impartial tribunal, and a forum where there was no excitement or no preconceived opinion in regard to the suit, one way or the other; we supposed there could be no objection to the selection of that forum.

Q. You have stated that Colonel Gantt, Colonel Young, and others suggested the bringing of the suit in Memphis. Do you recall the fact of any other outside parties, I mean parties not connected with the Department, or any of the counsel selected by you, suggesting any of these other places you have named as the proper one to bring the suit?—A. Yes, sir; I think that Bradley T. Johnson was of the opinion that the suit should be brought in Baltimore. I know that he called and talked about it. Mr. Humphreys, who represents the Globe Telephone Company, made some suggestion; I am rather inclined to think that he concurred with Colonel Gantt and Colonel Young, that inasmuch as the suit had been originally started in Memphis, it ought to be carried on there.

Q. Have you any recollection of any person suggesting Boston?—A. Nobody suggested Boston.

Q. Or Washington?—A. Nobody connected with the case. I think I did get a com-

munication from some gentleman whom I do not remember now, some lawyer in the city here, giving reasons why it should be brought in Washington.

Mr. RANNEY. That had better be produced if it is a letter.

The WITNESS. I do not even recall his name; I did not know the gentleman. He gave some reasons why it should be brought here.

Q. He was a Washington lawyer, was he?—A. Yes, sir; he was.

Q. I can understand, then, why he suggested it.—A. I had no acquaintance with him, and did not preserve the letter. I think I saw some suggestions in the newspapers here that it should be brought in Washington.

Q. Did persons not connected with the Department of Justice suggest the employment of counsel for the trial of this suit?—A. No, sir. I felt that the case was one of too much magnitude for me to manage alone. The Attorney-General positively declined to have anything to do with it, even to confer with me about it, and I examined the law and found that as Acting Attorney-General I had a right to select special counsel, and I did so. I will say that so far as one of the gentlemen is concerned he was recommended to me by some of the members of the bar in this city; a Washington lawyer, Mr. Whitman, recommended by Mr. Davidge and others, supposing we would need the services of some expert patent lawyer here.

Q. Will you name the members of the bar who recommended Mr. Whitman?—A. I cannot recall any name except that of Mr. Davidge. I remember his calling at the Department one day and saying if he had to select a patent lawyer in Washington, to assist in the prosecution of a suit like this, he would select Mr. C. S. Whitman.

Q. What is Mr. Davidge's standing at the bar?—A. He is recognized as one of the leaders of the bar here; I do not think anybody stands better; and it is proper to say that he did this of his own motion; Mr. Whitman never sought employment in this suit. But Mr. Davidge said he took it for granted that in a case like this I would need assistance, and he would take it upon himself to call and suggest that of all the patent lawyers in the city, Mr. Whitman would be the most valuable.

Q. By what considerations have you been controlled in the selection of assistant counsel?—A. I desired to get men in whose personal honor and integrity I had unlimited confidence; men whom I knew to be lawyers of ability and capacity; to render service to the Government. In this suit I will say that Mr. Lowry, of New York, has been retained specially on account of his knowledge of the scientific questions involved in a suit like this; Judge Thurman was retained on account of his high character and great ability as a lawyer and his standing in the country. I knew Messrs. Hunton & Chandler well myself, and I do not know two lawyers in Washington whom I would prefer to have associated with me, because I know them to be men of honor and personal integrity. I have had ample opportunity to witness their management of causes in court, and am satisfied that all of the gentlemen selected would render good service to the Government.

Q. In the selection of counsel, or in anything else relating to the beginning of this suit, have you had in view the interests of other telephone companies?—A. None whatever. I want to say that I do not know anybody interested in any telephone companies; I have no stock in any myself; I do not know who the stockholders are in the Bell Company, and I have no interest in the matter. It is due to everybody connected with the Government, so far as I know, to say they have but one purpose in this matter, and that is to have a fair and impartial trial of this suit. If Mr. Bell is entitled to the patent, the Government, so far as I know, wants him to have the benefit of it. If it has been improvidently awarded or claimed by any mistake or any untrue suggestion, we think it ought to be cancelled.

Q. Have you made contracts with the counsel employed?—A. I have.

Q. Are they in writing?—A. They are.

Q. Will you state what they are?

Mr. RANNEY. I desire to have them if they are in writing.

Q. Will you produce copies of them?—A. I will do so.

The CHAIRMAN. There will be no objection to his stating the amount, I presume?

Mr. RANNEY. No, with the understanding that he will produce certified copies.

Q. You say you will produce copies?—A. Yes, sir.

Q. Can you state from recollection the amount agreed to be paid?—A. Yes, sir. Mr. C. S. Whitman has been retained in the suit at a fee of \$3,000 for the entire suit, for any service that he is called upon to render. Messrs. Hunton and Chandler have been retained at a fee of \$5,000 for the entire suit. Judge Thurman has been retained for \$1,000 with the understanding that his future compensation is to be fixed, and depends upon the service performed. I asked him to stipulate what his future fee would be, and he said it was utterly impossible for him to do so because he did not know now what service he would have to perform, but he would say this, that he never had gouged the Government, and he did not propose at his time of life to begin to do so; and I have the most entire confidence in his integrity in the matter and his perfect good faith. Mr. Lowry was specially recommended by persons who ought to know—

I had no acquaintance with him myself, but by some of the patent lawyers who know him. As I say, he is recognized as the electrical lawyer in this suit. We expect him to manage chiefly the scientific features of it. Mr. Lowrey has been employed at a retainer of \$1,000 and a per diem of \$75 a day when working in the city of New York taking testimony and \$100 a day when he is called upon to leave the city, counting a day at five hours.

Q. As I understand you, then, the fees of Mr. Whitman and of Messrs. Hunton and Chandler are fixed and certain?—A. Yes, sir.

Q. And that of Judge Thurman depends on his services in addition to a retainer of \$1,000?—A. Yes, sir.

Q. And Mr. Lowrey has a retainer and a per diem allowance?—A. Yes, sir.

Q. Has anything, to your knowledge, been paid to these gentlemen, or any of them?—A. Yes, sir; Mr. Whitman has been paid \$1,000, Messrs. Hunton and Chandler have been paid \$2,000, and the other two gentlemen have not yet been paid anything. I presume we will have to pay the necessary expenses of the suit.

Q. I see by the resolution that we are directed to inquire into "the reason and authority for constituting the United States as a party to said suit or suits"; do you regard what you have said as a sufficient explanation of that matter?—A. I will say in answer to that that upon investigation I became thoroughly satisfied that this suit could only be brought that way—could only be brought by order of the Department of Justice. The authorities are very full on that point, and you gentlemen know, as your own Judiciary Committee has reported upon that proposition and furnished authorities, it has been the uniform practice of the Department ever since its organization in 1870 to order suits for the cancellation of patents improvidently issued or obtained by fraud or surreptitiously. Mr. Justice Miller, in the case of *Mowry vs. Whitney*, says that such a suit can only be brought in that way, by order of the Department of Justice; that it must appear in some form that it was ordered by the Attorney-General. As to the reasons, I will simply say that it was alleged in those papers which were submitted to me that the patent had been improperly granted; that this was a very extensive business; that the telephone had become a commercial if not a social necessity, and people all over the United States were interested in recalling the grant if improperly made; and it occurred to me that perhaps no suit could be brought by the Government which involved larger interests or one that the people would be more interested in, always upon the assumption, of course, that the grant should be recalled provided the case was properly made out.

Q. In the Tennessee suit directed by you, was there any arrangement made for assistant counsel?—A. None whatever. I gave permission to Mr. McCorry to associate with him those gentlemen, but with the stipulation that the Government would not be responsible for the fees, and that the suit was to be absolutely controlled by him under the direction of the Department of Justice.

Q. On that suit, then, the Government was to pay nothing for attorneys' fees?—A. No, sir; nothing.

Q. Do you know what has been the practice in the other suits spoken of by you as having been instituted at various times for the testing of patents, as to the employment of assistant counsel and paying them?—A. I do not; I have not examined that. The law provides that the Attorney-General may employ special counsel to assist United States district attorneys whenever he thinks proper.

Q. Was there any offer in this last suit to furnish assistant counsel without expense, by any company or person?—A. No, sir. It may be proper to say that we have understood that the Bell Telephone Company has a corps of able lawyers employed. I have heard the name of eight or ten, and I know some of the most eminent men in the country have been employed to defend this suit.

Mr. MILLARD. That would be only hearsay, I suppose.

The WITNESS. Yes, I do not know it of my own knowledge.

Q. You might state it even as hearsay, if it was a reason or inducement for you to employ opposing counsel.—A. That undoubtedly was a very strong inducement; in other words, I did not feel that I was capable, single handed and alone, even with the aid of the district attorney, to cope with those able men in the science of electricity and in the conduct of a great suit like this, and hearing it and seeing it stated that they had employed such men as ex-Senator McDonald, Hon. Koscoe Conkling, Mr. Storrow, Mr. Dickerson, Mr. Thurston, and perhaps others, not less than six or eight, men of great ability and prominence in the profession, I thought as the representative of the Government in this suit it was my duty to see that the Government suffered no detriment from the want of counsel in meeting such opposition as we should have to meet.

Q. Did you regard it as a suit in which lawyers of special qualifications in particular branches should be employed?—A. Yes, sir; Mr. Lowrey was employed with special reference to that, and so was Mr. Whitman. The other gentlemen were employed on account of their known ability to conduct causes in court, and their knowledge of the law.

Q. You may state whether, in your judgment, the fees agreed upon are reasonable or otherwise.—A. I certainly think they are reasonable. I am sure that such men could not be employed by private individuals upon more moderate terms for such service as this.

By Mr. RANNEY:

Q. If you have no objection I would like to put some questions to you. How long have you been acquainted with Casey Young?—A. I knew Mr. Casey Young, I think, for the first time in the Forty-fourth Congress. I met him first in Congress, and it was either the Forty-fourth or Forty-fifth, I think the Forty-fourth Congress, that I knew him first.

Q. You have known him a long time?—A. I have known him since December, 1875.

Q. You have been on intimate terms with him, I suppose?—A. I cannot say that I have been on very intimate terms with Mr. Young. I have known him as a Member of the House, and in one Congress, I think, I served for awhile on the same committee with him; a special committee appointed to consider matters in regard to the preservation of public health.

Q. You have been acquainted with Attorney-General Garland for a much longer period?—A. Yes, sir; I have known Mr. Garland since 1862 or 1863, and I must say that there was a long break in our acquaintance. I knew him first as a member of the Confederate Congress, and never knew him after that until I met him here. He was in the Senate when I came to the Forty-fourth Congress in December, 1875.

Q. Did you know Colonel Gantt, of Memphis?—A. I never knew Colonel Gantt until very recently. He was in Washington some time since, two or three weeks ago, and called to see me. I never saw him until then.

Q. You have been a member of the bar for a good many years?—A. I have been a member of the bar since 1851.

Q. Had you prior to your action in this matter had any special practice or acquaintance with practice in patent-right suits?—A. No, sir.

Q. I expect you, like many of the rest of us, had never tried one?—A. I never had tried a patent suit; before my appointment as Solicitor-General I had a law office in this city and practiced law also in Virginia, and there were two or three applications made to me to secure patents, and I generally engaged the assistance of some patent lawyer in those cases.

Q. On the 19th of August you say you returned from that business of which you have spoken?—A. Yes, sir.

Q. And when this application came to you on the 2d of September—you received it on the 2d of September, after Senator Harris and Colonel Young had been in there—you granted your leave, and wrote that letter, it seems, on the 3d of September, the next day; have you produced here all the papers that came into your office?—A. No, sir; I think not; it seems to me there were some affidavits accompanying that memorial; I recollect now the affidavit of Mr. Wilbur; I do not recall any other affidavit; the papers that I remember now are the letter of Mr. McCorry's, the memorial signed by those gentlemen whose names I have given, and the file wrapper and contents relating to the issuance of the patent.

Q. Have you that there?—A. Yes, sir.

Q. I would like to see it.—A. (After producing the paper and handing it to Mr. Ranney.) It did not come to me in this form, but the file wrapper and contents relating to case No. 174465, authenticated by the Commissioner of Patents, came.

Q. Is that the paper, the printed paper?—A. That is not the paper that came to me.

Q. I would like to see the original paper that came.—A. I will try and produce it. This paper has been published for another purpose, to be attached as an exhibit in the suit.

Q. I see that has been published since. I want now to ascertain exactly what papers came to you.—A. I will bring them up. I will give you the best of my recollection, and that is that the file wrapper and contents contained what is contained there.

Q. You kept the original papers, I suppose?—A. We have them in the Department. We can give you copies of them.

Q. I would like them. Did you put on those any minutes or memoranda showing the dates when they were received?—A. No, sir; but I know they were received on the morning of the 2d of September.

Q. Don't they file on them the date?—A. No; they have on what they call a "jacket," which contains the date on which they are received. I took these out.

Q. Will you bring the jacket also?—A. Yes, sir; I will bring all the papers. There is quite a budget of them, and I may not be able to recall now from memory everything that was in them, but I will produce everything contained in that letter of Mr. McCorry's.

Q. Do you keep a record of such an application?—A. A clerk at the Department does; yes, sir.

Q. I would like a copy of that exact record. There will be no difficulty in getting it, I suppose?—A. None at all.

Q. That will show the date when you received them?—A. Yes, sir.

Mr. OATES. Mr. Chairman, as the witness has not these paper with him, and has to bring them to-morrow, I move that the committee now adjourn until 12 o'clock to-morrow.

Mr. RANNEY. I have no objection. I am sorry to trouble you, Mr. Goode, but I would like the report, the original paper, and everything that came to you, what you call the "jacket," and likewise, if not too much trouble to you, if the clerk will bring that record, I would like also the original agreement between those counsel.

The WITNESS. As I say, all the papers that came to me were sent to the Interior Department, and have been sent back. I have not examined them, but whatever papers are there relating to this subject shall be produced.

Mr. RANNEY. I would like the original ones.

Mr. MOFFATT. In both suits, I suppose.

Mr. RANNEY. Yes; in both suits.

The CHAIRMAN. It is moved by the gentleman from Alabama that when the committee adjourns it adjourn to meet to-morrow at 12 o'clock.

The motion was agreed to, and the committee, after a short executive session, adjourned.

WASHINGTON, D. C., *Tuesday, April 6, 1886.*

The committee was called to order at 12.20 p. m., Mr. Oates in the chair.

Hon. JOHN GOODE resumed the witness stand.

Mr. OATES. Mr. Ranney, you may proceed with the examination.

Mr. HALL. When we adjourned last evening, I understood the chairman to express a wish to continue his examination of Mr. Goode.

Mr. OATES. Mr. Ranney had begun his examination.

Mr. HALL. I may have misunderstood him.

Mr. OATES. I understood that the chairman had finished his examination of Mr. Goode, and that that is the reason he is now absent.

Mr. HALL. I was going to suggest that the privilege might still be reserved to the chairman.

Mr. RANNEY. I did not hear any intimation that he desired to go on. Shall I proceed, Mr. Chairman?

Mr. OATES. Yes.

By Mr. RANNEY:

Q. Have you produced this morning all the papers which you received from District Attorney McCorry?—A. I have produced, as far as I could, the papers called for. When I got to the Department yesterday the office hours were over and the clerks had gone, and I have been hurried this morning, but I think I have gotten everything called for, with one exception which I will explain presently.

Q. Will you now begin, and in order, produce every paper you received from Mr. McCorry, and then in that connection state what you not have produced? Begin with the first application from Mr. McCorry, received on the 2d of September, 1885?—A. Here is a certified copy of the first letter I received from Mr. McCorry, district attorney, bearing date Jackson, Tenn., August 31, 1885, addressed to Hon. A. H. Garland, Attorney-General, Washington, D. C. Shall I read it?

Q. No; that we have had. Let me see it, please. [The paper was handed to Mr. RANNEY.] Is this the original, or a copy?—A. It is a certified copy; I have the original here.

Q. I prefer to look at the original if you have no objection.—A. None at all. I thought the committee would desire copies.

Mr. RANNEY. You may leave certified copies and take back the originals.

The WITNESS. Yes, I brought them for that purpose. That is the original [handing paper to Mr. RANNEY.]

Q. Now give the others.—A. In answer to that I wrote a letter bearing date September 2, 1885, which I signed as acting Attorney-General, a copy of which I have here and will furnish.

Q. That we have a copy of. I am now on the papers you received, not what you wrote.—A. In this letter of the district attorney was a memorial signed by J. R. Beckwith, George Gantt, C. P. Huntington, and W. Van Benthuyzen [paper handed to Mr. RANNEY.]

Q. That we have; you can leave a copy of it.—A. I have not a copy of it; that is the original; I can leave it and take a receipt for it.

Q. You must be in error about this, are you not, because this says "Received October 20, 1865."—A. That means it was received at the Department of the Interior October 20. That was sent down to the Interior Department, and that mark has reference to the date it was received there.

Mr. EDEN. It was sent to the Interior Department.

Q. We have a copy of that one, which you do not need to leave, as it is in the Interior Department record, which is put in.—A. That affidavit of Zenas F. Wilbur was in the papers. [Handing paper to Mr. RANNEY.]

Q. That we have a copy of. This is dated the 30th day of July, 1885.—A. August 3, I think.

Q. And on the 3d of August he made three or four the same as that, except the date. Now, what else?—A. I cannot positively say whether there were other affidavits or not; I am rather inclined to think there was an affidavit made by Mr. Van Benthuyssen. There is such an affidavit in the papers, but I will explain that there is a vast mass of papers at the Department connected with this matter, I suppose enough to fill a wheelbarrow, and in going back and forth between the two Departments some of them have got mixed. Whether Mr. Van Benthuyssen's affidavit, which is in the papers, was in this original application of Mr. McCorry's, dated the 1st of August, I am not positive in my recollection. In my letter to the Department I speak of "affidavits," but my recollection is not positively certain whether that affidavit was there or not; I know Mr. Wilbur's was there.

Mr. MILLARD. This is a copy of the affidavit, not the original.

Q. Is that in the papers?—A. No, sir. There was also a certified copy of the file-wrapper and contents relating to the application for the Bell patent, and that I am not able now to produce. I have had search made for it, but thus far it has not been found by the clerk. I have a printed copy of it here, which I gave to the chairman yesterday, and that is an exact copy of the original file-wrapper and contents.

Q. That was sent to you from Memphis?—A. That was sent from Memphis with the original application, and when I directed suit to be brought I sent back to Mr. McCorry all the papers that he had sent to me, supposing he would need them in the preparation of his bill—

Q. Is that all you have received?—A. I have not finished my statement.

Mr. RANNEY. I beg your pardon.

The WITNESS. I sent back to Mr. McCorry all the papers which had accompanied his original application. Subsequently, when he made his renewed application, he sent all the papers which he had sent originally, except this certified copy of the file wrapper and contents. I wrote to him, calling his attention to that omission, and asking him to forward the document at once, as we might have use for it. He did so, and I received it. That was after the papers had been sent down to the Interior Department, and as soon as that was received it was immediately sent down there. Whether that paper is at the Department of Justice or at the Interior Department, I am not able to say, but I have handed to your chairman a printed copy of the same document. Those are all the papers, according to my recollection, that I received.

At this point Mr. Boyle appeared and assumed the chair.

Q. Perhaps I can refresh your recollection a little. You say there is a record of the Interior Department and that paper appears there. [Handing a book to the witness.] —A. This paper may have been in the bundle.

Q. Read the heading of it.—A. "Affidavits, &c., in support of memorial of W. Van Benthuyssen, Charles P. Huntington, J. R. Beckwith, and George Gantt." There was quite a large bundle of papers, and I do not undertake to—

Q. Look at that schedule.—A. (Reading.) "Find herewith in support of our communication to you on the subject of a bill, in the name of the Government, to have the Bell patents recalled and vacated:

"(1) The affidavit of Professor Neipher.

"(2) Professor Green (Smithsonian Institute).

"(3) Professor Van der Weyde.

"(4) Edison, the eminent inventor.

"(5) Randall, inventor and electrician.

"(6) Of Z. F. Wilbur, former examiner of patents, United States Patent Office.

"(7) W. Van Benthuyssen and C. P. Huntington."

I remember those.

"(8) Affidavit of Serrell, Barker, and Lyon. Certified copy of file-wrapper and contents in Bell's application for patent, filed February 14, 1876.

"(9) Caveat of Elisha Gray, filed in Patent Office February 14, 1876.

"(10) Two Reis telephone instruments"—

There were no telephone instruments.

Q. Telephones were not sent?—A. No, sir.

Q. Look at the next page, and see the authorities there cited, and state whether you used them.—A. No, sir; I did not have all these. In his letter, a copy of which I have here, you see, he cites me—

Q. There are some put in his letter besides?—A. Yes, sir. There is a memorandum at the foot of his letter calling attention to the case of *Mowry vs. Whitney*, 14 Wallace, and *Stone vs. U. S.*, 2 Wallace, and two cases in the Federal Reporter.

Q. You observe that these papers are certified from your Department. I say your Department; I mean the Attorney-General's Department.—A. I have no doubt that paper was in the package; I did not recall it at the moment.

Q. It seems that you had, first, the letter of McCorry and the memorial on which you acted?—A. Yes.

Q. Affidavits in support of the memorial of Mr. Van Benthuyzen, Mr. Beckwith, Mr. Huntington, and Mr. Gautt, consisting of affidavits of (1) Professor Neipher, (2) Professor Green (Smithsonian Institute), (3) Professor Van der Weyde, (4) Edison, the eminent inventor, (5) Randall, inventor and electrician, (6) of Z. F. Wilbur, former examiner of patents, United States Patent Office, (7) W. Van Benthuyzen and C. P. Huntington, (8) affidavit of Serrell, Barker, and Lyon. Certified copy of file wrapper and contents in Bell's application for patent, filed February 14, 1876, (9) caveat of Elisha Gray, filed in Patent Office February 14, 1876.

The telephone instruments you did not have sent. (11) We call attention to the Reis publications of his art. (See Professor Adams's compilation, pp. 18 to 27.)

You did not have that, did you?—A. I do not remember that, sir. As I say, there is a very large package of papers, and it has been some time ago, so that I do not recollect with distinctness every paper contained in the package. I had not looked at any of these documents. I remember the original letter, the memorial and affidavits, and file-wrapper and contents, but some of the publications therein referred to I do not recall. If they are certified as having been sent at the same time, I have no doubt that is correct.

Q. These seem to have been put in before McCorry in the first place, in support of the memorial; and I suppose we may infer that they were sent to you?—A. I think so.

Q. But have you looked to see whether you have that compilation of Adams's?—A. I have not. As I say, there is a vast mass of documentary evidence down there; I am perfectly willing to have the committee examine it.

Q. I would like to have Adams's compilation.—A. I will have search made to see if it is there.

Q. Did you get the package by mail?—A. Yes; I got it by mail; it was a very large one.

Q. Did you receive it personally yourself and open it?—A. It was brought up to me from the chief clerk's room and opened by myself, yes.

Q. How was it directed on the outside?—A. "Hon. A. H. Garland, Attorney-General."

Q. You are confident about that, I suppose?—A. I am sure it was not directed to me.

Q. Do you open communications addressed to the Attorney-General?—A. Yes. This may, perhaps, have been opened by the clerk. Sometimes official letters are opened by him and a memorandum made in regard to them, and sometimes they are opened directly in the chief office. I was at that time acting Attorney-General, and I felt entirely authorized to open any document addressed to the Attorney-General.

Q. You are not confident that you opened that letter?—A. No, sir; I cannot remember that.

Q. If you did not open it, are you confident whether it was brought by mail or brought by some private person?—A. I am pretty sure it came by mail; I have that impression.

Q. If you did not open it, how do you know?—A. Because I sent down to the clerk when Mr. Young and Senator Harris asked if such a communication had been received, and the clerk said that no such communication had come. Afterwards, when the mail came, this came up with a lot of other matter addressed to the Department. I would not say positively whether I opened it or whether the chief clerk opened it.

Q. What is the name of the chief clerk?—A. Cecil Clay. It is probable he opened it.

Q. You had a large mass of papers, it seems; can you tell what time of the day it was that that came into your hands?—A. I think about 11 o'clock.

Q. I understood Senator Harris to say that he lived out of town and did not come in until after 11 o'clock; that when he called upon you on the first day you told him they were not there, but that the next day when he came you told him that they came within an hour after he had been there on the first day?—A. I think he must have been at the office before 11 o'clock; that is my recollection; I think he came pretty early in the morning, between 9 and 10.

Q. Have you any mode of fixing it?—A. No; only just general recollection. I

know when he came I did not know about the papers, and a messenger was sent down stairs to ascertain whether any such papers had come. Pretty soon the messenger returned with the information, and my recollection is it was pretty early in the day, but I have no way of fixing it.

Q. How early the next day did you write to Mr. McCorry?—A. I think I wrote it pretty early in the morning, perhaps between 9 and 10 o'clock.

Q. Did you do any other business on the 2d of September except to look at those papers?—A. There was very little business at that time; it was in the summer season when business was very slack; I may have done some little routine business; I do not recall any now.

Q. Did you look to see what other business you did transact?—A. No, sir; I did not; I do not think I did much that day except to sign the mail about 4 o'clock in the afternoon. The work is distributed in the Department among many persons, and a great many letters are prepared by the subordinates.

Q. At what time did your office hours close that day?—A. About 5 o'clock.

Q. Did you go back home then?—A. I went home and came back to the office that night.

Q. At what time did you go home that day?—A. I went home to dinner—I take dinner at 6—and came back to the office, as is my custom during the time the Attorney-General is absent, and during such times I usually keep pretty busy.

Q. What time did you come back to the office that night?—A. I came back between 7 and 8.

Q. How long did you stay there?—A. I do not remember exactly; probably until 11 o'clock.

Q. Have you any recollection?—A. No, I have not.

Q. Do you recollect what business you transacted during that time?—A. Nothing except to examine these papers.

Q. Had you not examined them during the afternoon?—A. To some extent, so far as I could, yes.

Q. To what extent? How much time did you spend on them before you came back in the evening?—A. It is utterly impossible to say. I know that I consumed the greater part of the time during the day and evening in the examination of these papers.

Q. And finished the examination in the evening of the day?—A. Yes, sir.

Q. Was anybody there with you that evening?—A. Nobody at all.

Q. Any clerk in the office?—A. No, sir.

Q. Have you any means of recalling how much time you spent on it?—A. I could not say with anything like certainty. I made such an examination as satisfied me upon two points. I went through the papers and examined the authorities referred to, and examined other authorities.

Q. What two points were these?—A. First, whether the Department had the power to order the suit; and secondly, whether the papers presented made a *prima facie* case for the institution of the suit. I satisfied my mind thoroughly upon those two points, and I thought there was nothing else involved.

Q. You did that in the afternoon and evening?—A. Yes, sir; that day. I got the papers before the afternoon, according to my recollection now. I may be mistaken as to the exact time, but my recollection is that I got those papers as early as 11 o'clock on the morning of September 2.

Q. Did you read Neipher's affidavit?—A. I cannot say now positively whether I did or not. I examined the papers.

Q. Did you read Neipher's affidavit?—A. I don't remember.

Q. Did you read Wilbur's affidavit?—A. I did; I recollect that particularly. It made an impression on me.

Q. Did you read the compilation by Adams?—A. I don't suppose I went through with that; I made such an examination of the papers—

Q. The question is, did you read the compilation?—A. I cannot recollect.

Q. Unless you desire, you need not repeat. I only desire to avoid repetition as much as I can. Do you remember whether you read Mr. Adams's affidavit?—A. I do not remember that.

Q. Or whether you read Neipher's affidavit?—A. I do not remember that.

Q. Or whether you read Wilbur's?—A. I remember that I read Wilbur's, because it had reference to transactions in the Patent Office that made an impression on me at the time, and that enables me to say that I recollect reading it.

Q. Could you get at all there was in those documents by merely looking them through? Would it not take you two hours to even read the papers through?—A. I do not think so; I do not think it would take as much time as that.

Q. Will you swear that you spent two full hours' time reading them?—A. I will swear that I think I spent two full hours in reading the papers, but I will not say certainly that I did; that is my best recollection.

Q. Did you read any authorities?—A. Yes.

Q. What ones?—A. I read the case of *Mowry v. Whitney*, 14 Wallace; I read the case of *Stone v. United States*, 2 Wallace; I read the case of the *United States v. Gunning*, 18 Federal Reporter. I looked at the index which I have there, and referred to some other cases which are not mentioned in that memorandum attached to Mr. McCorry's application of August 31, 1885. I recall now the case of the *United States v. Minor*, I think, in 114 U. S.

Q. I am asking what you read then, not what you have examined since?—A. I understand the question. I have examined a great many since, but I have reference to what I examined at that time. I will say, Mr. Ranney, that my opinion as to the legal questions involved was based specially upon the opinion of Mr. Justice Miller in the case of *Mowry v. Whitney*. I read that opinion very carefully.

Q. Did you read other cases?—A. Yes, sir; I read these other cases.

Q. Did you read them in the afternoon or evening?—A. I read some in the afternoon and some in the evening.

Q. All you did the next day was simply to write the letter?—A. That is all. I had made up my mind that evening before I left the office as to what I would do.

Q. You came to the conclusion that the Attorney-General was obliged to bring a suit?—A. I came to the conclusion that it was proper for the Attorney-General to bring suit. I felt that, as Acting Attorney-General, I had no right to close the doors of the courts against anybody who could only get into court through that avenue, as had been decided by the Supreme Court.

Q. You found that it was discretionary with the Attorney-General, did you not?—A. It was not absolutely obligatory upon him; but, in the exercise of the discretion which belonged to me as the acting head of the Department, I felt that they had made a case which entitled them to go into court.

Q. Did you read the opinion of Judge Shepley, where he held that it could not be done?—A. I did not.

Q. Did you read the opinion of Judge Blodgett, where he held that it could not be done?—A. No, sir. But if I had read these opinions I should not have attached as much consequence to them as to the opinion of the Supreme Court.

Q. I only wanted to know the fact whether you read them.—A. No, sir; I did not read them, but I have no doubt, upon further examination, of the correctness of my opinion.

Q. I understand you. I only wanted to see what examination you had made. Were you of opinion then that the suit could be instituted in the name of the Government for the benefit of particular interests or particular parties?—A. No, sir; I was of the opinion that the suit should be instituted in the name of the United States, and that it ought to appear in some form that it was ordered by the head of the law department of the United States.

Q. Did you not then come to the conclusion that no suit could be instituted in the name of the Government in the interest and for the benefit of private individuals—parties charged with infringement?—A. I did not examine the question with reference to that point. I do not think suit ought to be brought for the benefit of private individuals.

Q. That it should be in the name of the Government?—A. And for the benefit of the people.

Q. The whole people?—A. Yes, all the people.

Q. Not in the interest of private individuals?—A. No, sir.

Q. You examined it sufficiently at that time to come to that conclusion?—A. Yes, that was my impression.

Q. Did you not then come to the conclusion that the power did not rest in the Government to bring the suit except for causes which could not be availed of, in a suit for infringement, by the alleged infringer?—A. I came to the conclusion that the Government had the power to institute a suit to cancel a patent which had been improvidently issued or obtained surreptitiously or through any improper influences.

Q. In a direct fraud upon the Government?—A. In direct fraud upon the Government; and I supposed this was a suit of that character, because in giving directions to the district attorney to institute it, he was cautioned that the suit was to be exclusively under his control, under directions from the Department of Justice.

Q. I do not want to prolong this examination. It is not necessary to repeat any of your statements. I have heard all you have said, but I want to know if you did not come to the conclusion then that a suit could be maintained in the name of the United States only in cases where the ground for vacating the patent was not such a one as an alleged infringer could avail himself of in a suit at law or in equity, such as was the case in *Mowry v. Whitney* (14 Wal.), that you speak of?—A. Observe that the declaration of the judge in that case is as broad and comprehensible as it is possible to be. He says the only proper way to bring suit to cancel a patent is in the name of the Government.

Q. That was a case where a man had procured an extension of a patent, I believe?—
A. Yes. There was a demurrer, and the demurrer was sustained, and this dictum, if it may be so called, is so broad that I considered it a settlement of the question.

Q. That was a case distinctly relating to a question of fraud practiced upon the Commissioner by the patentee, who had obtained an extension by false representations as to the profits he had realized?—A. Yes.

Q. Did you not understand that that opinion was confined exclusively to cases where the ground for vacating the patent was not such as an alleged infringer could avail himself of?—A. No; I came to the conclusion, from reading that opinion, that a suit could be brought by the Government to vacate or annul a patent for any mistake in awarding it or any fraud practiced in obtaining it.

Q. That a suit could be brought by the Government?—A. Yes.

Q. Your idea, then, was that it was limited?—A. Yes.

Q. And it is your idea now, is it not?—A. Yes; I do not think the Government has the right to bring suit for the benefit of private individuals.

Q. With reference to the matter of law, I want to see what your understanding of the law is. I want to read you what is said by Judge Blodgett, where he succinctly states the question of law.

Mr. OATES. Mr. Chairman, I object to that sort of examination, reading the law to the witness.

Mr. RANNEY. I will state what I think probably the law is, and then I want the opinion of the witness, as he has expressed his opinion on the law.

Mr. OATES. I object to Mr. Ranney's reading what he or any member of the committee considers to be good law for the purpose of asking a question.

The CHAIRMAN. I would not, as a lawyer, like to be compelled to swear to what was good law. That is an advantage which you have over the witness.

Mr. EDEN. I do not suppose it is necessary for us to go into the question.

Mr. RANNEY. I will put it in another form, and we will decide the law when we come to it. I think I can state it in my own language without reading it.

Q. You did not pretend to believe, and if I understand you do not believe now, in the Government instituting suits to try patents in the interests of individuals?—A. I do not.

Q. In all cases where the validity of a patent right is in question, that is your view?—A. It seems to me, if you will allow me to say, that the only justification for such a suit on the part of the Government is a *prima facie* case that a wrong has been done. I think if a patent has the seal of the Government that has been put there through fraud or any improper influences, it should be taken off.

Q. Now I understand your view of the law, and we agree on that; I think so too. In the examination you made of that in the hours you stated you said that you looked to see what the practice of the Government was about referring an application of that kind to the Secretary of the Interior, and you also did that that night?—A. No, sir. I had a general idea of what the practice was. I had been acting there as the head of that Department, sometimes in the absence of the Attorney-General, and I knew that it was customary when an application was made to the Department of Justice to generally refer that to the particular department of the Government with which it was connected or from which it had emanated. I was perfectly aware that that was the practice, but I do not consider it to be a fixed rule; I do not think it has been the invariable practice. So I thought in this instance that there was no necessity to refer these papers to the Interior Department, because we had the information which I supposed the Patent Office would furnish.

Q. While you have been in the Department had you ever had occasion before this time to act upon an application of that kind?—A. Never, on an application for the cancellation of a patent.

Q. A patent for an invention, I suppose you mean?—A. Yes.

Q. Did you that afternoon or evening look to the record in any way to see what had been done in prior cases?—A. No, I did not; I had some general idea what the practice was.

Q. You did not look it up to see?—A. No, I did not; but I supposed that a reference to the Patent Office would bring no more information than was contained in that file-wrapper and contents, showing the steps that had been taken leading to the issuance of the patent.

Q. My question was not what you supposed; I want to know the fact. You have already stated what you believe about it, and therefore I do not care to have you repeat it unless you desire to do so?—A. I do not desire to.

Q. I want to know whether you looked to see what had been done in prior cases?—A. I did not.

Q. You had just come into the Attorney-General's office; you say you had just got back and the Attorney-General was gone. How soon did you expect him back after

the 2d of September?—A. He left on the 27th of August and stated that he would be gone about a month.

Q. When that application came did you stop to inquire whether there had been any prior application in regard to it?—A. I did not.

Q. Or whether anything had occurred before Mr. Garland went away with reference to it?—A. Never.

Q. You did not even inquire of the clerk?—A. No, sir.

Q. You had the same clerk that the Attorney-General had, had you not?—A. Yes.

Q. You know that records were kept of all— A. The truth is I did not think about any application—

Q. I am asking about the fact.—A. No, I did not make any inquiries of that sort.

Q. When that clerk who, you think, may have brought the papers to you, did bring them to you and you looked at them, did you make any inquiry whether anything had occurred in the office about it before?—A. No, sir; I treated it as a matter coming to me in the ordinary routine of business, as many other matters there come.

Q. What occasion was there for haste? Why could you not await the return of the Attorney-General? You were there at that time only for the purpose of performing his duties for a month. What haste was there that it could not lie over until the 1st of October, when he came back?—A. There was no occasion for haste, and I do not think there was any haste. If you were there and saw the amount of business transacted in that Department—the law business for 60,000,000 of people—you would see that twenty-four hours is probably about as much time as we could devote to a question of that kind arising from an application to bring such a suit in the name of the Government.

Q. It was a pretty rare thing, was it not, that so much business or so important a matter came in and was acted upon within twenty-four hours?—A. As I say, I had but two questions to pass upon; and permit me here to say, since my judgment has been called in question as to the law of the case, that I have been sustained by a committee of which you are a member.

Mr. RANNEY. No matter about that. Don't trouble yourself about it.

Mr. HALL. Let him state.

The WITNESS. And as to the fact that the Interior Department—

Mr. RANNEY. Don't trouble yourself about that. Please answer my question—

The WITNESS. Very well.

Q. Whether it was not rare to get a communication in and get it out acted upon within twenty-four hours?—A. I do not think so.

Mr. OATES. Mr. Ranney was on the sub-committee of the Judiciary Committee that had that subject under consideration.

Mr. RANNEY. I concurred in the limitation; I do not concur in the law he states.

The WITNESS. Perhaps some men would have taken more time, but my mind was made up after reading the papers. I had never heard of it before, had no interest in it, and did not know the Bell company was different from any other company.

Mr. RANNEY. You do not answer my question.

Mr. EDEN. Let the witness answer.

Q. You have stated all that; I want to know whether it was not a rare thing for any matter to come before the Department and be acted upon within twenty-four hours?—A. My answer was intended to show that in my judgment there was no undue haste. I ought to say here, when speaking now of the business of the Attorney-General, that it is not only in the absence of the Attorney-General that I can act as Attorney-General. You are familiar with the statute which provides that in case of vacancy, or absence or disability of the Attorney-General, the Solicitor-General shall discharge the duties of the office; and if Mr. Garland had been present, with the views he entertained of that matter, I should have acted upon this case just as I have done; his absence was not necessary to give me jurisdiction.

Q. I would rather you would confine your answer to the question, and then I should be able to get the information I want. I want to know whether it is not a rare thing for an application like that, involving such a bundle of papers like that, to get acted upon in that office within twenty-four hours?—A. I do not think so; certainly not within my experience, because we have to attend to such a multiplicity of matters that we cannot devote all the time to one case.

Q. You say that the records of the Department show that there had been an application for a Government suit in relation to the Bell patents filed there May 24, 1885, by Dr. Rogers?—A. I have heard of that since the suit was brought; I never heard of it before; I have not examined the files of the Department to find that application, but I have no doubt it is there.

Q. You will find also that on the 14th of July, 1885, Mr. Van Benthuyzen had made a similar application?—A. I understand that to be a fact.

Q. And instead of being acted upon by the Attorney-General otherwise that was referred to the Interior Department. You find that there, do you not?—A. So I under-

stand. I have not made a personal examination to see, but I have no doubt it is there; and permit me to say—

Q. One moment. Just answer this question.—A. All right.

Q. If you had looked at the record, you would have seen that, would you not?—A. I presume so.

Q. You think now you did not look to see?—A. I did not examine any of the records in the office about the suit at all. I examined nothing but the papers that came to me and the authorities.

Q. I understood you to say, yesterday, that at that time you were aware that it had been the practice of the Government from the beginning to order suit in the name of the United States; were you aware of it then?—A. I had a general idea of it from the opinions in the books there, but I did not examine any particular case. I have learned since—

Q. At that time had you looked at any case?—A. No; I had not looked at any precedent.

Q. Had you looked at the records of the Department to see?—A. No, sir.

Q. You have found since, have you not, that before Mr. Garland came in, Mr. Brewster in January declined doing it?—A. I do not recall that case. I have found since, or there have been found since, ten or a dozen precedents that have arisen since 1870 for the institution of such a suit.

Q. The question I propound now is not that, but is whether you do not find that in January, before Mr. Brewster went out, he declined doing it?—A. I have not examined that case.

Q. I want now in my examination to keep within the limits to see what you looked at. You did not look at that?—A. No; as I said a while ago, I looked at the papers that came to me and the authorities.

Q. You got here before Mr. Garland went away?—A. I got here on the 19th of August and he left on the 27th of August.

Q. You knew he was going?—A. I knew it about the time he left, not perhaps more than a day or so before he went away.

Q. You knew and he knew that when he went you would become the Acting Attorney-General?—A. That is the law.

Q. Did he not talk to you about unfinished business?—A. No, sir; he gave me no instructions whatever.

Q. Did he not talk to you about anything in the office that would need attention during his absence?—A. No, sir; I went down to take leave of him about four o'clock—I think he left that night—and wished him a pleasant vacation, and he remarked generally to do the best I could, or something like that, but gave no particular instructions about any matter at all and no particular business was referred to.

Q. Was there not unfinished business on hand?—A. Probably so.

Q. Do you not remember some of it?—A. No, sir. I know I did a good deal of business in his absence, as the books there will show.

Q. Was there not unfinished business?—A. I do not think there was anything of importance left unfinished.

Q. Do you remember of any?—A. I do not.

Q. Do you remember of taking this case up out of the order of business?—A. I think that I did very little else. I do not think there was anything claiming my attention particularly that day.

Q. Do you not have a docket kept by your clerks there of the order of business done?—A. We have a record book containing everything that is done in the Department, but no regular docket.

Q. Do you not have brought to you every morning by your clerk a list of things on hand to be attended to?—A. No, sir. When the Attorney-General is there my business is to prepare briefs for the Supreme Court and to write opinions in such cases as he sends me. When the Attorney-General is away I am the responsible head of the Department, and sign the mail and transact the routine business of the office generally.

Q. Do you know what business you did from the 27th of August, when the Attorney-General went away, until the 2d of September?—A. The records there will show; I do not recall.

Q. Can you tell any of it?—A. I do not remember anything now specially at all; I will have the books sent up here if you desire.

Q. Or whether you took this up out of order?—A. When I say that I did not take it up out of its regular order, I mean that I attended to it in the ordinary routine of the business, just as anything else. I did not consider that there was anything different in this application from any other.

Q. You say you think a suit should not be brought in the name of the Government in the interest of particular individuals who are contending one with another. Did you observe that in the request Mr. McCorry made to the Department he asked that

four gentlemen should be appointed as attorneys to assist in the management of the case, and that without expense to the Government?—A. Yes.

Q. You did notice that, did you?—A. Yes.

Q. You noticed so particularly that you put it into your order in reply?—A. Yes; I stipulated that they were not to be paid any fees by the Government.

Mr. EDEN. I think, Mr. Ranney, you ought to let the witness answer before you put another question.

The WITNESS. I say that I stipulated in my reply that the Government was to incur no expense for counsel to assist the district attorney in accordance with that request.

Q. I therefore simply allude to it. Did it not occur to you that it was a little singular that four men like those, distinguished counsel, should be willing to act in a Government suit without pay?—A. I do not remember considering that matter at all. I granted the permission upon the request of the district attorney. He asked that these gentlemen might be allowed to appear with him in the suit, and I granted the permission, taking care to say that the suit must be absolutely under his control and under the direction of the Department, and that these gentlemen were to receive no pay from the Government.

Q. You say that at that time you were of the opinion, as now, that a Government suit should not be prosecuted in the interest of private individuals; you had before you the request that four such gentlemen as are named there should be allowed to act without pay, and you granted permission to them to act without pay. My question is simply this: In that state of facts did you not regard it as somewhat singular that four such men were to act without compensation from the Government?—A. I cannot recall now what I thought about it. I know that I was impressed with the statement made by the district attorney, and contained in this memorial, that it was a matter deeply affecting the public interest, and if I thought at all about the appearance of those men in the suit, it must have been simply this: that they had an incidental interest; that certainly was not the paramount interest in my estimation. I supposed when I ordered the suit it was for the benefit of the general public.

Q. Did you suppose those four gentlemen were going to give their services in that suit without pay from anybody?—A. I do not remember that I thought about that at all. I remember only that the district attorney was directed that he should incur no expense against the Government.

Q. If you thought it was improper to institute a suit in the name of the United States for the benefit of private individuals, did it not occur to you that possibly those four men were representing some private interests?—A. It did not. I was impressed with the idea from reading the letter of the district attorney, together with the memorial and accompanying documents, that it was a matter that concerned the general public, and that so far as the allegations were true, these patents ought to be recalled, because a wrong had been done.

Q. In your experience you do not generally find four men like those ready to give their services to the Government without compensation?—A. Not outright, but perhaps they had an incidental interest in it; at any rate I do not remember thinking about it. I remember my idea about it was that it was a suit for the benefit of the general public; and let me say, in that connection, if you please, if not out of order, that we have refused since this suit now pending was instituted, to recognize in any shape or form the counsel for these various petitioners who appeared at the Interior Department.

Q. I am coming to that by and by. I am now asking about that time.—A. I do not recollect what I had in mind except this, that I was impressed with the idea that this was a very important matter to the Government and the people, that impression being based upon the allegations contained in these documents.

Q. Do you not think now, looking at it from this standpoint, that duty on your part would have required you to inquire why four men like those—one from New Orleans and the rest from Memphis—were ready to be associated with counsel for the Government in prosecuting that case without any pay from the Government?—A. Of course I am not infallible; I am liable to make mistakes, like other people; but I have never been better satisfied with any act of my public life than with the institution of that suit.

Q. With those men allowed by you to appear as counsel on behalf of the Government to act without pay from the Government?—A. I did not object to those men. The district attorney preferred the request, and I granted it.

Q. You say now, since the institution of the new suit, you do not consider it proper for men situated as those were to be employed as counsel for the Government?—A. I did not regard that suit as one brought for the promotion of private interests.

Q. Did it not occur to you that possibly those men were acting in the interest of their clients?—A. I do not remember thinking of that at all. Here was a polite re-

quest from an officer of the Government asking that these men should be associated with him, and I granted that request upon the conditions named in the letter.

Q. Under what authority did you act in appointing assistants to the district attorney?—A. They were not appointed, so far as I was concerned; I gave my permission that they might appear in the suit, if they desired to do so, without pay from the Government and without any control over the suit.

Q. Were you aware of the statute on that subject?—A. Yes. They were in no sense appointees of the Government.

Q. When counsel are appointed as assistants to the district attorney, are you not aware that the law requires that they shall receive commissions from the Government?—A. Unquestionably.

Q. And be sworn, taking the oath required of the district attorney?—A. Certainly; and therefore I say that I did not consider that I was conferring any appointment on these gentlemen as special counsel. I gave permission, so far as I could, for them to appear with the district attorney, but if you will observe the terms of my letter you will see that they were to have no control of the suit and not be compensated by the Government.

Q. Were you aware of the provisions of section 366 of the Revised Statutes? which I will read:

“Every attorney or counselor who is specially retained under the authority of the Department of Justice to assist in the trial of any case in which the Government is interested, shall receive a commission from the head of such Department as a special assistant to the Attorney-General, or to some one of the district attorneys, as the nature of the appointment may require, and shall take the oath required by law to be taken by the district attorneys, and shall be subject to all the liabilities imposed upon them by law.”

A. Yes, sir.

Q. Did you authorize the appointment and employment of those assistants to the district attorney, as you did in your letter, without sending them a commission?—A. Yes; because I did not consider them in any sense as retained by the Government.

Q. Answer the question.—A. Certainly I did. I say I did not in any sense consider them retained as special counsel on behalf of the Government. I looked upon them more as *amici curiæ*. If they thought proper to come into the case, and the district attorney wanted them, I saw no objection.

Q. *Amici curiæ* for counsel or for the court?—A. To the court. I have known in my practice, and I dare say you have, counsel to sometimes volunteer to submit their views.

Q. Did you ever know counsel to act for the Government of the United States in a Government suit, in conjunction with the district attorney, or did you ever know counsel to be allowed to do so, without he was retained and employed for that purpose?—A. I do not recall any case, but I saw no objection to the request of the district attorney being granted upon the terms named in my letter.

Q. Let me call your attention to that request in the application:

“I ask that the Hon. Casey Young, Col. George Gantt, and General Luke E. Wright, of Memphis, and Col. J. R. Beckwith, of New Orleans, be permitted to appear as associate counsel, without expense to the Government, and that you will direct the commencement of proceedings.”

Your letter has been put in here, and I will read it in that connection. Have you a copy of it? I am not able to put my hands on it.—A. I remember what the contents are.

Q. It was in another book that I found it, not in this.—A. He was told that those gentlemen might come into the case with the distinct understanding—

Q. Will you be kind enough to read the part of your letter of September 3 bearing upon that point?—A. Here it is: “Yours of the 31st ultimo —”

Q. I only want that portion of it read [reading]:

“Permission is also given, as you request, to Hon. Casey Young, George Gantt, Luke E. Wright, and J. R. Beckwith, esquires, to appear as your associate counsel, with the distinct understanding, however, that the conduct of said suit is to be absolutely controlled by yourself under the direction of this Department, and that no liability is to be incurred by the Government of the United States for the payment of any fees to the gentlemen named in consideration of their services as such associate counsel.”

A. The statute you referred to provides for their payment when they are appointed as special counsel.

Mr. RANNEY. I will read it again:

“Every attorney or counselor who is specially retained under the authority of the Department of Justice to assist in the trial of any case in which the Government is interested shall receive a commission from the head of such Department as a special assistant to the Attorney-General or to some one of district attorneys, as the nature

of the appointment may require, and shall take the oath required by law to be taken by the district attorneys, and shall be subject to all the liabilities imposed upon them by law."

I see nothing about pay, unless it is embraced in the word "retained."

The WITNESS. I think there is another section providing for the pay.

Q. Another section that provides for their compensation?—A. Yes.

Q. You employed them as associate counsel to assist the district attorney, and, as I understand, you gave them no commission, and you did not have any oath administered to them?—A. No. I merely gave them permission to appear in the suit as volunteers, if they thought proper.

Q. Were you not aware, as Solicitor-General or acting Attorney-General, that the object of that statute was that when counsel were retained for the Government they should do so representing the whole Government, under the obligations of an oath such as is required of a district attorney?—A. If I had regarded them as counsel for the Government I should certainly have required them to take and subscribe the proper oath, but I did not in any sense regard them as counsel for the Government.

Q. You regarded them as associate counsel, did you not?—A. The district attorney asked permission to allow those gentlemen to appear in this suit with him, and that permission was granted by me, but I never considered them as counsel, and I stipulated at the same time that they should have no compensation from the Government.

Q. If you did not regard them as counsel for the Government, as whose counsel did you regard them?—A. I regarded them as assistants to Mr. McCorry.

Q. He represented the Government?—A. Yes; but they were not regularly appointed as counsel.

Q. As whose counsel did you regard them, if you did not regard them as counsel for the Government?—A. I certainly did not consider them counsel for the Government.

Q. Whose did you?—A. I regarded them as coming into the case upon the request of the district attorney, or by his permission, and under the sanction of the Department.

Q. But when they came in, did not they act for the Government in whatever they did?—A. They had no control over the suit.

Q. Ah, but whatever they did, did not they act for the Government, as you understood it?—A. I did not consider that they were acting for the Government.

Q. Did you suppose they were to be admitted as associate counsel and to act for other parties?—A. It was a matter between the district attorney and themselves and the court. If the district attorney and the court thought proper, when the case came on to be argued, to permit them to be heard, I saw no objection. But I never considered whom they represented, and it is not a fair inference from the terms of my letter that they did represent the Government when it was expressly stipulated that they were to have no control of the suit and were to have no pay.

Q. But they were to perform legal services as such associate counsel, were they not?—A. I did not give any special thought to them. I simply noticed the request in Mr. McCorry's letter, and I saw no objection to granting it.

Q. And you did not stop, as I understand you, to make any inquiry of anybody as to why they were desired to act as counsel?—A. No, sir. The only idea I had in directing the institution of that suit was that it was only the facts as stated that called for and justified a suit on behalf of the Government and the people.

Q. The question was a little more narrow than that, if you will pardon me, Mr. Goode. Mr. Reporter, will you read my question? I do not want to repeat it. I want to see if the witness has answered it.

The STENOGRAPHER. (Reading):

Q. And you did not stop, as I understand you, to make any inquiry of anybody as to why they were desired to act as counsel?—A. I did not.

Q. I understand that Senator Harris and Casey Young called upon you, on the 2d of September, 1885, before you had seen the papers, to see whether they had arrived, and that Casey Young likewise called upon you the next day?—A. And Senator Harris also.

Q. Can you give any reason why, when Casey Young was there in your presence, before you read the papers and so before you had sent the order the next day, you did not inquire of him to learn whether he was in a proper position to act as associate counsel?—A. I made no inquiry of him at all. They came in to ask if such papers had been received, and came again the next day, and were told that they had been received and that directions had been given to bring suit.

Q. You have stated those facts. I ask you if you know now any reason why you should not and why you did not inquire of Mr. Harris or Casey Young himself what their relations with the matter were, and why they wanted to be counsel in it, or were willing to be, without pay from the Government?

Mr. EDEN. I did not understand that Senator Harris was seeking to be counsel in the case.

Mr. RANNEY. No; I meant that part of the question to relate only to Casey Young.

A. Well, sir, I did not give any thought to Mr. Young in the matter. I based my conclusion upon the official letter of a Government officer and the documents which he transmitted, and the impression made upon my mind in regard to the propriety of the suit was derived entirely from those documents. I had no conference with Mr. Young on the subject.

Q. If the document gives you any reason why he wanted those four men appointed as special counsel, will you point it out?

Mr. EDEN. I suppose the document will speak for itself.

A. The document simply preferred a request, and seeing no objection to it I granted that request. I thought something was due to the request of an official, and seeing no objection to it, I granted it; that is the only thought I gave to it.

Q. You are aware, are you not, that Mr. McCorry's communication gave no reason why these men should be appointed or why they were willing to act.—A. I read his letter, and I do not remember that he gave any reason.

Q. Then you knew no reason?—A. I knew no special reason for it, and I knew none against it; but I preferred to grant a respectful request coming from an official of the Government, unless I saw objection to it.

Q. Do you not think you did ask Casey Young why he wanted to be counsel or was willing to be associate counsel without pay?—A. I know that I did not. My interview with Casey Young did not occupy two minutes.

Q. You will pardon me, Mr. Goode. It seems to me, from what you say, that you did not stop to inquire whether this matter was already in the Attorney-General's office and had been in there, or whether the Attorney-General had taken any action upon it or refused to take any action upon it. I understand that you made no inquiry to find that out?—A. None at all. I thought the papers made a proper case for granting the permission, and I acted accordingly. I made no inquiry in the office about it; I acted exclusively upon the papers.

Q. Do you remember whether the same clerks were there then who had been there during May, June, and July?—A. Yes; they were.

Q. Then these prior applications on that subject must have been known to them?—

A. It may be so; but I do not take instructions from the clerks in the office with reference to my duty.

Q. But now are you certain that you did not ask the clerk who had that in charge whether there was anything in the office about it or whether anything had been done?—A. I asked no questions whatever, but read the papers and made up my mind from them in regard to the two questions which I consider to be involved: first, as to the legal power; and, secondly, as to the probable cause shown by the papers.

Q. You have been all over that. I want to know whether you can state from your recollection that no one in the office ever called your attention to it?—A. Nobody in the office called my attention to anything. Let me say in that connection that if I had known of this application to Attorney-General Garland, and the disposition he made of it, and if I had known that he had an interest in the Pan-Electric Company, my act would have been precisely the same.

Q. All you would have had to do in order to know what had already occurred in that office with reference to that matter was simply to look at the record in the office or inquire of the clerk who had it in charge; is not that so?—A. I presume so; but it did not occur to me to make an inquiry of that sort, any more than it did as to any other matters that came before me from day to day in the ordinary routine of the business of the office. I had no suspicion that it had been there before.

By the CHAIRMAN:

Q. Was there anything to indicate that there was any proceeding pending?—A. Not at all. I regarded it as an original application, and did not know, until after the return of Mr. Garland to Washington, that he had ever been approached or had ever received a communication from Mr. Van Benthuyzen, or that these gentlemen had ever called upon him, or that he had any connection whatever with any of the telephone companies.

Mr. RANNEY. You have already stated that.

The WITNESS. But, in that connection, I wanted that to appear. You asked for reasons, and I want to give my reasons.

Mr. RANNEY. I did not ask for reasons; I ask for the specific facts. If you desire to repeat it all—

The WITNESS. O, no, sir; I thought it was proper in that connection. In other words, Mr. Ranney, as I say, I do not profess to be infallible; I may have made a mistake; but I want to take the full responsibility of it upon myself.

By Mr. RANNEY:

Q. We have had all that, if you will pardon me. I want to shorten this record of the examination, if I can. You say that if you had known the facts, your action would have been the same.—A. Undoubtedly.

Q. I do not want to repeat it; but I understand you to say that if you had known that Dr. Rogers had applied on the 24th of May, 1885, to have suit brought, and Attorney-General Garland had not acted upon it; that on the 12th of July Mr. Van Benthuyssen had made an application which the Attorney-General had acted upon and referred it to the Secretary of the Interior—

Mr. OATES. Is there any such evidence?

Mr. RANNEY. Yes.

Mr. OATES. That the Attorney-General acted upon it?

Mr. RANNEY. By referring it to the Secretary of the Interior.

Mr. OATES. He refused to have anything to do with the matter.

Mr. RANNEY. You have forgotten. You were not here. (To the stenographer.) Will you read my question as far as I have gone?

The STENOGRAPHER (reading):

“I understand you to say that if you had known that Dr. Rogers had applied on the 24th day of May, 1885, to have suit brought”——

Mr. HALL. It is hard to tell whether this hits hardest on this side or on the other.

Mr. RANNEY. Don't interrupt him while he is reading.

Mr. HALL. Give us all a chance.

The STENOGRAPHER (reading):

“I understand you to say that if you had known that Dr. Rogers had applied on the 24th of May, 1885, to have suit brought, and Attorney-General Garland had not acted upon it; that on the 12th of July Mr. Van Benthuyssen had made an application which the Attorney-General had acted upon and referred it to the Secretary of the Interior”——

Mr. RANNEY. That should read “by referring it to the Secretary of the Interior.”

Q. (Continued.) “And if you had known that Mr. Garland had been applied to on the 30th or 31st of July, 1885, or the 1st of August, to bring a suit or authorize the bringing of a suit, and had declined to do it, you say that when this communication came from Mr. McCorry you would have done the same as you did do?—A. Yes; especially in view of the fact that the Attorney-General had declined to act on account of supposed disability. It is not necessary for him to be absent from the office to entitle me to act. The language of the act is, in the event of a vacancy or his absence or disability to act; and if I had known that the Attorney-General, if even present in the office, deemed himself to be under a disability or incapacitated to act in that case, and it had come to me properly, I should not have been deterred from acting upon it by reason of the fact that he felt himself under disability. In other words, I considered the responsibility upon me. When Mr. Garland is away or under any disability, I am in no sense his deputy or agent. The responsibility is upon me, and I felt that upon such a showing as was made by those papers I had no right to shut the door of the courts to these people.”

Mr. RANNEY (to the stenographer). Will you please now read the question as I have put it, altogether, and then read the answer of the witness to see if he has any further or other answer to make. I do not want to be pressing it.

The STENOGRAPHER (reading):

“Q. I understand you to say that if you had known that Dr. Rogers had applied on the 24th of May, 1885, to have suit brought, and Attorney-General Garland had not acted upon it; that on the 12th of July Mr. Van Benthuyssen had made an application which the Attorney-General had acted upon by referring it to the Secretary of the Interior; and if you had known that Mr. Garland had been applied to on 30th or 31st of July, 1885, or the 1st of August, to bring a suit or authorize the bringing of a suit, and had declined to do it, you say that when this communication came from Mr. McCorry you would have done the same as you did do?—A. Yes; especially in view of the fact that the Attorney-General had declined to act on account of supposed disability. It is not necessary for him to be absent from the office to entitle me to act. The language of the act is, in the event of a vacancy or his absence or disability to act; and if I had known that the Attorney-General, if even present in the office, deemed himself to be under a disability or incapacitated to act in that case, and it had come to me properly, I should not have been deterred from acting upon it by reason of the fact that he felt himself under disability. In other words, I considered the responsibility upon me. When Mr. Garland is away or under any disability, I am in no sense his deputy or agent. The responsibility is upon me, and I felt that upon such a showing as was made by those papers I had no right to shut the door of the courts to these people.”

The WITNESS. I want to add that this was an application from a district attorney of the United States for permission to use the name of the Government in bringing

this suit, which application was supported by documentary evidence that, in my judgment, made a very strong *prima facie* case.

Q. Then you would have appointed or authorized the employment of the gentlemen named as associate counsel with the district attorney, would you not, under that state of facts, if you had known it?—A. I see no reason why I should not have done it in response to the request of the district attorney.

Q. And you would have omitted to refer it to the Secretary of the Interior, would you?—A. I would if it had contained the same documentary evidence that these papers contained. In other words, if the papers had shown the information to be obtained from the Patent Office I would have seen no necessity to send down there for information already in my possession.

Q. You would not have thought it worth your while to inquire at the Department of the Interior to ascertain whether there was any ground for the charges of fraud that did not appear on the face of the papers, would you?—A. I thought there was sufficient upon the papers to call for and justify the action. I was seeking simply to inquire whether there was probable cause for the institution of this suit. I was not called upon to say how it ought to be decided finally upon the merits.

Q. Did the transcript which you had from the Department of the Interior on its face disclose fraud?—A. It disclosed some circumstances which I considered suspicious.

Q. What?—A. The papers showed, according to my recollection now—it has been some time since I examined them—that when—

Q. But you examined them at that time?—A. Yes; according to my recollection, I saw at that time that when Mr. Bell made his application on the 14th day of February, 1876, on the same day Elisha Gray filed his caveat, and the examiner finding that to be the case declared a suspension of the application. He was addressed by the attorneys of Mr. Bell, claiming that their application was filed before the caveat. The examiner held that the office could consider no fractions of a day; that a day was an indivisible unit in the Patent Office. Upon the matter being referred to the Commissioner, he held that that was so under ordinary circumstances as a general proposition, but that in this case he thought it proper to make an inquiry as to the exact hour of the day on which the application was filed and on which the caveat was filed. Upon further examination the examiner came to the conclusion that the application had been filed before the caveat, although it had been the rule in the Patent Office that they took no note of fractions of a day. Subsequently to that, according to my recollection now—the papers will show—Mr. Bell had amended his application, and the examiner undertook to decide finally or to say how it should be determined, and I felt that was a suspicious circumstance upon the face of the papers.

Q. The papers which you have you say showed all that at that time when they were put into your hands?—A. Yes.

Q. You have not those papers here?—A. I haven't them here.

Q. Will you show me any papers that will disclose those facts? I will give you time to get them, if you haven't them here.

The WITNESS. Mr. Chairman, have you the paper I handed you yesterday?

The CHAIRMAN. Yes; it is probably printed.

Q. Is that an original?—A. I am going to explain why the original is not here. If it can be produced, it will be. When Mr. McCorry was directed to bring suit, all the papers were sent back to him, under the supposition that he would require them in the preparation of his bill. Subsequently the suit was ordered to be discontinued. Then, when he renewed his application, he sent along with it all the original papers which had been sent to the Department, except this certified copy of the file-wrapper and contents. I noticed the omission in the papers, and wrote to him, as the letter book will show; I have a copy of the letter here; I wrote to him calling his attention to that omission, and asking him to forward that certified copy of the file-wrapper and contents. He did so, and as soon as it came it was sent down to the Department of the Interior. All the papers that have ever come to the Department of Justice since this matter has been agitated were sent to the Interior Department, pending the investigation there. There is a vast mass of papers—papers sent by the Globe Company, the Washington Company, and the application of Mr. Cushman. When the papers were returned from the Interior Department to the Department of Justice, as I remarked before, I suppose there was at least a wheelbarrow full of them, but it seems that this certified copy of the file-wrapper and contents was not among them. Since I was here yesterday I have had a search made by a clerk, and he did not find them. But, according to my best recollection and belief, this is a certified copy of the same paper. Let me explain why I think so: I recollect that on the face of those documents which I examined at the time there was a certificate from Mr. Montgomery exactly in these words:

"This is to certify that the annexed is a true copy from the files in this case, of the file-wrapper and contents, in the matter of letters patent granted to Alexander Graham Bell March 7, 1876, No. 174,465, for improvement in telegraphy."

Here follows the application, and you will find on page 11 of this document the statement by the examiner. Here also is a letter to the honorable Commissioner of Patents, signed by Pollok & Bailey, attorneys.

Q. Do not go all over it. Have you satisfied yourself about it?—A. I think so.

Q. I do not want to encumber the record with a long statement.—A. That is my recollection.

Q. I see in the paper referred to, which came to you—that is, the affidavit in support of the memorial of Serrell, Barker, and Lyon, on page 24 of the Department of the Interior record—certified copy of file-wrapper and contents in Bell's application for patent, February 14, 1876.—A. It is a certified copy of the same paper, and according to my recollection—

Q. I do not want to encumber the record, unless there is something you desire to state on these points. I only want to make this inquiry; we do not try patent cases here. The certificate was the same on the other papers as this is.

Q. I understand your reason is that you had a certified copy, furnished you from Memphis probably, of certain papers, embracing the file-wrapper and contents from the Interior Department?—A. Yes.

Q. Now, I do not want to go into the details, because that would encumber the record, but I want to know this: You say at the time you acted on the 2d of September you did not know anything about the Pan-Electric Company?—A. I had never heard of it.

Q. You never heard of such a name?—A. I never heard the name.

Q. You had never heard of the Bell Telephone Company?—A. Oh, yes; I had heard of the Bell Telephone Company.

Q. Had you never heard of the Washington Telephone Company?—A. Never.

Q. Had you not had an office here in Washington?—A. Yes.

Q. Did you not have a telephone in your office?—A. No.

Q. Or use one?—A. No, sir; I knew there were telephones, but I had no stock in any of the telephone companies and I paid no attention to them. I am quite sure that I never heard of the Pan-Electric Telephone Company until this agitation began.

Q. You never heard of it in Virginia?—A. I know they have telephones down there, but not being a stockholder and not being interested in those things, I had not paid much attention to them. I have seen them in use, but really I could not tell you to-day whether the telephone instruments in use in Virginia belong to the Bell Company or any other company.

Q. When you examined these papers in the afternoon and evening of the 2d of September you were aware of the existence, of course, of the Bell telephone, and you had before you papers showing that those Bell patents which you were asked to vacate were issued some ten years before that time; you were aware of that?—A. Yes; the date shows that.

Q. Did you inquire or look to see whether the Bell patents had ever been litigated in court?—A. I did not. I have heard of all that since. But I thought the case was made out upon the papers presented.

Q. You have said that a great many times, if you will pardon my remark. I only want to save expense to the Government in printing and relieve Brother Oates of his impatience. This is my question: Did it occur to you at that time that an application to vacate the Bell telephone patent came pretty late after ten years?—A. No, I only remember that I made as careful an examination as I could, and I was strongly impressed with the case as made out.

Q. You have answered that, and I pray you will not repeat it—unless you desire to do so.—A. No, sir; I only wish to be understood by the committee.

Q. My question was this: You say it did not occur to you?—A. No, sir; it did not.

Q. That ten out of the seventeen years during which a patent runs had already expired; it didn't occur to you then?—A. I don't remember now that such a thought occurred to me.

Q. Didn't you think it a pretty late day in the life of that patent at that time to set up the charge of fraud in the obtaining of it?—A. I thought if the allegations in that paper were true it ought to be inquired into judicially.

Q. You do not answer my question; didn't it occur to you that it was a very late day in the history of that patent to start such a claim?—A. No, sir; I have no recollection of that.

Q. Were you aware at that time that the validity of the Bell patent had been the subject of litigation for many years? A.—No, sir.

Q. Had you ever read any of the reported decisions in relation to the Bell telephone patent?—A. No, sir; none of them. I have heard of them since.

Q. At that time, when a party was seeking to attack the validity of the patent because of the grounds alleged here (I will not read them), then, if I understand you, you never stopped to think that ten years had transpired, during which time the Bell telephone had been in operation; you did not stop to think or ascertain whether the validity of the patent had been the subject of contest in suits and the subject matter

of judicial decisions or not?—A. I did not. I only formed my judgment from the papers sent to me.

Q. Don't you think that as acting Attorney-General of the United States, asked to authorize a suit in behalf of the United States to vacate that patent, in authorizing it to be done, to vacate it, prudence required you to first ascertain whether the courts of the country had not already established the matter and adjudicated the very thing which was alleged against it?—A. I do not understand that any suit has ever been brought before this, in the name of the Government, to test the validity of that patent, and it did not occur to me that any wrong would be done to permit an inquiry like this to be made when the application was accompanied with such documentary evidence as accompanied that application. In other words, I did not consider the Bell Company as occupying any different attitude in this matter from any other company. I did not understand they were hedged about with such divinity that they could not be called into court like other people.

Q. Of course not. But supposing you had known that the very objections that were urged against the validity of the Bell telephone patents, that could be made a subject of inquiry in a Government suit, had been already thoroughly tried in several States and been adjudicated, don't you think it would have been proper for you to have first looked into that, and see if that had been the case before you subjected the Government to the expense of a new suit?—A. While that is true, it is claimed at the same time that there never has been any thorough trial of this question; that the first suits were collusive suits, and the others were going off on the idea of comity, and I should say that the time had come when, in a case like this, a suit should be brought in the name of the Government to go to the bottom of this business. It is claimed that there never has been a thorough trial of the questions involved in this case.

Q. I am inquiring of your action on the 2d and 3d of September, 1885; did you know at that time of any suits having been brought?—A. I did not.

Q. Did you ever know of any suits having been brought?—A. I did not.

Q. Did you seek to ascertain before you granted that order?—A. I did not.

Q. You made no investigation?—A. None. You read the—

Q. I am asking about your action then, not since. It is simply this: understand me; when you received that application from Mr. McCorry and granted this leave to bring that suit, you had no knowledge whether any suit had been brought to test the Bell telephone patent during the ten years of its life, do I understand you?—A. None.

Q. And you did not seek to find out?—A. No, sir.

Q. You say that you have been a practicing lawyer during all this time, and that you had never read in the newspapers accounts of a litigation that the Bell Telephone Company had had?—A. I do not recall any such reading. Possibly I may have seen it, but it made no impression upon me; I do not remember it.

Q. Do you now tell the committee (and of course you do if you say so, and I want to know what the fact is) that the suit that had been going on for three years, called the Drawbaugh suit—A. I never heard of that until after this.

Q. Which was argued, if I recollect right, in the summer of 1885, and had been going on, and made a good deal of noise in the newspapers, which was reported, and in which eminent counsel were engaged, you never had heard of?—A. No, sir; I never heard of it. Where was the suit tried?

Q. I am speaking of the Drawbaugh case; don't you know of it now?—A. I have heard of it.

Q. Don't you know it was tried in New York?—A. I have understood that that suit was pending in the Supreme Court upon appeal.

Q. Didn't you know that that suit had been pending in the State of New York for three years?—A. No, sir; I never knew of the Drawbaugh suit until after this suit was ordered.

Q. Don't you know that it was heard in the summer of 1885 before this application was brought to you, in New York, before Judge Wallace; were not the papers full of it, and did you not know it?—A. Well, sir, I don't take any of the New York papers; it is very rarely that I read one of them; it is only when I buy them on the street occasionally. But I will say, that I never heard of the Drawbaugh suit until after that application by Mr. McCorry; never.

Q. Had you never heard of the Dolbear suit that was brought years ago before Judges Gray and Lowell, in Boston?—A. Never. That was tried in Boston? I never heard of that.

Q. Don't you know that that was first heard upon the application for a preliminary injunction, and that Mr. Justice Gray, of the Supreme Court, granted it, and then it was tried on its merits and Judge Lowell gave an eminent opinion in it?—A. No, sir.

Q. Did you ever know of the Molecular cases?—A. I have heard of them since.

Q. Did you never hear of the Overland cases tried in New Jersey?—A. No, sir; I never heard of any suit involving the validity of the Bell telephone patent until after this application was made to me.

Q. You did not know that since this Bell Telephone Company had been in operation it had been in litigation with some seven or eight parties in the State of Massachusetts, in the State of New York, in the State of Pennsylvania, and in the State of New Jersey; you did not know that?—A. No; I did not. Not being a telephone lawyer, and not living in those parts of the country, I do not think it is very strange I did not know about it; there are a great many things I do not know about.

Q. Do you take the newspapers?—A. I do not take the New York or Boston papers.

Q. Don't you know that all those cases have been reported in the Federal Reporter—have been reported in the newspapers, and put into the reports of patent cases?—A. Well, I am not a patent lawyer, and have read but very little on the subject of patent law. I have not read the reported patent cases.

Q. In other words, then, if it be true that there had been numerous cases tried and determined in the courts below, which were then pending, some of them, in the Supreme Court, you never heard of it from any source?—A. Never.

Q. And all the litigation that the Bell Telephone Company had had for the ten years during the life of their company you never had heard of?—A. Never, according to my best recollection.

Q. And before you authorized that suit to be brought, did you not look to see whether it had been the subject of litigation?—A. No, sir.

Q. Or whether there were any cases pending in the Supreme Court of the United States here on the docket to be heard?—A. I did not.

Q. And never stopped to inquire?—A. No, sir; I took action on the application as it came to me.

Q. You took particular pains to examine the law to see whether it would authorize you to bring the suit, but you did not take pains to see whether the questions raised to be litigated had already been litigated, or were in due form before the Supreme Court on appeal?—A. No, sir. Here was an application from the district attorney asking permission to use the name of the Government, and supported by proper proof to show that it ought to be done.

Q. And you took it as a matter of course?—A. No. I formed an opinion from the papers presented. As I say, I did not consider but two points.

Q. It would not have made any difference to you if there had been in the Supreme Court reports, the highest court of the land, a full decision overruling them all and sustaining the Bell patent notwithstanding?—A. Oh, I do not say that if the exact point had been decided by the Supreme Court I should have ordered the suit.

Q. Don't you think proper prudence on your part, as acting Attorney-General of the United States, would require you to look and see whether there was or not?—A. Having no suggestions made that any such suit was pending involving these matters, it did not occur to me. I acted upon these papers as any others that came to me.

Q. Did you stop to consider what expenditure the prosecution of that suit might, in the end, entail upon the Government?—A. No, sir, I did not; but if the statements contained in those papers are true, I think the Government might well afford to spend money to correct that wrong.

Q. The question I put was whether you stopped to consider it.

Mr. EDEN. He has answered the question.

The WITNESS. No, I did not.

Mr. RANNEY. And he added to that his opinion.

Mr. EDEN. I think the witness ought to be allowed to make his full statement.

The WITNESS. I want to be in perfect order, but at the same time I do not want to be cut off in my answer. I think I know what is proper from a witness.

The CHAIRMAN. You can make the answer as fully as you like. A person in your position is supposed to know what is proper.

Mr. RANNEY. I did not intend to restrain you, Mr. Solicitor-General, by any means.

The WITNESS. You have treated me very politely; I have no complaint to make.

Q. You never had had any experience in patent suits so that you could form any idea of what it would cost?—A. I had had patent cases, but never managed them myself; I got others to assist me.

Q. You said you thought the public could well have afforded to spend money for that purpose. On that I desire to ask a question. If the result of that suit and the charges made upon it would have been simply the annulling of the Bell telephone patent, the destroying of that monopoly, and then the establishing of another patent and another monopoly, what benefit to the public would it be?—A. I do not see that the benefit would be any. But I did not stop to consider whether another monopoly would spring up or not. "Sufficient unto the day is the evil thereof." I considered, if the statements in these papers were true, that this was a wrong upon the Government; that the Government had been deceived; that its seal was upon a paper which ought to be canceled; that under that grant, made, as I supposed, improvidently or surreptitiously, from the papers which were brought to me, a huge monopoly had sprung up in this country, and I thought it would be for the benefit of all the people to break down that monopoly (provided, always, the grant was improperly made),

and throw the business open to the public. In other words, I do not consider that one of the forces of nature like electricity ought to be appropriated to any man or any set of men unless they have got a patent that will stand the test fully.

Q. My question was whether you considered it your duty to do it, although breaking down the Bell telephone established the Gray telephone as a prior invention?—

A. I should be as much opposed to that monopoly as to the Bell, or any other monopoly. I do not know anything against Bell.

Q. If the direct result of that suit was simply to destroy the Bell telephone and establish another one, it would be of no benefit to the people?—A. No, sir; and I would be as much opposed to the Gray monopoly as to the Bell monopoly. I think the telephone has become not only a commercial, but a social necessity, and no people should be allowed to monopolize it unless they have an unquestioned right to do it.

Q. But the question presented to you on the 2d of September was whether Bell was entitled to the patent for the telephone or Elisha Gray, wasn't it?—A. No, sir; I did not consider that question involved in this suit.

The CHAIRMAN. Allow me a question at this point. Suppose that had been the fact that the controversy in substance was between the Bell telephone patent and the Gray telephone patent, and you had come to the conclusion that the Bell patent was fraudulently obtained, would you have considered it your duty as a public officer to have instituted this suit, notwithstanding the advantage of it might have been to the advantage of the Gray patent?

The WITNESS. Yes, sir. I did not consider what benefit would result to the Gray patent; I considered that, acting for the benefit of the people, my duty was to cause an inquiry to be made into the truth of these allegations, and if these allegations were true, the patent ought to be recalled. But I want to say here that I have no feeling in the matter, and so far as I know the feeling of this administration they intend that this suit shall be prosecuted with vigor and at the same time with fairness. They have no feeling in it.

Mr. RANNEY. We will come to that by and by, the second suit; I have not got through the first one yet. The question with me is this: Whether upon those papers presented to you the question was not which of the two, Graham Bell or Elisha Gray, was the inventor of the telephone?—A. I considered the question to be whether the patent had been unadvisedly issued, by mistake, or had been fraudulently obtained.

Q. But in favor of one rather than the other?—A. I did not compare the relative merits of the Gray and Bell patents. I looked only to the allegations contained in those papers, and I supposed if they were true the patents should be canceled, otherwise not.

Q. Did you at that time consider it your duty to lend the name of the United States and the aid of its Treasury to the determination of the question which of those two men was the original inventor of that telephone?—A. No, sir; that was not my view of the case at all; I considered it a matter between the Government and the Bell Telephone Company.

Q. But you did not stop to see Mr. Wilbur, did you?—A. No, I did not. I read his affidavit. I did not know him at all.

Q. And you did not stop to investigate the question at all?—A. I made no investigation beyond reading the papers and the authorities that I have spoken of.

Mr. EDEN. Will you allow me to suggest that the application of the district attorney does not even refer to the Gray patent at all.

The CHAIRMAN. It is not pretended that that question was directly involved in the suit.

Mr. RANNEY. I do not know that it was.

Mr. EDEN. I thought perhaps you might be under a misapprehension.

Mr. RANNEY. No, sir; I know what is in them. (To the witness.) Now, don't you understand the law to be that where it is a simple question of which is the original inventor, that that is a matter which can be determined between the two contending parties, under the law, without the action of the United States Government?—A. Yes, sir; and the judgment of the court will affect those parties. Unquestionably the matter between Gray and Bell may be determined in a suit between those two parties, but then if anybody else complained that the patent had been fraudulently obtained, another suit would be necessary, and so on *ad infinitum*.

Q. But, supposing the United States had brought suit to annul the Bell patent, and the suit in court had decided that the patent was valid, would that conclude it as regards other parties?—A. If the Supreme Court had decided on a suit brought by the United States, that the Bell patent was valid, I should say that that would be conclusive.

Q. On other parties? Could not a man attack the validity of that patent just as much then as before?—A. I suppose he could, but it is hardly probable—

Q. It is no more conclusive in the one case than another, is it?—A. I mean to say

this: that in a suit brought by one individual against another, in such suit a judgment of the court would only be binding upon those parties.

By the CHAIRMAN:

Q. I would like now, as a matter of information, to inquire as to this: In a controversy or suit between Bell and Gray as to these patents, could the question as to whether the Bell patent had been fraudulently obtained or improperly issued by the United States be tried and determined?—A. I understand that defense could be made, but it would only be conclusive upon the parties to that suit; it could not result in the cancellation of the patent.

By Mr. RANNEY:

Q. I understood your answer, I think. Then I ask this question: Suppose in that case, the case of the United States against Bell, the Supreme Court decide that Graham Bell was not a fraud, but determine the patent valid. Does that prevent anybody, when sued for infringing, from contesting that question afterwards?—A. I should say that such a defense as that could be made after the decision.

Q. As a lawyer, I ask you if it would preclude them in law from contesting that?—A. I suppose a certain defense would be open to them.

Q. Then a suit by United States would not make it conclusive, mutually, any way, would it?—A. Well, the supposition is that if the United States would bring a suit to cancel a patent, and the decree of cancellation was rendered, that that would settle the patent.

Q. What was the object in bringing a suit in the name of the United States to determine that matter in behalf of the whole public, if it would not be mutually binding on the whole public and Bell when decided?—A. I think that would be practically the result of it.

Q. Would it, as a matter of law, be the result of it?—A. I am not prepared to say.

Q. You did not consider that?—A. No, sir; I am not prepared to say at this time; I have not examined that question; but I am rather inclined to think that would be the end of it.

Mr. OATES. If it is not void, it is avoidance.

The WITNESS. Yes, sir.

The CHAIRMAN. Supposing it is sustained?

The WITNESS. I say supposing it was declared void.

Q. But I say supposing the Supreme Court sustained it, does that prevent any infringer from setting up that question to see whether it is valid or not?—A. I suppose he would have the right.

Q. It does not preclude him then?—A. I suppose not.

Q. So that that suit would be one-sided in its result, would it not?—A. To that extent. If the result is one of cancellation, of course that is an end of Bell's patent.

Q. You have but one intent in view, and that is to get the Bell patent canceled?—A. Oh, no; that is not doing me justice. I have no feeling against Bell.

The CHAIRMAN. That would be the position of any contestant—to simply cancel the Bell patent.

Mr. RANNEY. Yes; to cancel the Bell patent and leave open all this question as to devices which are made to carry out and apply and put into operation the art of transmitting articulate speech by electricity, would it not?

The WITNESS. I suppose there would probably be questions arising under other claims.

Q. If you should cancel the Bell patent on the broad claim that you speak of, and leave the Rogers patent in force, that would not cancel his, would it?—A. I do not know what the Rogers patent covers.

Q. Well, it covers the carbon microphone transmitter, as they call it?—A. I am not an expert in electricity.

Q. Do you know what that is? Do you know what a microphone is in electricity?—A. No, sir.

Q. Have you looked into the principle of the telephone in any way?—A. No, sir; I have not. I think it would take me a year to master all the science connected with the subject of electricity.

Q. Did you at the time of your examination on the 2d or 3d of September look to see wherein the complaint affected the telephone?—A. No, sir; I thought it would take me twelve months to master that science, if I could do it then, and for that reason I have engaged special counsel to assist.

Q. You even have not done it now; you do not know what the appliances of telephones are?—A. I could not undergo an examination as to matters involving the science of electricity.

Q. Do you know enough about it to be able to answer this question. Supposing it true that you succeed in overturning the claim of Bell that he invented a new art or method, to wit, the method or art of transmitting articulate speech by electricity,

that broad claim, as you have indicated, that he should not have the broad claim like that in the use of electricity; supposing you did that, does it not still leave open all the patents, untouched, for the devices, instruments, and apparatus by which that thing is accomplished?—A. I do not know what is claimed in the other patents to which you refer.

Q. One is a device by which it is carried out and the other is the principle of transmitting articulate speech by means of electricity.—A. I only know this: that if Bell has gotten a patent covering such broad claim to which he is not entitled, I do not think he ought to appropriate it.

Q. Then if you break that claim by itself (and it is the fundamental one on which his patent rests) it still leaves the matter open, does it not, and it becomes a controversy between these different parties who have different microphones or instruments by which it is done?—A. I do not know the claims of the parties to which you refer.

Q. Do you know the difference in the patent law between the invention of an art of itself and that of devices and apparatus; you know that difference?—A. Oh, yes, sir.

Mr. EDEN. Mr. Chairman, if the committee is directed to go into a scientific investigation of this subject, I suppose we will have to bear that infliction; but I would have asked to be excused from serving on the committee if I had known we were going into that.

Mr. RANNEY. I will save you all the infliction I can, and hope you will me in your remarks; I want to go as far as this—I want to call your attention to this fact: You deemed it your duty in behalf of the public to upset the Bell Telephone as a matter of public good, I understand you?—A. No; I deemed it my duty to have a judicial investigation of the matters involved; I did not deem it my duty to upset anything; and, as I say, if I was called on now and sat as a judge to decide this question, I am not prepared to say how I would decide it; I am thoroughly satisfied, however, that I did right in ordering this suit.

Q. I want to call your attention to this: You, as a public officer, had this question to determine, whether you would allow the name of the Government to be used and its Treasury to be drawn on to prosecute a patent suit, and you claimed that you were doing it for the public good. Now, I want to call your attention to this: Whether you considered this and acted upon it; whether, if you had upset and overturned or destroyed the Bell patent on that broad claim, it did not leave the public inflicted by these other monopolies, if there are such, just as much?—A. I did not examine that. I was satisfied that if the statements contained in the papers were true, that a wrong had been done to the Government and Bell was in possession of a monopoly he was not entitled to.

Q. But you were presumed to be acting for the great public, and the conflicting claims between the patentees could be settled between the parties without the interference of the Government, could it not?—A. I thought I had nothing to do, as I have explained more than once, but to pass upon that application as intelligently as I could, and I undertook to do it.

Q. Well, I want to see what intelligence you showed in regard to it, if you will pardon me; I am not questioning your ability. You did not consider that matter, whether it would be of any advantage to the public or not, or whether it would not leave somebody else in place of Bell?—A. I thought it would be of advantage to the public. My idea was that if a wrong had been committed—

Q. I will come to that by and by; I am not on that part now. I shall go somewhat into that, with the permission of the committee; but now I call your attention to the fact that you authorized the bringing of this suit down in Memphis, Tenn., during the afternoon and evening of the 2d of September. How much did you consider that question; that is, the question of whether it should be brought down there?—A. The application was to bring the suit there, and there was no reason why it should not be brought there that I saw.

Q. Was there any reason why it should be?—A. Yes, sir; the recommendation of the district attorney of that district was a sufficient reason for me.

Q. Why couldn't you have brought it here just as well?—A. There was no such application to bring the suit here.

Q. It is to be brought in the name of the Attorney-General, if brought at all?—A. I know it; but there had been no suggestion made that it should be brought anywhere else at that time.

Q. Do you understand that any district attorney in the United States had a right to bring it himself simply because he—A. Not at all; but I considered his recommendation entitled to respect, and I saw no objection to his application.

Q. Did you stop to think whether there might be some private interests to be subserved by it?—A. No, sir; I did not. It did not impress me from an examination of the papers that it was a matter in which private interests were to be subserved. I looked upon it as a suit for the benefit of the Government.

Q. You have already said that the names of the associate counsel did not suggest anything of that kind to you?—A. No, sir.

Q. Would the question of jurisdiction occur to you?—A. No, sir.

Q. You knew by those papers that the Bell Telephone Company was a corporation located in the State of Massachusetts, didn't you?—A. Yes, sir.

Q. How did you suppose, then, that they could be sued in Tennessee?—A. I supposed the district attorney knew his business.

Q. Did you look at it to see?—A. I did not go into the question of jurisdiction to see how it could be acquired. I simply gave him permission to bring the suit there.

Q. If you will answer me squarely, Mr. Attorney-General, did you authorize that suit?

Mr. OATES. He was only Acting Attorney-General.

Mr. RANNEY. I was speaking of him in his capacity at that time. If you mean to say that you authorized the bringing of that suit in the State of Tennessee without stopping to think, inquire, or examine as to whether there was any legal authority to do it, then I will take your answer.—A. I did not consider that question at that time.

Q. What is the law about suing a corporation out of its own district.

A. My understanding of the law is that you may sue a defendant at the place of his residence or wherever found doing business, and if the Bell Telephone Company was found doing business in the State of Tennessee, I did suppose suit might be brought there.

Q. Doing business how?—A. Doing business by an agent.

Q. Merely selling goods?—A. No; I should say that if the Bell Telephone Company has a contract with a local company—

Mr. HALL. As the witness says he did not consider that question at that time, it looks as though it was a contest between you and the witness as to which knew the most law.

Q. You did not consider it?—A. I have no objection to giving my opinion on that subject.

Q. I do not care for your opinion now, but I want to know how far you considered it. I understand that you did not, at the time you authorized such suit to be brought, consider the question whether that company could be sued, as a matter of law, down in Tennessee?—A. I do not remember that I gave any consideration to that matter. I assumed that the district attorney would hardly make application to bring suit there unless he knew that he could acquire jurisdiction. I think jurisdiction can be acquired in Tennessee and anywhere else where the Bell Telephone Company is found doing business.

The CHAIRMAN. Wherever it has an office.

The WITNESS. Yes, sir.

Q. And you considered him competent as a local lawyer to advise you. Did you stop to find out where the Bell Telephone Company was incorporated?—A. No, sir; I think not.

Q. Now, right on that point. You have been asked by Mr. Boyle, the chairman, about the second or last suit you brought, and you have said that you brought it in Columbus, in the southern district of Ohio?—A. Yes, sir.

Q. You considered a good deal about that matter?—A. Yes, sir.

Q. And you have said that all concurred or had passed upon it?—A. Yes, sir; I say that most of them had passed upon it. I understood that a case had been decided in Boston, one in Baltimore, one in Pennsylvania, some in New York, and some in New Jersey, but no suit exactly like this. We expect this to be a different suit from any that has been tried—

Q. We will come to that by and by.

Mr. EDEN. I think the witness ought to be allowed to give his reasons.

Mr. RANNEY. He is going beyond what I asked. You said your reasons for having the bill filed in Ohio were because the courts East had passed upon it?—A. That was one reason; and another was we considered we would get an impartial tribunal there; a forum which would be perfectly fair.

Q. Who would be the judge to sit in the circuit court there?—A. He has died recently.

Q. Who would have been, if he had not died?—A. Judge Baxter; he was the circuit judge.

Q. Wouldn't he have been the same man that would have sat in East Tennessee, too, in that district?—A. I think his circuit was composed of Tennessee, Kentucky, Michigan, and Ohio.

Q. So that you brought the new bill in a circuit where you would have had the same circuit judge that you would have had if the original suit had gone on?—A. Yes, sir; but I know nothing against that judge—

Q. I haven't asked you anything against him yet. If there is anything on that point I will come to it by and by. Didn't you know that in the Massachusetts district, Judge Colt, the circuit judge there now, and Judge Nelson had never tried a patent case involved in this litigation?—A. I did not know what judges had tried the

case. I understood that a patent case had been tried in the courts there, but I did not know before what judge.

Q. Did you stop to inquire whether Judge Colt and Judge Nelson, the circuit and the district judges, had either of them tried a patent case?—A. No, sir; I have no reason to say that either of those judges would not have been perfectly impartial; none in the world. That was not the reason that kept us from going to Boston.

Q. Was not one of the reasons why you determined to go to Columbus, Ohio, as a place for filing that bill, that you could have Judge Baxter sit in the case?—A. No, sir; that was not the reason, because the court would be held by Judge Baxter and Judge Sage. One reason was that we thought, from circumstances that came to our knowledge, that we could get jurisdiction better there perhaps than in some other place on account of some local facts.

Q. Why in the southern district more than in the northern district of Ohio?—A. On account of the presence of these companies there doing business on behalf of the Bell Company.

Q. Then the fact that you would have Judge Baxter there had nothing to do with it?—A. That did not influence me. We conferred about this matter. I did not know Judge Baxter. I knew nothing against him and I knew nothing specially in his favor in trying such a suit as this. I understood that he and Judge Sage would hold court, and that Justice Matthews, of the Supreme Court, would be the Supreme Court judge who would belong to that circuit, and in all probability the court would be held by Mr. Justice Matthews and Judges Baxter and Sage.

Q. When you brought the last suit you had discovered the whole connection of this Pan-Electric Company with it—these gentlemen?—A. Yes, sir; I had heard a great deal of it before the last suit was brought. But I want to say that we considered various places. I do not know everything that entered into the discussion, and there were some reasons why we did not think it proper to go to Memphis, although that was urged. We did not want to have the appearance of having a revival of the old suit. We wanted it to be in fact and in name a suit in behalf of the Government.

Q. But didn't you know—you say you wanted to avoid having that name—didn't you know or hadn't you heard or seen it stated that one of the reasons why they wanted that Government suit brought there was because Judge Baxter was what they called a "patent smasher"?—A. That was never said to me. The only reason ever urged that we should go to Memphis was, they knew the fact that we could get jurisdiction there on account of there being a local company.

Q. Before this bill was filed, hadn't you heard it said and claimed by the papers that these Pan-Electric people were desirous of getting into a circuit where Judge Baxter would sit?—A. No, I have seen that stated since; I did not hear it before. I understand it had been charged in the papers that that was the purpose, but I never heard the suggestion made.

Q. You never heard that he had the reputation of being a man hostile to all corporations?—A. I never heard that until the suit was ordered.

Q. That he was notoriously so?—A. On the contrary I think he was spoken highly of by the gentlemen present. Judge Thurman spoke of him in high terms, as a sound and able judge and a man of good character.

Q. You never heard of such a representation or charge?—A. Never until subsequently. I understand it has been in some of the New York papers since.

Q. But you never heard of it?—A. Never before.

Q. I want to go back to another thing. Do I understand you that in authorizing that suit in Memphis the counsel were not to charge anything for their services, but that the Government was to bear all the other expenses, or that the Government was to be protected against all expenses?—A. I understood that the Government was to bear the ordinary court expenses of the suit.

Q. And the taking of the testimony?—A. Yes, sir.

Q. The Government was to bear all that?—A. That was my understanding.

Q. Didn't you understand that the Government was not to be subjected to any expense, for the taking of testimony or otherwise?—A. No, sir.

Q. Wasn't there any such contract?—A. No, sir; I supposed the expense was to be borne by the Government.

Q. I understand there are some letters on that subject. Am I in error. Let me turn to Mr. McCorry's letter and see. I read from page 5 of the Interior Department record, where it says: "I am assured that the parties specially pressing this matter will, if required, save the Government harmless against expense."—A. What else does he say?

Q. "But I do not think it proper to require such of them farther than the payment of fees to the counsel whom they desire associated with me in the case."—A. That is my understanding.

Q. I want to put one question to you. You did have it brought to your attention in that communication that there were parties specially pressing that matter?—A. Yes, sir; that says so, but I didn't understand that they appeared in that suit.

Q. You mean those named in the memorial; you took that to refer to the memorial?
—A. Yes, sir; to refer to the memorial. I did not understand that those gentlemen were to be in any sense counsel for the Government, but I did suppose this, that the ordinary court expenses would be paid by the Government.

Q. I want to put this question further than that—not to go into this patent-right business fully, for I have a general knowledge of it such as I gather from this record only. Have you examined and read the evidence in the case as presented before the Secretary of the Interior?—A. I have not.

Q. This case was referred by you, ultimately, to the Secretary of the Interior?—A. Yes, sir.

Q. I understand you that after the first suit had been dismissed—which was done by order of the President, was it?—A. It was done by my order, but at his suggestion.

Q. You did not want it done?—A. I had no objection to it; the correspondence speaks for itself.

Q. After that had been done, I understand the same application was renewed, was it not, to you?—A. Yes, sir.

Q. The same application from Mr. McCorry, the same affidavits, and then by whose order was it referred to the Secretary of the Interior?—A. By mine.

Q. By whose direction?—A. None.

Q. Did you have any more information when you referred that than when you referred the other?—A. I had a suggestion from the President. He thought under all the circumstances it would be better to send the case there for report.

Q. You didn't do it for your own information, but only on the suggestion of the President?—A. Only at his suggestion. If you have read the correspondence you will see it. If you will allow me, I will read what passed. Before you pass from that I would like to have the committee know exactly how this thing was done.

Mr. RANNEY. Don't read it from the newspaper; give us a certified copy.

The CHAIRMAN. If the witness says that the newspaper contains a true copy, it will be sufficient. I have not been very particular about inquiring for the originals. If he is satisfied that that is a correct copy it will do.

Mr. RANNEY. Be kind enough to let me see that. I want only to be sure it is correct.

The WITNESS. (Handing a copy of the Sunday Gazette to Mr. Ranney.) I know that to be a correct copy. It contains the statement of the Attorney-General about his relation to the matter, and the correspondence between the President and myself.

Mr. RANNEY. This is the communication of the Attorney-General to the President of October 8, 1885, the President's letter to yourself, and your answer in reply?—A. Yes, sir; I know this is a correct copy.

The letters are as follows:

Letter of Attorney-General Garland to the President.

DEPARTMENT OF JUSTICE,
Washington, D. C., October 8, 1885.

The PRESIDENT:

SIR: On my return the 1st of this month from a visit to my home you called my attention to what was being said in reference to the granting of the use of the name of the United States by the Solicitor-General, in my absence, to test the validity of the Bell Telephone patent. I stated to you then that all I knew about it was contained in the telegram to the Times-Democrat of New Orleans, on the 27th of last September, from Little Rock, which telegram will be hereinafter alluded to. Since my return to my post of duty a great deal more has been said in reference to it in the public prints and in other ways, and it has assumed a general importance in the country. So much so that I deemed it my duty, upon my own motion, to bring the matter fully to the attention of yourself and the Cabinet at this morning's session, which I did, and explained my attitude in the case, as I understand it, fully. On further reflection, I think it best for me to put this statement in writing, so that you may have it for whatever use you wish to make of it and for the benefit of all concerned, and I now proceed to do so.

About three years ago I, with some six or seven other gentlemen, entered into an organization known as the Pan-Electric Company, based upon what was called the Rogers invention. We formed that company in good faith and started it in its operations, and have gone on from time to time with it, as companies have generally been conducted. In selecting the officers of that company I was made its attorney. The organization was a legitimate and legal one, and one into which each one of its members had a perfect right to enter, and formed at a time when there was not any particular probability that I would ever be called upon to fill the office of Attorney-General of the United States. Some time last summer, I do not recollect the precise day, several gentlemen approached me, stating that they desired to make applica-

tion in the name of this company, of which I was a stockholder and attorney, for the use of the name of the United States to test the validity of the Bell Telephone patents in the courts. Those gentlemen were Mr. Casey Young, Col. George W. Gantt, Mr. Van Benthuyzen, and one other gentleman whose name I do not recollect.

I told the gentlemen that I could not consider the matter, and being asked by one of them why, I stated that I was disabled because of being a stockholder and the attorney of the company in whose name it was intended to make the application. Several questions were propounded to me as to the manner and mode of proceeding in such matters, which I declined to answer, stating that I was disabled from considering the subject-matter at all. I could not answer these questions, and this response seemed to be satisfactory to the gentlemen present. They retired from my office, and never made any further effort towards an application to me, and I would state that in the interview alluded to they did not exhibit any application to me or say that they were then ready to make it, but that they desired to make it. Whether they wished to make it then or at some future time, I did not know.

I heard no more of the matter in any shape. I left here on the 27th of August for a visit of recreation to my home in Arkansas without ever speaking to the Solicitor-General or any one else in the office about the matter. And the next thing upon this subject that came to my attention was a telegram kindly sent me by the Times-Democrat, of New Orleans, already referred to, to which I replied from Little Rock that I did not know the use of the name of the United States had been granted, and that I had not granted any such use. This is all of my connection with the matter by commission or omission. After the interview with the gentlemen already spoken of I supposed that they would come to me with an application, after the statement I had made, to either refer the matter to the Solicitor-General or to present it to you, as the legal head of the executive departments of the Government, for your consideration. Such was not done, but an application was made to the Solicitor-General direct, and he granted the request. Upon this state of facts there is a great deal of misapprehension existing as to my true and proper relation as Attorney-General to this whole subject, and I think I can correct that.

The Solicitor-General, under the law creating that office, is not the deputy or agent of the Attorney-General. He is the officer of the law, and acts as such by virtue of a commission from the people through the President and not under the authority of the Attorney-General, in those matters that come before him in the absence or in the case of the disability of the Attorney-General to act. The latter part of section 347 of Revised Statutes says:

"In case of vacancy in the office of Attorney-General, or of his absence or disability, the Solicitor-General shall have power to exercise all the duties of that office."

The disability here is not limited to the one of physical ability to perform the duties, but has reference to and includes that as well as mental incapacity, or incapacity on account of interest in the subject-matter, and the section would properly read, "or of his absence, or, being present, incapacitated to act." And in cases coming within this statement the Solicitor-General acts for himself. He is not responsible to the Attorney-General, and the Attorney-General can exercise no control over his discretion. So, in the case presented, being disabled or disqualified from acting, I, as Attorney-General, simply "sat out," as it were, as the reports show that a justice of the Supreme Court and of other court does when he has previous to coming on the bench or otherwise been connected with a case before the court. This independent character of the Solicitor-General in matters of this sort makes him even a Cabinet officer in the absence of the Attorney-General (see Eames on United States Executive Departments, section 988); and this Department has plenty of evidence of the former Solicitor-General's acting in the Cabinet councils in the absence of the Attorney-General; so that when it came to me that the Pan-Electric Telephone Company wanted to use the name of the United States to test the validity of the Bell telephone patent, I, being disabled to act upon it as hereinbefore stated, the Solicitor-General was the proper person to act whether I referred the matter to him or whether I left the parties (as I did) to seek him or any other remedy as best they could. The fact of my absence is of no moment to this inquiry, because if I was disabled to act and here at the Department of Justice in person the Solicitor-General could act. This appears very plain from the reading of the statutes and from the very character of the organization of the Department of Justice, as it is now called; but, aside from all this, there are plenty of precedents in the Department to enforce this view.

In the matter of the Rancho Guadalupe claim in California, Solicitor-General Phillips gave an opinion to the Interior Department, and at the bottom of that opinion is this note:

"The Attorney-General, Mr. William, having been consulted in regard to the above case before his appointment to office, referred the communication of the Secretary of the Interior to the Solicitor-General on the 4th of January, 1878, to answer the questions propounded therein, and took no further action in the matter." (14 Opins., Attorney-General, p. 606.)

Following immediately on in the same volume, in the matter of the central branch of the Union Pacific Railway, is an opinion by the Solicitor-General, Mr. Phillips, with a note attached:

"The Attorney-General, previous to his appointment to office, had been employed as counsel in the above case for the railroad company, and for that reason took no official action therein further than to refer the matter to the Solicitor-General, with a request to answer the questions submitted by the Secretary of the Interior." (Ibid. 607.)

It may be noted here that in this case of the railroad company, as in the case of Pan-Electric Company, the disability or disqualification was on account of having been employed as counsel. Mr. Williams was counsel for the railroad company, and felt that he was disqualified from considering the questions submitted, and I, as counsel for the Pan-Electric Telephone Company, previous to my appointment to office, felt that I could not consider the application or the offer to make an application to me in its behalf.

In the extradition case of Lawrence (15 Opinion, 515), Solicitor-General Phillips gives an opinion, and a note is attached that Mr. Pierrepont, the then Attorney-General, had been consulted previous to his appointment, in behalf of the petition, and he took no part in the consideration of the subject. In the same volume, page 557, in the matter of the ocean-mail service, Solicitor-General Phillips delivers an opinion to the Postmaster-General, and we find a note to it as follows:

"The Attorney-General, having been counsel for the Pacific Mail Steamship Company, declined to take any part in the consideration and decision of the case above stated."

The action here noted of the Attorney-General is precisely what I took in the matter of the offer to make an application on behalf of the Pan-Electric Telephone Company. Further on in the same volume, page 559, in the matter of the contract for the Ocean Mail Service, Solicitor General Phillips delivered another opinion with exactly the same sort of note at the bottom. These are but a few of the many precedents afforded by this Department, and it is not necessary to worry you with any more.

The case, to my mind, is perfectly clear that I had no authority then to consider it; my disability still exists, and if everything else were removed—if I had given away or sold my stock, or had ceased by direct order to be attorney for the company—the simple fact that I had once been counsel or had been consulted in the interest of the company offering to make the application, would disable, or disqualify, or incapacitate me from acting in the premises, and I took, as I thought, the most prudent course, to have nothing to do with it. And I am still, as the head of this Department, the Attorney-General, for these reasons disabled from interfering with it. The only course for me then was not to touch it, and it is the same thing now.

In answering to the question propounded to me at the Cabinet meeting by yourself and others, as to the course of procedure governing such matters, I wish to say that there is a custom in this Department—not any fixed, adopted rule, but a practice—to have these questions all referred, before they are finally passed upon here, to the Department from which the original transaction emanates. There have been a few applications to me since I have been Attorney-General for the use of the name of the United States to test patents for lands as well as patents for inventions, and I have had them in each case referred to the Department from which the particular patent issued for information and suggestions before I acted upon them finally here. Not that any suggestion or advice from that Department would be binding or conclusive upon this, but for the sake of a more harmonious and regular administration of the affairs of the executive department is this custom or practice observed. I do not say that action could not be had by this Department independent of this course, but in the few cases that have been before me I have followed this precedent, and within the last four days I have done the same in an application for the use of the name of the United States to test a patent for an invention.

Very respectfully, your obedient servant,

A. H. GARLAND,
Attorney-General.

Letter of the President to Solicitor-General Goode.

EXECUTIVE MANSION,
Washington, October 8, 1885.

Hon. JOHN GOODE, *Solicitor-General*:

MY DEAR SIR: I submit to you with this a statement made by Attorney-General, explaining his relation (or, rather, want of relation) to the action by you, in his absence, upon an application to bring, in the name of the United States, a suit to test the validity of a patent held by the Bell Telephone Company.

I call your attention especially to the latter part of this statement, in which the Attorney-General speaks of the usual procedure, in the Department of Justice, upon such applications. The reference to the Interior Department, which he mentions as an ordinary feature in that procedure, seems to have been dispensed with in your treatment of this application. This omission may have been the result of a lack of familiarity with the routine in such cases, or of a perfectly clear and satisfactory persuasion of what should be done, derived from the documents presented to you.

Whatever the cause may be, and while such reference is not vital, of course, to the validity of your action, and though I am by no means prepared to question the correctness of the exercise of your discretion in the matter, still the precedent calling for a reference to the Department with which the matter is connected is so well established, and seems to me so well founded upon considerations of safety as well as propriety, that I desire to suggest for your reflection the proposition whether such action on your part as will preserve and protect such precedent and custom could not well be taken.

Yours, very truly,

GROVER CLEVELAND.

Letter of Solicitor-General Goode to the President.

DEPARTMENT OF JUSTICE,
Washington, October 9, 1885.

The PRESIDENT:

SIR: I have the honor to acknowledge the receipt of yours of the 8th instant, submitting a statement made by the Attorney-General with reference to the action by myself in his absence upon an application to bring, in the name of the United States, a suit to test the validity of a patent held by the Bell Telephone Company. It is true it has been a practice of this Department to refer similar applications to the Interior Department for information and suggestion before final action has been taken. It is also true that as acting Attorney-General I granted the application in this instance without making the usual reference to the Interior Department. This omission was not the result of a lack of familiarity with the routine in such cases, but of a satisfactory persuasion derived entirely from the papers presented to me as to what was right and proper to be done in the premises.

In addition to the affidavits which accompanied the letter of the district attorney, who made application for permission to use the name of the United States in bringing the suit, he transmitted an attested copy of all the writings filed in the Patent Office and the proceedings had thereupon, which resulted in the issue and delivery of the letters patent to Mr. Bell. After a careful examination of these certificates, which appeared to be duly authenticated, I came to the conclusion that all the necessary information had already been furnished by the Patent Office, and, inasmuch as the question presented by the papers for my consideration was a legal one exclusively, I did not deem it advisable to refer the application to the Interior Department for suggestions.

But, concurring with you as to the propriety of the practice which has been generally adopted in such matters by this Department heretofore, and being unwilling to take any action which may be regarded as a departure from a wise and safe precedent, I consider it best, perhaps, under all the circumstances, to revoke the permission which has been granted to bring the suit referred to. Accordingly I have written by to-day's mail to H. W. McCorry, esq., United States attorney of the western district of Tennessee, directing him to discontinue the suit which he was instructed to institute in the name of the United States, for the purpose of vacating and annulling the letters patent issued to Alexander Graham Bell, on the 7th day of March, 1876, and numbered 174,465.

Very respectfully, your obedient servant,

JOHN GOODE,
Solicitor-General.

Mr. RANNEY. We are all familiar with those.

Mr. OATES. Has the letter of the Attorney-General been put in evidence yet?

Mr. RANNEY. No, it has not.

Mr. OATES. It would be well for it to go in right there.

Mr. RANNEY. It is the letter of the Attorney-General of October 8, 1885.

Mr. OATES. We had better get that in first; these two go in right after it.

Mr. RANNEY. Yes, they should go in in that order. I want to compare this afterwards as it is printed in a newspaper. (To the witness.) I want the official letter of the Secretary of the Interior, Mr. Lamar, addressed to you after the investigation, that one letter.

The WITNESS. I have here the original, and I can give you a printed copy.

Mr. RANNEY. If you can do so, I do not want to take the original.

The WITNESS. I brought both along.

Mr. RANNEY. If you have a certified copy, we will take that without stopping to read it, and put it right in here.

The WITNESS. It is a printed copy, but I will have this copy certified. This is a correct copy. That is simply his opinion. I have also the opinion of Mr. Jenks, the Assistant Secretary.

Mr. RANNEY. The official one of Mr. Lamar is the one I want.

The WITNESS. That is the official one.

Mr. RANNEY. That I put in.

Letter of Hon. L. Q. C. Lamar, Secretary of the Interior, to Hon. John Goode, Acting Attorney-General.

DEPARTMENT OF THE INTERIOR,
Washington, January 14, 1886.

SIR: I have had under consideration the papers referred to me from the Department of Justice, touching the Bell telephone patents. Desiring to be as fully advised as possible, I have called to my aid the assistant secretaries of the Department and the Commissioner of Patents. In furtherance of the same desire I have invited the parties who filed their petitions with you, and also the parties interested in the patent which is assailed, to appear before me with such proofs and arguments as they might desire to submit.

A voluminous record and a prolonged and exhaustive discussion resulted. This record, embracing all the papers sent to me from your Department, and also the printed arguments of counsel, I transmit herewith.

The petitioners, upon the grounds and for the reasons set forth in their petitions, ask the Department of Justice to cause or allow appropriate legal proceedings to be instituted in the proper court by the Government, or in the name of the Government, on their relation, to vacate and annul the Bell telephone patent of the 7th of March, 1876, in the petitions specified.

You have asked me to communicate any information on the subject to be gathered from the files of this Department, and to suggest generally my views as to the action which should be taken by your Department in the premises. As the Patent Office appertains to this Department, I have been especially desirous to understand fully all that is alleged as ground for relief in these petitions in regard to what was done in that office; and I believe I can assure you that all the information on that subject to be gathered from the files of the office is embodied in the record herewith transmitted. I also send you the views of the Commissioner and of Assistant Secretaries Muldrow and Jenks, respectively.

In order to know what suggestions I should make as to the action of your Department upon these petitions, I have heard the oral presentations of the case, and considered it again upon the proof and the able arguments of counsel as they appear in print. I thought that my own consideration should be directed to two questions, and to meet these questions I requested that the argument of counsel should be shaped. They are:

First. Has the Government the right to institute such a suit for such a purpose?

Second. If it has such right, should the proceedings invited in the respective petitions, or either of them, be instituted?

The first of these questions, especially within the cognizance of your Department as it is, has the affirmative answer of numerous precedents in that Department, and has received a like affirmative answer from the courts of the United States. If it had not been thus authoritatively settled I should, on principle, have reached the same conclusion. The Government is asked to institute judicial inquiry as to the patent of the Bell Telephone Company, upon the allegation that such patent was obtained by the fraud of the patentee with the collusion or by the inadvertence and mistake of the executive officers of the Government. If these allegations be true a great wrong to the whole people rests in the name and is sustained by the power of the United States. To say that the Government inflicts the wrong would seem to imply that somewhere among its resources the Government would have the power to redress it. The argument against the prayer of the petitioners does not controvert this, but rests upon the theory that the Government has provided a remedy which excludes all other modes, and therefore precludes further governmental action. By a review of the patent acts of Congress it is sought to be shown that under the law of 1790, somewhat modified in 1793, the citizen was allowed to avail himself of all legal objections to the patent in defense of infringement suits, and under certain circumstances the court was allowed to institute by *scire facias* an inquiry into the validity of patents, and, upon cause found, to vacate them. By the act of 1836, which is the only other legislation material to this inquiry, it is claimed that the patent

law was changed by the establishment of a Patent Office charged with the duty of investigating the claims of applicants, and clothed with the power (formerly exercised by any two Cabinet officers) to issue patents, and that from this law the *scire facias* section and so much of the defense section as allowed the court to vacate a defeated patent were omitted. Hence it is argued that by the act of 1836 all power to vacate a patent was surrendered, and all remedy, when a patent had wrongfully issued, was limited to a reliance upon the faults or vices of the patent in defense of actions for infringement. Without the aid of decisions made by the courts it would seem to be apparent that the only office of these legislative changes, made in 1836, was to deprive the courts of the power to vacate patents as an incident to private suits or as a part of the judicial determination of private controversies. The power of the Government to vacate patents wrongfully issued under its seal was affirmed in the very act of intrusting its exercise to the courts in private litigation. The logical inference from the revocation of that trust is *not* a total surrender or abnegation of the power, but the intention to *keep it* under immediate governmental control. The existence of the power implies the possible occasion for its exercise. The legislation which allowed the courts to exercise it defines what circumstances in the view of Congress would make the occasion; and the changes made by the law of 1836 only seem to indicate that the existence of the occasion shall be brought to the notice of the proper Department of the Government, and the exercise of the power invoked.

Surely, if the power to vacate a patent wrongfully issued exists at all, there need not be a statute to provide a mode of its exercise when a mode exists without a statute. A patent for land may, for good cause, in a proper case, be vacated at the suit of the Government without a statute; there is no difference as to the principles here involved between a patent for land and a patent for an invention. The public domain is held by the Government as part of its trust. The Government is charged with the duty, and clothed with the power, to protect it from trespass; and under certain circumstances to invest the individual by its patent with the sole possession of the title and rights before appertaining to all as the beneficiaries in the trust. If two patents for the same land should issue to different individuals, at least one of them would be wrongful. In such case the title having rightfully passed to one, it may very properly be left to the individuals to settle by private litigation the question of right in which they alone are interested. One of the patents must be void, and the establishment in court of the validity of one must of necessity settle, finally, the character of the other. If it should come to the knowledge of the Department that a patent has been fraudulently obtained, and the fraudulent patent is the only one issued for that land, then, when of sufficient public importance, there would be an occasion which would make it the duty of the Government to exercise its right to have the patent vacated, because private litigation cannot arise, and because the rights of all the people would be involved, without other mode of redress.

The inventor is the sole owner of his invention, but to publish it by use or otherwise is to give it to the world. The rights which would then accrue to the whole people from such publication are confided as a part of the general trust to the Government, with the power, by its patent, to create for the inventor a monopoly in the use of his invention. This patent, just as does the patent to the land, shuts out all the world, except the patentee, from the use and enjoyment of the subject of the patent. If two patents issue for the same invention, one is certainly wrongful. If the other is rightful the whole interest in the question as to which is rightful is confined to the two patentees, and private litigation will secure the needed remedy in determining who has the right to the patent as between rival claimants.

If, however, there is only one patent, and it has been fraudulently obtained to the exclusion of the person really entitled to be patentee, or if a patent has issued for something not patentable—an invention already belonging to the world—it becomes the duty as well as the right of the Government, when of sufficient public importance, to actively seek its cancellation, because private litigation is not a possible or adequate remedy, and because the whole people are wronged without other mode of redress.

Under our Government a trust can never fail for want of a trustee, nor can fraud, mistake, or accident in business transactions escape investigation for want of a tribunal while the court of equity is maintained. Representing the sovereign in his person in the mother country, that court also represents the sovereignty here in a sense and relation of nearness which no other representative can claim. All the other agents are recognized as amenable to judgment upon the strict letter of their commissions and acting at the peril of having their action disapproved and set aside. But a court of equity, specially adapted in jurisdiction and methods to supplement statutory jurisprudence, is the depository of the reserved or not expressly delegated judicial power; it especially has the inherent jurisdiction to cancel and vacate what exists as the creation of fraud, accident, or mistake, and to faithfully apply the remedy for a maladministered trust.

If a patent ought to be vacated it can always be vacated there. But the patent

bears the great seal of the Government, and only the Government, even there, can ask to have the seal torn off.

My second inquiry was as to whether, the right of the Government existing, the proceedings invited by these petitions, or by either of them, ought to be instituted.

The grounds of invalidity alleged against the Bell telephone patent may be substantially summarized thus:

First. The patent was procured by the fraud of the patentee through the collusion or mistake of the officers of the Patent Office, and in violation of the rights of a caveator named Elisha Gray.

Second. The invention patented was not patentable, because already public. Referring to what I have said under the other head of inquiry, it is apparent that these allegations describe the occasions in which the Government, upon my view, ought to actively interfere for the cancellation of a patent.

It is manifest that a decision upon the merits of the controversy, as to the validity of the patent, is not embraced within the terms of your request. The issue before me lies outside of the ultimate merits of the case as a subject of judicial investigation. As to what the final judgment should be I have not felt called upon to form, and if I had formed I would not express, an opinion.

The question is whether enough has been shown upon the hearing to require the submission of the matter to the court at the instance of the Government.

The proof adduced in support and defense is very voluminous, and very conflicting in many respects. It involves great scientific research and detail, and perhaps some intricate legal questions. The allegations and the evidence touching the circumstances attending the issue of the patent are of such a nature and have such a support as to render it, in my opinion, improper to ignore or dismiss them.

Such a case is presented as I think ought to undergo thorough judicial investigation. It appears that many suits have been pending and many are now pending between the corporation claiming this patent and others that assail it. In none of these cases has there been, or can there be, as I think, such thorough investigation and full adjudication as to the alleged frauds or mistakes occurring in the Patent Office in the issuance of the patent as could be had in a proceeding instituted and carried on by the Government itself. In a case involving such questions it seems to me especially imperative upon the Government, as duty to its own officers, to vindicate or condemn, and duty to the people, to set on foot and follow up a complete investigation.

In my opinion the proceeding should be in the name of and wholly by the Government, not on the relation or for the benefit of all or any of the petitioners, but in the interest of the Government and the people, and wholly at the expense and under the conduct and control of the Government. I think it should be instituted at such point and in such court as will best subserve the purposes of public convenience and full inquiry.

Such a proceeding, so conducted, will, as I think, comport with the dignity of the Government and the gravity of the subject, and will insure a final and just adjudication of the merits of the controversy.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

Hon. JOHN GOODE,
*Acting Attorney-General,
Department of Justice.*

Mr. RANNEY (to the witness). Have you the record of that case before the Secretary of the Interior?

The WITNESS. It is at the Department, but I have never looked at it.

Q. Have you ever read any of the evidence or record before the Department of the Interior which preceded this letter of Mr. Lamar's?—A. No, sir; all the testimony taken was transmitted, but I have been occupied since and I have not read it, because I had made up my mind what should be done, and he advised what I had already done.

Q. You have never then, since you gave your original order for the suit, investigated the record of the evidence?—A. No, sir; I have not. I read the opinion of the Secretary and the opinion of his assistants.

Q. So that the second hearing before the Department of the Interior was simply upon the original applications made to you, renewed, which were referred to the Secretary of the Interior; then hearings were held, then Mr. Lamar makes this decision, and upon that you proceed with a new suit?—A. Yes, sir.

Q. And it is entirely under your control?—A. Yes, sir.

Q. You have already stated that you have not looked at the evidence in that case; you have stated what examination you made of it?—A. I found that after a most careful hearing down there, occupying probably ten days, he had come to the same conclusion I had, and I did not feel called upon to read all the testimony there. I read his opinion and the opinion of his assistants.

Mr. OATES. Have you the opinion of the assistants also here?

The WITNESS. I have the opinion of Mr. Jenks here. I have not the other two, but will furnish them.

Mr. EDEN. Does the Commissioner of Patents give an opinion also?

The WITNESS. Yes, sir.

By Mr. RANNEY:

Q. An official one that came to you with Mr. Lamar's?—A. Yes, sir; the others came along as a matter of interest, I suppose, but I acted upon the official opinion of the Secretary of the Interior.

Q. And that is the only official one you had?—A. Yes, sir.

By Mr. MILLARD:

Q. Is this the opinion? [Indicating to the witness.]—A. Yes, sir.

By Mr. RANNEY:

Q. I want to go back to the 2d of September. Senator Harris and Colonel Young came in to see you together?—A. Yes, sir.

Q. And they were both in the next day?—A. Yes, sir.

Q. You knew that Senator Harris was a Senator?—A. Yes, sir.

Q. And you knew that Casey Young was from Memphis, did you not?—A. Yes, sir.

Q. Did you not think Casey Young was there when Mr. McCorry had sent his communication, and had come right on to see about it?—A. Only in this way. Colonel Young said (when he asked if I had received it, and I told him that I had not), that he was a little surprised at that, because he knew it had been mailed.

Q. Did you ask him what interest he had in it?—A. I did not. We did not talk two minutes.

Q. And Senator Harris came in and asked about it?—A. Yes, sir; he had a paper in his hand, either a telegram or a letter.

Q. Did it occur to you to ask Senator Harris what he had to do with it, what interest he had, or if he had any?—A. Not at all; but the impression that he made upon me was that he came in a representative capacity. I did not ask him any questions. He asked me if I had received such a paper, and I told him I had not.

Q. By their activity in the matter didn't you suppose they were anxious to have it done?—A. I supposed they had some interest in it, but I did not consider that. The truth is we have a great deal of work to do there, and I have not time to devote all day to one matter.

Q. You say you supposed they had some interest in it; you inferred they wanted it done, didn't you?—A. That was the presumption. I had no argument with them. They only asked me if a communication had come, and I said it had not, and touched the bell and made inquiry, and the clerk said it had not been received, and not long afterwards he said it was received.

Q. Although you inferred they had some interest in it, you never inquired what it was?—A. No, sir; I did not. I did not give much thought to it. As a lawyer you can understand that when people come to inquire about such matters and you are occupied, you do not pay much attention to them.

By the CHAIRMAN:

Q. Do you say that you inferred that they had some interest in it?—A. I presumed they were interested in some way to know whether the paper had been received, simply from the fact of their seeking to inquire.

By Mr. RANNEY:

Q. You inferred that they wanted the application granted, did you not?—A. I suppose I did; yes, sir. They did not say so; they did not present any reason why it should be granted, but I supposed they would not be apt to come there unless they had some wish on the subject.

Q. You inferred then by granting it you were gratifying them, I suppose?—A. I did not consider that a moment; not a moment, sir.

Q. You at that time were Solicitor-General. How long had you held that office?—A. I had been in office since the 4th of May.

Q. Attorney-General Garland had been confirmed, then?—A. Yes, sir; he was confirmed promptly.

Q. You had not been?—A. No, sir; and I have not been yet.

Q. You knew that Senator Harris was a Senator?—A. Yes, sir; I knew he was a Senator. I knew him while I was in the House here. We met as Senators and Representatives meet, occasionally; but I do not think I ever met Senator Harris half a dozen times in my life. I have no special acquaintance with him. I served with him once on a committee. He was a member of the Senate Committee, and I a member of the House committee. It was a joint committee, and we had some discussion of the matter before the committee.

Q. Do you know whether he had anything to do with recommending you for appointment?—A. I am sure that he had not. I might say in that connection that I was recommended by the Attorney-General at the instance of the entire Virginia delegation in Congress, the Democratic members, some forty or fifty gentlemen with whom I served in the Forty-fourth, Forty-fifth, and Forty-sixth Congresses, and nearly the entire bar in Virginia, many members of the courts—

Q. I do not care who did do it, but I want to know if these people did it?—A. Well, I want to show that Mr. Garland had good reason for the recommendation that he made to the President. Mr. Garland was not doing me any personal favor in recommending me to the President. It was asked for in the name of the State of Virginia by our representative men.

Q. You need not have answered who did it; I simply asked you whether certain men did?—A. I am very sure that Senator Harris, General Johnston, Mr. Atkins, or anybody else connected with the telephone suit never asked my appointment.

Q. Before these official papers were put in, you had had interviews with Mr. Garland, hadn't you, about it; you had had talk with Mr. Garland before these communications you have taken out of the newspaper were made?—A. Never; oh, I did confer with him when he came back from his summer vacation. I had seen attacks made on him in the public press, and I called upon him and said to him that if any mistake had been made, I had made it, and was desirous of assuming the entire responsibility; and I went from him to the President and told the President the same thing. That much was due to Mr. Garland; it was due from man to man. I assure you that Mr. Garland had no more to do with the institution of this suit than any member of this committee had.

Q. I did not ask that. It was simply whether this correspondence that you put in between the President and yourself was written before you had any interviews with each other, or is the result of it. I did not ask what the interviews were.—A. After receiving the letter from the President, I sat down and wrote my reply without consultation with any human being. I consulted nobody about it.

Q. Hadn't you seen the President personally about it?—A. Yes, sir.

Q. How many interviews had you had with him since Mr. Garland got back?—A. I had had one interview with him before that. When Mr. Garland came back I saw him and stated what I told you. I went on my own motion to the President and said the same thing to him that I did to Mr. Garland, and at a subsequent interview the President called my attention to this statement of Mr. Garland's that is in that paper, and we had some talk about it, and he addressed to me this note and I replied to it.

Q. You have been asked by the chairman about the expenses that you are incurring for the Government in the prosecution of this suit. Have you got those contracts he referred to?—A. Yes, sir.

Q. I won't go over them in detail. If you will give us copies of them we will put them in.—A. Here they are. Here is the contract with Mr. Whitman for \$3,000.

Q. You need not go over that again; you have stated that before.—A. I desire to state something in addition. Here is a copy of the commission to Mr. C. S. Whitman stipulating his compensation. Here is a copy of the commission to Messrs. Hunton and Chandler stipulating their compensation, a letter from Mr. Lowrey stating his terms, which I have accepted, and the commission stating the compensation to Judge Thurman. In addition to that I did not state yesterday what I will state now; that I have employed Professor Brackett, of Princeton College, New Jersey, as an expert electrician, at a retainer of \$250, and a per diem of \$40 when engaged in giving expert testimony in this suit. I have also employed a gentleman named Charles P. Young, a stenographer, to do the work at New York and vicinity whenever we get ready to take testimony and need the services of a stenographer, and the terms of his employment are stated in his letter. Those are all the contracts entered into, and I deem them to be necessary and reasonable. As something has been said about expenses, let me say here that no unnecessary expense has been incurred. This is a great suit, and I want it conducted in a manner worthy of such a suit and such a Government, and knowing the power of the opposition we have to contend with, I felt it to be my duty to engage such number of counsel as was necessary, and such character of counsel as was necessary, and I deem the employment of an expert electrician to be necessary. That was done on the recommendation of Mr. Lowrey, who thought that we could not get along in a suit like this without one.

The following are copies of papers presented in this connection

NEW YORK, *March 30, 1886.*

MY DEAR SIR: I now write, in compliance with your request, to state the terms of my professional employment, by you, as counsel to the United States, in the case of the United States versus the American Bell Telephone Company, and others, as substantially agreed upon between us during my first visit to Washington after this employment.

(1) The retaining fee is to be \$1,000.

(2) My charge for services in preparing for that part of the case assigned to me, including consultations with experts, taking or superintending the taking of testimony out of court; in short, for all services out of court prior to trial, will be \$75 per day when the services are rendered in New York, and \$100 per day, with traveling and hotel expenses of myself and clerk, when the services have to be rendered elsewhere.

(3) All expenses for copying, type-writing, or printing, necessary or expedient to be incurred, are also to be paid, not including any salary of the stenographer, whom it will be necessary for me to employ solely in the business of this case for correspondence, &c.

(4) For interlocutory arguments in court, and for participation in the formal trial of the case, counsel fees according to custom will be charged; but as the extent of the service which I may be called upon to perform (there being other counsel in the case) cannot be foreseen, the fixing of compensation therefor is of necessity deferred until after the service is rendered. In case of any difference of opinion in this respect I shall be quite willing to abide the judgment of the Department of Justice.

A day, for the purposes of this letter, is to be understood as including all the time employed in the case on any calendar day not less than five hours. Any less number of hours will be charged for as fractions of a day at that minimum.

I explained to you at our first meeting my reasons for believing that the interests of the case, as well as the economy of managing it, would be served by allowing me a junior associate competent to do many things to which, otherwise, I should be required to give personal time and attention, which could be more profitably devoted to other parts of the work in hand. I understood you to acquiesce, and to say that I should be permitted to provide myself with such assistance when needed, the compensation to be fixed by you. I will notify you whenever it seems to me that it will be to the advantage of the case to employ such further aid.

Your letter of retainer was received February 4, and my acceptance, subject to arrangement of terms, was sent the same day. I began work in the case soon after, but shall make no charge until my arrival in Washington on the 25th of February.

The pressure of duties connected with the beginning of the case prevented me from writing you this letter promptly after our first conversation in Washington about the 25th of February, in which these terms were stated, discussed, and substantially agreed upon. After the suit was begun, and, supposing it to be a matter which could await my leisure, and various things affecting the suit requiring attention, I gave my thoughts to them and the letter was delayed. I was not aware, until my meeting with you on the 21st instant in Washington, that such a letter must be written before I could be constituted counsel in the Government case in the manner requisite for having my bills for services audited and paid.

Trusting that this letter will be found correct as to the statement of the particulars agreed upon between us, I am, very respectfully, your obedient servant.

GROSVENOR P. LOWREY.

Hon. JOHN GOODE,
Solicitor-General, Washington, D. C.

COLLEGE OF NEW JERSEY, DEPARTMENT OF PHYSICS,
Princeton, March 6, 1886

SIR: I have the honor herewith to submit the propositions which I made verbally in the course of our conversation a few days since in Washington.

My retaining fee for expert services in the suit to be brought by the United States against the American Bell Telephone Company is to be \$250. The per diem is to be \$40. Of course, traveling, hotel, and other incidental expenses necessarily incurred are to be in addition.

All investigations and all expenses involved I understand are to be submitted to counsel in charge of the suit, for approval and direction.

Very respectfully, your obedient servant,

C. F. BRACKETT.

Hon. JOHN GOODE,
Solicitor-General United States.

NEW YORK, *March 19, 1886.*

SIR: I beg to make application for the appointment of stenographer in the suits about to be brought by the Government, relating to the Bell telephone patents.

As evidence of my experience and qualifications for the work, I have the honor to inclose a letter addressed to yourself from Mr. D. F. Murphy, the official reporter of

the United States Senate, and also from Hon. L. Q. C. Lamar, Secretary of the Interior. I further inclose printed copy of testimonials heretofore used by me, the originals of which I deem so valuable to myself that, having exhibited them to you, I should be glad to retain them in my possession.

I will do the work for 25 cents per folio of 100 words, and 5 cents per folio for subsequent copies, with the right reserved to me as official reporter to furnish copies to other parties; the Government to pay the reasonable hotel and traveling expenses of myself and assistants. If it should be deemed advisable to appoint me as commissioner to take testimony, which I understand has been of frequent occurrence in such matters with the Department of Justice, then the rate of compensation could take the usual course in such cases—20 cents per folio of 100 words as commissioner, with 10 cents per folio additional as stenographer.

Among the printed testimonials I would especially beg reference to that of ex-Governor Hoadley; and would also respectfully refer to Hon. G. P. Lowrey, one of the counsel, who has known me many years.

Very respectfully, your obedient servant,

CHARLES P. YOUNG.

Hon. JOHN GOODE,
Solicitor-General-Department of Justice.

DEPARTMENT OF JUSTICE,
Washington, March 23, 1886.

CHARLES P. YOUNG, Esq.,
32 Nassau street, New York:

DEAR SIR: Yours of the 19th instant, in which you make application for the appointment of stenographer in the suit relating to the Bell telephone patent, has been received. It is not deemed expedient at this time to select one person to do the entire work which may be needed in different parts of the country. It may be advantageous to the Government hereafter to have the work in different localities done by different individuals. That matter, however, is reserved for future consideration. I will employ you to do all the work necessary to be done as stenographer in the suit referred to at New York and its vicinity, upon the terms proposed in your letter. A large part of the testimony will be taken in New York city and in cities adjacent.

Very respectfully,

JOHN GOODE,
Solicitor-General and Acting Attorney-General in this case.

DEPARTMENT OF JUSTICE,
Washington, March 9, 1886.

SIR: I have the honor to acknowledge the receipt of your communication of the 6th instant, submitting your proposition as to compensation for expert services in the suit to be brought by the United States against the American Bell Telephone Company.

Your proposition is accepted, and you are hereby retained upon the terms proposed.

Very respectfully,

JOHN GOODE,
Solicitor-General.

Prof. C. F. BRACKETT,
College of New Jersey, Princeton, N. J.

DEPARTMENT OF JUSTICE,
Washington, February 1, 1886.

SIR: You are hereby appointed an assistant to the attorney of the United States for the southern district of Ohio, to assist in the suit of the United States against the American Bell Telephone Company and others to test the validity of the Bell telephone patents.

Your compensation will be \$3,000.

Execute the customary oath of office and return the same to this Department at your earliest convenience.

Very respectfully,

JOHN GOODE,
Acting Attorney-General in this case.

CHARLES S. WHITMAN, Esq.,
Washington, D. C.

DEPARTMENT OF JUSTICE,
Washington, February 1, 1886.

Eppa Hunton and Jeff Chandler, attorneys-at-law, doing business under the firm and style of Hunton & Chandler, are hereby appointed assistants to the attorney of the United States for the southern district of Ohio, to assist in the suit of the United States against the American Bell Telephone Company and others to test the validity of the Bell telephone patents. Their compensation will be \$5,000.

They will each execute the customary oath of office and file the same in this Department.

JOHN GOODE,
Acting Attorney-General in this case.

DEPARTMENT OF JUSTICE,
Washington, February 19, 1886.

SIR: You are hereby appointed an assistant to the attorney of the United States for the southern district of Ohio, to assist in the suit of the United States against the American Bell Telephone Company and others to test the validity of the Bell telephone patents.

You will be allowed for your services a retainer of \$1,000 and such further compensation as may hereafter be determined.

Execute the customary oath of office and file the same in this Department.

Very respectfully,

JOHN GOODE,
Acting Attorney-General in this case.

Hon. ALLEN G. THURMAN,
Columbus, Ohio.

DEPARTMENT OF JUSTICE,
Washington, February 4, 1886.

SIR: You are hereby appointed an assistant to the attorney of the United States for the southern district of Ohio, to assist in the suit of the United States against the American Bell Telephone Company and others to test the validity of the Bell telephone patents.

You will be allowed for your services a retainer of \$1,000 and such further compensation as shall hereafter be agreed upon.

Execute the customary oath of office and file the same in this Department.

Very respectfully,

JOHN GOODE,
Acting Attorney-General.

GROSVENOR P. LOWREY, Esq.

Q. Are you through? Mr. Lowrey is to work only five hours a day, I observe, and will receive \$75 a day while at home, and \$100 a day while absent from home?—A. Yes, sir.

Q. And his expenses?—A. Yes, sir; and his expenses. That is, the expenses of traveling and his hotel expenses when away from home.

Q. That is \$20 an hour while he is away and \$15 an hour while he is at home. Then for the amount of work that they do, Mr. Thurman and he are to be paid.

A. Judge Thurman has a retainer of \$1,000, and the balance is subject to future arrangements.

Q. Have you attempted to figure up what the probable expense of prosecuting the suit will be to the Government, if the whole thing is gone into?—A. I have made a rough estimate of it. I do not think it will exceed \$50,000. I am sure it will not be as much as paid to counsel and assistants on the other side.

Q. Have you figured up or tried to ascertain what it cost to fight the six patent suits now that have been tried involving the validity of the Bell telephone patents?—A. No, sir; I know what we have still to pay those gentlemen, and I have formed some estimate of the probable number of days that Mr. Lowry will be engaged. I do not think the expenses will exceed \$50,000, and perhaps not as much as that. That is the best estimate I can make. I think the money well expended to settle that question.

Q. Are you aware that it cost in preparing the Bell and Drawbaugh cases, putting in the evidence for trial, and getting ready for the Supreme Court half a million dollars?—A. No, sir.

Q. Don't you know that was shown to be so before the Secretary of the Interior?—A. No; as I say, I have not read the testimony taken before the Secretary of the Interior. But in my opinion we could not do less than we have done on that subject. I deem those expenses to be necessary.

Q. Have you personally examined the record in the Dolbear suit?—A. I have not.

Q. Have you personally examined the record in the McDonough suit?—A. I have not.

Q. Have you examined the record in the Pennsylvania suit?—A. I have not.

Q. Or in the New Jersey case?—A. I have not.

Q. In any case?—A. I have not. My associates are examining those records now.

Q. I asked you if you had examined them?—A. No, sir; I have not.

Q. I want to know if you have looked into the record of those cases to see how many of them are pending now or about to come up for trial in the Supreme Court?—A. No, sir: that examination is being made by some of the special counsel.

Q. Have you looked to see whether in those suits, and, if so, in which ones, the issues which are presented are to be determined by the Supreme Court?—A. I have not. That work is being done by Mr. Lowry and Mr. Whitman.

Q. Before filing this bill did you examine the record of those cases to see whether in the bill which you present in the name of the Government there is a single issue which is not fully and fairly raised in those cases that the Supreme Court must determine when it decides them?—A. I am informed by my associates—

Q. Have you looked personally?—A. I have not.

Q. I did not ask what your associates did.—A. It is utterly impossible for me to transact the routine business of the Department and represent the Government in the Supreme Court, write three or four briefs a week, and examine the Molecular record, the Dolbear record, and the McDonough record that you have referred to, but it is being done by my associate counsel, as I am informed by them, and they are gentlemen in whom I have confidence.

Q. I do not ask you by whom you were informed.—A. But this suit will be altogether different from any suit ever presented before in this country, and, if I am not greatly mistaken, the sequel will show—

The CHAIRMAN. You had better not disclose your line of procedure.

Mr. RANNEY. I did not ask you that. I want to know if in this suit there is a single issue presented by you not raised in other cases, and evidence taken on it?—A. I think so, positively, but I have no personal knowledge.

Q. What is it?—A. I do not think I am called upon to state that.

The CHAIRMAN. That will be brought out upon the trial. I suggest to the witness that the line of procedure upon the part of the Government ought not to be disclosed.

The WITNESS. I am bearing that in mind, sir. I only say this, that if I am not greatly mistaken, the suit will be a different one from any yet tried. I do not feel disposed to go further than that.

Q. I simply want to know this, without going into the details. I am speaking of suits already instituted in court, and not of secrets not divulged in the papers; I am seeking to find out whether as a matter of fact you have presented here and are presenting any issue which has not already been before the Supreme Court for adjudication?—A. Yes, sir; we are, most undoubtedly.

Q. Do you know what it is?—A. Yes, I do; but I do not feel called upon to state it now.

Q. I speak of issues, not facts.

Mr. MOFFATT. The bill sets forth the grounds.

Q. Have you a copy of the bill?—A. I have not with me.

Q. Will you produce it if you have one?—A. If the committee think it proper I will produce it. There has been a bill filed on the records of the court, and I have no objection to producing it.

Q. It will save us the trouble of sending for it.—A. I will furnish a copy. I will say this, that I have some printed copies and I do not suppose there is any impropriety in giving one to the committee.

The CHAIRMAN. I sent to the district attorney for a copy, but failed to get it.

The WITNESS. I will obtain one for you.

Q. Have you a copy of the bill presented at Memphis?—A. Yes, sir.

Q. I would like one of those also.—A. There is this difference; I will explain—

Q. You need not explain the difference.—A. I do not want to mislead the committee. I have a copy of the bill as filed there, stating when it was filed, but the bill as printed does not contain some exhibits subsequently printed and sent out there.

By Mr. MOFFATT:

Q. You are referring to the last bill, are you?—A. Yes, sir; I am having those exhibits printed, and I will attach them to the printed copy and furnish the committee with a copy.

By Mr. RANNEY:

Q. Did Senator Harris ever call on you at the Attorney-General's Office since you have been there, before the time to which you allude, the 2d of September?—A. I think not.

Q. Hadn't you ever seen him?—A. I am very sure he never called on me before that morning. He may have been in the Department, but he did not come to see me.

Q. Your office is in the same building with the Attorney-General?—A. Yes, sir; my office is just over that of the Attorney-General in the same building. I do not recall ever seeing Senator Harris before that morning.

Q. Has Mr. Young ever been there?—A. No, sir.

Q. You have never seen him in the Department?—A. No; as I say, I was away the whole of the summer. I went away on the 20th of June and came back on the 19th of August. I never saw one of them in the Department before that morning according to my recollection.

Q. I want to put one question to you without having any implication attached to it. I have seen it stated in the newspapers that you had held some stock in one of the telephone companies and had pledged it in a bank at Richmond or Norfolk.—A. Well, that is just like many of the newspaper stories that get afloat. I never held any stock in any telephone company in my life. I never held stock in any company that could possibly be affected by legislation. I had some bank stock at one time in Norfolk, but I never had any telephone stock or stock of any sort that any man might not hold with perfect propriety. Unfortunately, I wish I had more of such stock as I did have, bank stock. I am very glad you asked me that question.

Q. I should not have asked you after what you have said, except that I saw the statement in the papers.—A. I am glad you did, for I desire to put on record the most emphatic denial that I was ever connected in any shape or form with a telephone company or with stock or otherwise.

Q. This Washington telephone embraced Virginia, and I did not know but what you might—A. No, sir; I never did.

Q. You have no certificate or anything of that kind?—A. No, sir; and I am astonished to hear that any such rumor has gone abroad.

Q. It was in the newspaper, and I thought it but fair to you that your attention should be called to it.—A. I am glad you did; I am obliged to you for the opportunity of denying it in the most emphatic terms. I suppose if there is a man in the country who stands indifferent to telephone companies and to parties engaged in those transactions, it is myself. I do not know any of them personally or in any way.

Q. I did not make any imputation of the kind.—A. I understand that.

Q. I see in Attorney-General Garland's letter (it is the one I think where he alludes to the call made upon him by Casey Young and other gentlemen, Mr. Van Benthuyssen, and Mr. Huntington, when application was made to bring a suit in the name of the Government, which he declined doing) that he says later that he expected or supposed—I do not remember the exact language—that another application was coming in. Assuming that to be so, I call it to your attention particularly. It seems to me it may be argued, at least it is a little queer, that if when he left on the 27th of August he was expecting an application to be made again that he did not speak to you about it.—A. Well, I can only say that he did not. He did not speak to me about any business in particular. I went down and had, as I say, a very brief interview with him, took leave of him, and wished him a pleasant vacation, and he said we must get along as best we could, or something like that. I was there only a few minutes; I did not sit down.

Q. If he had had an application which he had objected to and expected another, and then was going away, and knew that you were to take his place and act upon it, it may be considered rather singular that he should not speak to you about it?

Mr. EDEN. I expect that he could tell better than the witness can.

A. I only tell you the facts.

Q. I only want the facts.—A. I say again I never knew until Mr. Garland returned that he had ever been spoken to on the subject. I did not know that he had any stock of any telephone company until after his return.

Q. And you are sure none of the clerks in the office told it to you?—A. No, sir; the clerks in our office do not come and speak to us unless sent for; they do not volunteer suggestions about the business of the office.

Q. You are sure when you got in there acting as Attorney-General you had not heard of that?—A. No, sir; I took the business as it came. The chief clerk would

send the mail up to me and I would act upon the matters from day to day as presented to me. If it is a matter of interest to the committee I am perfectly willing for the record books to be brought up to see what I did in the absence of Mr. Garland.

Mr. EDEN. I do not think it is important for us to know, except about this matter.

Q. I would like to look over the business that you did on that day; pardon me for my inquisitiveness.

The WITNESS. Will you have the books sent up?

Mr. RANNEY. No; but if you will let a couple of the committee come up and look at them we shall be glad to do so.

The WITNESS. I should be glad to have you come, and will furnish every facility.

Mr. RANNEY. I only want to save you what trouble I can.

The WITNESS. I would say that if you desire I will send the books up, except that they are in use in recording the business of the office. I want the committee to understand that there is nothing connected with this matter that I am not perfectly willing to have come out. I know nothing that I wish to withhold about Mr. Garland or about the suit or any interest involved.

Mr. RANNEY. I understand that. I have exhausted the subjects that were in my mind upon which I desired to question you.

The CHAIRMAN. Mr. Oates can proceed with the examination.

Mr. OATES. I do not care to ask any questions.

Mr. MILLARD. There are a few questions that occur to me, which I will ask.

By Mr. MILLARD:

Q. Did you state whether these papers that came from McCorry came by mail or by messenger?—A. My impression is—I do not know how I derived it—that they came by mail. I am not positive whether the package came up to me unopened or whether it was opened in the clerk's office and sent up, but that matter can be easily ascertained.

Q. Do you recollect whether or not the envelope containing the papers was opened by you?—A. I think not.

Q. Do you think you did not open the envelope?—A. I think not. I think when the matter came up to me there was what we call a jacket on the letter of Mr. McCorry, and that was on the top of the other papers with some straps over them; a very large package.

Q. Was there anybody else beside yourself authorized to open Mr. Garland's mail?—A. The chief clerk usually opens the mail, unless he sees something private. He is authorized to open the public mail that comes there. Upon reflection, thinking about it since I was here, I am inclined to say those papers came up to me with a jacket on McCorry's letter, on top of a large package, strapped around with India rubbers.

Q. You think the envelope had been opened by some one?—A. I think so. I think it had been opened in the office of the chief clerk, before it came up to me.

Q. Do you recollect whether or not it was addressed to Attorney-General Garland?—A. The letter on the inside is addressed to him.

Q. I refer to the envelope.—A. No, I do not; I do not think I saw the envelope containing the entire package.

Q. Have you the envelope in your Department now?—A. I haven't it.

Q. Would it not be retained in the Department?—A. I should think so.

Q. Will you give us the name of the chief clerk?—A. Yes, sir; Mr. Clay; Cecil Clay I think is his name. We call him Colonel Clay there.

Q. You stated, if I understood you correctly, that you considered that a *prima facie* case had been made?—A. After examining the papers; yes, sir.

Q. Upon what papers did you base your opinion?—A. I based my opinion upon the district attorney's letter, and the memorial signed by Colonel Gantt, Mr. Beckwith, Mr. Van Benthuyzen, and Mr. Huntington, and the affidavits which I read. I remember particularly the affidavit of Mr. Wilbur, and I think I read the affidavit of Van Benthuyzen, and probably the affidavit of Colonel Gantt. I read two or three, and also the certified copy of the file-wrapper and contents from the Patent Office.

Q. Was the memorial sworn to?—A. No, sir. It is very full, you will see. It was not sworn to.

Q. Did you know any of the parties who signed it?—A. No, sir; I did not.

Q. Did you know anything of their character or standing in the community?—A. No, sir; only from the indorsement of the district attorney, who sent it along.

Q. Did you know anything outside of the document as to the truth of the facts alleged in it?—A. No; except from these affidavits.

Q. I will come to those directly. I will pass the memorial. Take the affidavit of Mr. Wilbur. Was the original affidavit of Wilbur sent to you?—A. His affidavit was among the papers; I don't know whether it was the original or not. I know the affidavit was among the papers.

Q. Look at it now.—A. (Examining paper.) As I stated, there were so many papers I couldn't tell. I recollect distinctly reading his affidavit.

Q. Is that an original paper?—A. Really I cannot say.

Q. It is a copy made by a type-writer, is it not?—A. It is in type.

Q. Look at the signature and see if the signature was not made by a type-writer?—A. Yes, sir.

Q. And also the verification?—A. Yes, sir.

Q. Did you know anything about this man Wilbur?—A. No.

Q. As to his credibility or standing?

Mr. OATES. Wait a moment before you pass from that. Do you assume that this paper is a copy?

Mr. MILLARD. It is certainly a copy.

The WITNESS. I said this morning when I was producing the papers I could not say whether this was the affidavit which I read or a copy of the affidavit which I read; that there have been so many papers produced and sent from the Department of Justice to the Interior Department, and from the Interior Department back to the Department of Justice, that I could not keep track of them. They have all been sent together and have not been kept separate; and they have been examined so often that really I don't remember, and could not now say upon my oath whether this is the identical paper that I read in connection with that application or a copy. This seems to be a copy.

Q. I understood you to say this was the affidavit that accompanied the letter of McCorry.—A. I said this morning it was either the affidavit or a copy of the affidavit. I explained it this morning according to my recollection. I cannot say whether this is the identical paper or the copy of the paper I read. I am sure the contents are the same.

Q. If this is not the identical paper, you have it in your possession, as I understand you?—A. I presume it is there; yes, sir.

Q. Do you know of any other affidavit of Wilbur?—A. These papers have been called for very frequently. Mr. Brown, an agent of the Bell Telephone Company, made application for a copy of all the Wilbur affidavits, and the clerk was directed to furnish a copy of them, and they have been taken out from the original papers for the purpose of being copied for the benefit of the Bell Telephone Company; so I really could not say now whether this is the identical paper I read on that occasion or whether it is a copy; but I know the contents are the same.

Q. Mr. Ranney asked you yesterday to present the papers upon which you made your order, and I inferred from what you said this morning that this Wilbur affidavit was one.—A. I say the affidavit I read was identically the same as this; but whether this is the paper I read on that occasion or a copy of it I do not know, as many copies have been made. It seems that several copies have been made by different people during the progress of this investigation. Whether this is the one that came in McCorry's letter to me or a copy made by somebody else in the progress of the investigation before the Interior Department I do not know.

Q. Then you are not able to state whether this is the paper that you had before you at that time?—A. I know the contents are the same.

Q. But whether it was the original affidavit you are unable to state.—A. I am at this moment.

Q. Show us the Huntington and Van Benthuyzen affidavits, if you have them.—A. They are not here, sir. I presume they are among the papers. I recollect reading one or two other affidavits besides this of Mr. Wilbur.

Q. Where are they?—A. I presume they are at the office. I have not seen them since. All the papers that came there from Mr. McCorry were sent to the Interior Department, and, in addition to those, all the papers sent by the Globe Company and the Washington Company and by Mr. Cushman; and together they would make a very large mass. They all came back together from the Interior Department.

Q. So far as you have presented to this committee, the only facts stated in the form of an affidavit as a foundation for the granting of your order are found in the affidavit of Wilbur, which purports to be a copy?—A. Yes, sir. Whether this is the paper that I read or a copy of the paper that I read I do not remember.

Q. Sitting as a judge hearing an *ex parte* motion, without knowing the persons, would you grant an order upon such a paper as you have there in a case involving \$10, \$25, or \$50?—A. Why, I think when the United States district attorney made such an application as he did, sustained by such a memorial —

Q. It was only a request, was it not? Please answer my question.—A. It was not simply a request. He gave reasons why the suits should be instituted—very fully.

Q. Would not you as judge of a court require that the application should be made upon sworn papers?—A. I did not consider I was sitting exactly as a judge of a court would sit. I was not sitting to try the question by legal rules, or with that exact precision that would be required in a court of justice. I was only called upon to deter-

mine whether, in my judgment, a *prima facie* case had been made out for the institution of this suit.

Q. Upon the papers presented?—A. Upon the papers presented; and I came to the conclusion it had been.

Q. Then the letter of the district attorney had as much to do with it as the papers?—A. Well, I dare say it had, because he went into the matter very fully; but I considered that his application was fully sustained by the papers he sent, and I attached a good deal of importance to the certified copy of that file-wrapper and contents.

Q. Would you be willing to testify that any other paper purporting to be an affidavit or copy of an affidavit was sent to you other than the Wilbur affidavit?—A. As I say, my recollection is that I read one or two other affidavits. I think there was one from Mr. Van Benthuyssen. It has been some time, and I don't remember. I know I read the papers that were sent. I read all the papers that were sent. Of course I cannot undertake now at this day to state with entire accuracy what each paper was. I know I read everything in the bundle.

Q. What I want to get at is this: Whether the original affidavit of Van Benthuyssen or Huntington was sent to you in that package?—A. I think it was, sir.

Q. If so, it is now in the Department.—A. It ought to be there; yes, sir.

Q. And can be produced?—A. Yes, sir; it certainly ought to be. I have not gone through the papers. They have been gone through at the instance of Mr. Brown to get a copy of this Wilbur affidavit. They certainly ought to be there. I have never examined them.

Q. Will you look at the affidavit of W. Van Benthuyssen, under date of August 28, in the proceedings before the Interior Department, and see if that will refresh your recollection as to the contents of the affidavit that came to you?—A. (After reading affidavit.) I think that is the affidavit.

Q. That affidavit merely goes to show that on a certain day Wilbur made an affidavit; that in the presence of Casey Young and other parties he made certain statements?—A. Yes, sir.

Q. Really, then, all your order is based on is a copy of Wilbur's affidavit, this affidavit of Huntington, McCorry's letter, and the memorial?—A. No; I do not say a copy. I cannot say. My impression is it was the original; but I know I read that Wilbur affidavit, whether it came to me as the original or as a copy. I do not now undertake to say which it was, but my best recollection is that I read at the same time this affidavit of Mr. Van Benthuyssen, and I am confirmed in that since I read it.

Q. You do not claim that those two affidavits state facts sufficient to authorize the Government to order a suit, do you?—A. I think those affidavits in connection with the other papers did it, sir.

Q. But the other papers were not sworn to?—A. I do not consider that material in a matter of this character.

Q. Not as to furnishing fact to the Government?—A. No, sir. When I am called upon to say whether a suit shall be instituted or not, I do not think it necessary to have the papers sworn to as I would if I were trying a case in a court of justice.

Q. I know; but you were making an order for the commencement of a Government suit?—A. And the question was whether there was probable cause for the institution of it.

Q. And you did not require any affidavits as to fact?—A. I did not require anything. I based my action on the papers that were presented.

Q. I will ask you this question: When you granted your order and forwarded it to McCorry, did you make any memoranda in the books of the Department or upon the order itself of the papers that had been used upon the application?—A. No, sir; I wrote the letter and had the papers sent back to him.

Q. Is there anything in your Department showing upon what facts the order was made?—A. Nothing but those papers; the letter, the memorial, the affidavits, and the other papers referred to. We did not enter them in a book. They were sent back to the district attorney with the order directing the institution of the suit.

Q. Is there not any record in the office showing when this application was made?—A. Certainly there is a record.

Q. What is the record?—A. The original jacket—

Q. Is there anything outside of the jacket?—A. No; nothing else that I know of. It may be. The clerk can tell you better about that than I can. I am not the custodian of the papers, but I think the custom is to make a jacket like this and file original papers in it. That is the record.

Q. Then, if the package of papers is taken out of the jacket you have no record?—A. These papers are not all copied in a book in the office; it would be an interminable task. We have not force enough to begin to do it.

Q. Have you not a ledger or some minute book showing that on such a day such an application was made in such a proceeding, and such action was taken by the Government?—A. As I say, not being the clerk, I am not able to state.

Q. I understood you to tell Judge Ranney that when this application came in you

made no examination to determine whether any action had been taken by Mr. Garland or by the Government in the matter?—A. None.

Q. When did Mr. Garland return?—A. He returned early in October, the first week in October, I think.

Q. When did he go away?—A. He went away the 27th of August. He was gone away a little more than a month.

Q. How did you know he was going away?—A. He told me he was going away.

Q. When was it he told you he was going to leave?—A. I think the first I knew of his going was probably the day before he left. He told me he was going to spend his summer vacation, and would leave the next afternoon; and I went down in the afternoon about 4 o'clock and bid him good-bye. I think he told me the day before he left that he was going the next day.

Q. Do you know whether he made that statement in the Department?—A. Oh, yes; I had not seen him anywhere else.

Q. When he came back were you informed that there had been a Cabinet meeting, and that the ordering of this suit by you had been discussed in the Cabinet meeting?—A. Not until it had occurred; I was not informed until then. I heard about it. I don't recollect whether I heard it from Mr. Garland or from the President. I know the matter came up in the Cabinet. I had a conversation with Mr. Garland, sought by myself, and I had a conversation with the President, in which I stated to each one of them my action in the matter; and subsequent to that I had a conversation with the President about discontinuing the suit; and either in conversation with the President or in conversation with Mr. Garland I learned that the matter had been brought up in Cabinet meeting by Mr. Garland.

Q. My question was only preliminary. The Cabinet meeting was prior to the letter of Mr. Garland to the President?—A. I think the letter of Mr. Garland was laid before the Cabinet, perhaps. No; I think the letter was written after the Cabinet meeting held in the morning. The matter was reduced to writing that evening; that is my recollection of it.

Q. Was not the Cabinet meeting in which this matter was discussed the very next day after Mr. Garland came back?—A. I am not able to say.

Mr. EDEN. Unless Mr. Goode was there I do not see how he could state, and if he was there it would not be proper for him to state what occurred.

Q. I do not ask you what occurred; but whether President Cleveland sent for you before you wrote your letter to him, or not?—A. He did.

Q. Where did you have your interview with him?—A. At the White House; the Executive Mansion.

Q. Following that interview was this letter to you that you had neglected to pursue the usual practice of the Department in not referring the papers to the Interior Department?—A. I don't think he used the word "neglect."

Q. That you had omitted?—A. Omitted; yes, sir. That letter of the President to me followed an interview which I had with him.

Q. The letter of the President does not say a word about discontinuing this suit, does it?—A. No, but it is very plain to be seen from reading it—

Q. Does he state anything further than the fact that you had omitted to pursue the regular course?—A. Yes, sir; he calls my attention to it and suggests whether such action ought not to be taken which would preserve the custom of making a reference in such cases; and that was enough for me.

Q. Did you discontinue that suit entirely upon that letter?—A. Yes, sir.

Q. Wholly?—A. Substantially. I had a conversation with him about it, but he said no more in the conversation than is contained in that letter.

Q. Had you not also had a conversation with Attorney-General Garland?—A. No, sir.

Q. But you had seen him?—A. I had seen him, certainly.

Q. And talked with him?—A. Certainly; but not about discontinuing the suit.

Q. Something about the suit?—A. No, sir.

Q. But you said you had talked with him about what had been said in the newspapers?—Oh, yes, sir; about his having an interest in the Pan-Electric Company, and all that sort of thing; but I had not talked with him about discontinuing the suit, and I never have talked with him about the suit in any way since it was brought.

Q. After you had your conversation with the President and the Attorney-General you did order the suit to be discontinued?—A. Yes, sir.

Q. How soon after that conversation?—A. I had the conversation one day and the suit was ordered to be discontinued the next day, I think.

Q. How long had you been in that Department?—A. I went there on the 4th of May, 1885. Mr. Cleveland was inaugurated the 4th of March, 1885.

Q. And you had had about how many months' experience?—A. I had been there from May until September.

Q. Were you ever the judge of a court?—A. Never.

Q. And, as I understand, had never tried any patent suits yourself?—A. No, sir; I

never tried a patent suit. I have made application to the Patent Office for the issuance of patents. I never tried a patent suit, though.

Q. I understand that when you made this order to McCorry you knew the custom of the Department had been to refer such applications to the Interior Department?—Oh, I knew that that was the usual custom, but not invariably. There was no fixed rule about it.

Q. You say not invariably. That is precisely what I am coming to. Can you state to us a single case commenced by the Government under the order of the Solicitor-General, as in this case?—A. No, I cannot; but I understand, since you have mentioned it, that it is more a matter of courtesy and comity than anything else. You will see yourself that it is done upon the principle that there cannot be any fixed rule about it. The action of the Interior Department was in no sense binding upon the Department of Justice. The application was addressed to the Department of Justice and was to be decided by the Department of Justice. The Interior Department could not order this suit.

Q. It was not addressed to the Department; it was addressed to Attorney-General Garland.—A. It was addressed to the Attorney-General, the head of the Department, and the Attorney-General had a perfect right, if he had thought proper to do so, to order this suit without any reference whatever to the Interior Department. It was sent there more upon the idea of courtesy and comity than anything else; not that any recommendation has any binding effect upon the Department of Justice. It is a question of law and fact to be decided there. It has been customary, though, as I say, to make these references. It was not done in this case, for the reason that I have already stated.

Q. It was of so much importance that the President called your attention to it.—A. After the hue and cry made in the newspapers and its being made a matter of public criticism. The President acted very delicately and very properly in the matter. He made no order to me, merely a suggestion, and occupying the position I did a suggestion from the President was sufficient.

Q. When you ordered the discontinuance of the suit, did you suppose that was the end of it?—A. I did not suppose anything on the subject. I dismissed it from my mind. I made no intimation then about renewing it in any shape or form. My dear sir, I have a great many other things to think about besides the Bell telephone suit. I do not understand that that is the whole aim of life.

Q. Do I understand you to say when the application came back for renewal you had never received, directly or indirectly, from any source any intimation that a renewal was to be made?—A. I do, sir.

Q. No intimation that another application would be made to you?—A. If you will read the letter that I sent to the district attorney you will see that he is ordered to discontinue the suit and no intimation is given about renewal. I did not know whether he would renew it or not. I did not consider it and I did not care. I had no interest in it.

Q. My question is a little different from that. It is whether you had received from any source any intimation that a renewal would be made?—A. I think not. I certainly do not recall any now.

Q. Are you willing to state under oath that you did not?—A. I am, to the best of my recollection and belief. I am testifying all the time under oath, I would like to give you to understand, sir, and I do not make any statement otherwise.

Mr. MILLARD. I understand that. I only want to get a positive answer.

Mr. HALL. Let the balance of us understand, too. Don't interrupt the witness.

Mr. EDEN. We want to hear what the witness says.

The WITNESS. According to the best of my recollection and belief now, I state that I had no intimation from any source that there would be any renewal of this application; I did not consider it; I did not care in any way; it was a matter of indifference to me.

Q. What is your recollection now?—A. My recollection now is that there was no suggestion made to me at any time that the application was going to be renewed; I did not give it a thought; I directed the discontinuance of the suit because I knew it would be agreeable to the President, and then I dismissed it from my mind and gave my attention to other matters, and when the renewed application came I treated it as I have stated by sending it to the Interior Department.

Q. Out of what fund have you paid this \$3,000 to associate counsel?—A. Out of a fund provided for the payment of counsel appointed to assist district attorneys; that is my impression; I only approved the accounts; I did not follow them to the Treasury; these gentlemen presented their bills; I approved them, and they have been forwarded to the Treasury Department, but they have not been followed up by me; that is a matter for the accounting officers of the Treasury.

Q. To make it more definite, I understood you said you had paid some \$3,000 or \$4,000?—A. Mr. Whitman has been paid \$1,000, and Hunton & Chandler have been paid \$2,000.

Q. Out of what appropriation or what fund has that payment been made?—A. I presume out of the fund provided for the payment of counsel to assist the United States district attorneys in the prosecution of suits.

Q. You say you presume. Do you know?—A. I do not. I approve the accounts. It is not my business to follow them to the Treasury to see.

Q. Under what statute or authority do you approve the accounts?—A. Well, sir, if you will hand me the Revised Statutes I will show you. There is a section of the Revised Statutes under which I do it.

Mr. EDEN. I suppose any member of the committee can look at statutes.

Q. Can you refer to the section?—A. It is under the head of the Department of Justice. The "Watch-dogs of the Treasury" you know, look after these things. I employed these gentlemen, and knew they were entitled to their pay, and I approved their accounts.

Mr. MILLARD. We are directed by this resolution to make very searching inquiry.

The WITNESS. Certainly; and I will give you all the information I have.

Mr. OATES. No; the resolution does not say "very searching inquiry." It directs us to inquire.

Mr. EDEN. As to what payments have been made and to what attorneys.

Mr. RANNEY. We are directed to make an inquiry which embraces that subject, and everybody except Mr. Gibson, of West Virginia, said they wanted it to be very searching and thorough.

Mr. OATES. Everybody in the House did not speak of it.

Mr. RANNEY. And we intend to make it very searching.

Mr. MILLARD. Yes; it is our duty.

The WITNESS. I will give you all the information I have.

Q. I ask the question because I was not aware any appropriation had been made for this particular litigation.—A. The accounting officers will tell you what fund it was paid from. Section 363 provides:

"The Attorney-General shall, whenever in his opinion the public interests require it, employ and retain in the name of the United States such attorneys and counselors at law as he may think necessary to assist the district attorneys in the discharge of their duties, and shall stipulate with such attorneys and counsel the amount of compensation, and shall have supervision of their conduct."

I take it for granted there is a fund set apart for the payment of special counsel employed to assist the district attorneys, but I have not followed it up to see.

Mr. MILLARD. That does not quite reach my inquiry.

Mr. RANNEY. There is a general appropriation for the Department of Justice.

Q. There is no question but what you had a right to employ counsel and retain them. The question is by what authority you now pay, no money having been appropriated by the Government for that particular purpose?—A. I do not think any special appropriation for this suit is necessary; I do not see any difference between this suit and any other suit in which persons are employed to assist a United States district attorney.

By Mr. RANNEY:

Q. There is an item in the general appropriation bill for the Department of Justice?—A. Yes, sir.

By the CHAIRMAN:

Q. It is probably paid out of the same fund which was used to pay the Star Route counsel?—A. Yes, sir.

By Mr. EDEN:

Q. There was no special appropriation to pay them?—A. No; there is a general fund. It has been the practice, as I understand, whenever a gentleman was employed as special counsel to assist a United States district attorney, to pay him out of that fund.

By Mr. HALL:

Q. You did not pay the money?—A. I did not pay it. I approved the accounts and they got the money from the Treasury. The accounting officers are better informed about what particular fund they pay it out of than I am. I know I approved it.

Q. You do not really know it has been paid, I suppose?—A. I see it stated in the papers it has been paid.

Q. You have no other knowledge?—A. No; I do not know it otherwise.

By Mr. MILLARD:

Q. In what manner were these respective counsel commissioned to act in this suit?—A. I have a copy of the commissions here, sir. I will put all these papers in evidence. Mr. Ranney asked me yesterday for a copy of the letter addressed to Mr.

Lowrey, and you will find it among these papers. I have made copies of everything relative to the matter. I will read one of the commissions:

"You are hereby appointed an assistant to the attorney of the United States for the southern district of Ohio to assist in the suit of the United States against the American Bell Telephone Company, authorized to test the validity of the Bell Telephone patents. You will be allowed for your services a retainer of \$1,000 and such further compensation as may hereafter be determined. Execute the customary oath of office and file the same in this Department.

"Very respectfully,

"JOHN GOODE."

By Mr. RANNEY:

Q. Have the oaths been filed?—A. Yes, sir; all the oaths have been filed. That commission was addressed to Hon. Allen G. Thurman. I have commissions here to Hunton & Chandler, Mr. Whitman, and Mr. Lowery, all to the same effect.

Q. Why did you give commissions and require oaths in these cases and not make the same requirements of the attorneys employed in Memphis?—A. Because I never employed those men, and I did not consider they were representing the Government.

By Mr. MILLARD:

Q. You gave the district attorney permission to associate them with him as counsel?—A. Yes, sir; he requested it and I made no objection to it; but he was told at the same time that the Government was not to pay them anything, and the Government was to control the suit.

By the CHAIRMAN:

Q. Did you regard those gentlemen as holding the same relation to the Government that these gentlemen hold?—A. Not at all. These gentlemen are appointed under the act of Congress that I just read.

By Mr. MILLARD:

Q. Did you know that in the application, after the matter had been referred to the Secretary of the Interior, or to the Interior Department, Colonel Gantt and Casey Young appeared there as counsel and argued the matter before the Interior Department?—A. Only through the public prints. I did not go near the Interior Department while the matter was under investigation. I saw it stated in the newspapers that they appeared there.

Q. Did you know that fact when you made the order for this second suit?

Mr. EDEN. They had not gone there yet, I should say.

A. When I made the order for the Columbus suit I knew it; but not when I made the order to Mr. McCorry in Tennessee. When I made the order for the suit in Columbus, I knew from the newspapers that Mr. Young and Mr. Gantt had appeared in the Interior Department representing certain interests, but I did not know what interests they represented, whether the Pan-Electric or the National Improved, or what.

Q. Was it not stated in the newspapers for whom they appeared?—A. I don't remember; I recollect seeing a statement of the names of counsel, pro and con, on the respective sides; I recollect seeing some account in the papers about Mr. Young's address, and Mr. Gantt's, and Mr. Storow's, and Mr. Dickerson's, &c.; I read it as I read the current news in the papers; I didn't pay much attention to it.

Q. How long had you known Casey Young?—A. I had known Mr. Casey Young since I met him in the Forty-fourth Congress, December, 1875.

Q. Did you, at the Riggs House, before your appointment as Solicitor-General, have any conversation with him in regard to your appointment, in the presence of any one?—A. I don't recall it; I think not.

Q. Are you quite sure?—A. I have no recollection of it.

Q. My question is whether you had any conversation in regard to your application for appointment under Garland?

The WITNESS. At the Riggs House?

Mr. MILLARD. At the Riggs House or the Ebbitt House?—A. I have no recollection of it; I have no recollection whatever of any such conversation.

Q. I call your attention to any conversation with Mr. Casey Young in regard to it. Do you remember any?—A. None, sir; I do not remember having seen Mr. Young before my appointment and after the inauguration of the President. I do not say that we may not have met casually and had some conversation, but I do not remember it. Certain it is, if that is the point of your inquiry, that it had nothing on earth to do with ordering this suit. I don't think Mr. Young had anything whatever to do with my appointment. I don't think he ever recommended me.

Q. Did you ever see Mr. Young at the Department of Justice?—A. I never saw Mr. Young at the Department of Justice, according to my recollection now, until the morning of the 2d of September.

Q. That was the time he came in company with Senator Harris?—A. Yes, sir.

Q. Can you learn with certainty whether these papers came by mail, or whether they were brought by messenger or brought by Mr. Young himself?—A. I will endeavor to do so. I will make inquiry and send the clerk up here.

Q. I wish you would, and also ascertain, if it is thought proper by the chairman of the committee, just the papers you had before you in connection with the application for the order; whether you had any facts stated under oath—not any copies, but whether you had any original affidavits showing any facts that a court would act upon in bringing such a suit, or any suit.—A. Well, as I say, I recall now the letter of the district attorney and that memorial and two or three affidavits and this certified copy of the file-wrapper and contents—a very large package. I do not now have a recollection of any other papers, except those.

Q. You see we have before us as a committee no affidavit containing any facts upon which this suit was brought.—A. As I have explained, I don't know whether the affidavit that I bring here was the identical paper that I read that day, but I know the contents are the same. It was either the same paper or a copy of it.

Mr. MILLARD. It is not a certified copy.

Mr. OATES. He swears it is the same as the affidavit he did receive and on which he acted.

Mr. MILLARD. You would not grant any order upon a copy of an affidavit, would you?

Mr. OATES. If I were satisfied it was a correct copy it would be just as good as an original.

The WITNESS. I have no doubt that the original affidavit was sent; but as I say the papers have gone back and forth and they have all been put together by the different people who have been looking at them. They have not been kept separate.

The CHAIRMAN. As I recollect, the Solicitor-General was requested yesterday only to produce certain papers.

Mr. RANNEY. All the papers on which he acted.

The WITNESS. I was asked specially to produce the papers I have brought here. I can send up here, if the committee wish, all the papers that are on the files at the present time. What is it the committee wishes in addition? You wish to know from the clerk whether this application came by mail, and whether he opened it?

Mr. RANNEY. And we wish every original paper that you acted on.

Mr. MILLARD. And the envelope, that we may see to whom it was addressed.

The WITNESS. Here is the original jacket of the first McCorry letter and the second. Here is the jacket containing the opinion of the Secretary of the Interior when it was returned [exhibiting paper].

Q. I notice some lead-pencil marks on the outside of one of the jackets, "A. G." Can you tell me in whose handwriting that is?—A. I do not see it. I see "Solicitor-General."

Q. It is in lead-pencil, over the date of the paper.—A. I see "Solicitor-General" on that paper.

Q. That is not the one.—A. Here is another with "Solicitor-General" on it also. I do not know what paper you refer to.

Q. Here is the paper. I call your attention to the pencil marks over the date of the order for the suit to McCorry.—A. I don't know whose handwriting that is. The clerk can tell.

By Mr. RANNEY:

Q. I want to put one question right there that has occurred to me during the examination of Mr. Millard. It seems by the record which I have here of the suit in Maryland against the Pan-Electric Telephone Company in favor of the Bell Telephone Company that the district attorney in Maryland appeared on the 15th of September with a copy of the proceedings in the Memphis suit, in the name of the Government, and asked the court to refrain from giving a preliminary injunction and postpone the decision to await the result of the Government suit. Was that by your direction?—A. No, sir.

Q. Was it with your knowledge?—A. I saw it in the newspapers. I did not know of it in any other way.

Q. How was it that the district attorney used that in a private suit?—A. He had no such authority from the Department of Justice.

Q. Urging that, as a Government suit had been brought, no private suit should go on?—A. No such application was made, and no such authority was given.

Q. You are sure that nobody told you that if the Government suit was hurried it would be in time to be used in the Maryland suit that was about to come to hearing?—A. No, sir; I had no communication with the district attorney on the subject, and no order has been given about it. Whatever he did he did of his own motion.

Mr. MILLARD. I am through.

Mr. EDEN. I have no questions to ask.

By Mr. HANBACK:

Q. You were appointed, as I understand you to say, on the 4th of May?—A. Yes, sir.

Q. Did you enter immediately upon the discharge of your duties?—A. Yes, sir.

Q. On the 27th of June you took your leave?—A. On the 26th of June I went to British Columbia.

Q. And you returned on the 19th of August?—A. Yes, sir.

Q. And this order was made on the 3d of September?—A. The 3d of September.

Q. So that you were absent out of the four months and a few days fifty-five days. If you have not made the calculation, you can easily do it.—A. I was absent from the 26th of June to the 19th of August.

Q. So that you were sixty-seven days in the Department?—A. I have not made the calculation.

Q. You will find it correct. You took these papers up on the 2d of September?—A. Yes, sir; I took them up on the 2d.

Q. At what time in the day?—A. I think about 11 o'clock. I remained in the office until 5, and returned in the evening after dinner.

Q. Between 7 and 8?—A. Yes, sir.

Q. And that night by 11 o'clock you arrived at a conclusion?—A. Yes, sir; and I wrote the letter the next morning after I came to the office, or had it written.

Mr. HANBACK. That is all.

By Mr. HALL:

Q. I understand you to say that you do not know whether there is a record kept containing the minutes of the day's transactions in your office?—A. No; I am not certain. The truth is that not being on the same floor with the office of the chief clerk, and my duties being to prepare briefs in the Supreme Court, I have not been down there to see exactly how the business is transacted. My impression is that when a paper like this comes they put what they call a jacket on it and put it away among the archives of the Department; but I do not think there is any regular entry made in the books showing every particular item that comes in.

Q. Would it be too much to ask you to make an inquiry in that direction?—A. I will do so.

Q. And if such a record or memoranda is kept, to have an abstract made of what business was transacted on the 2d and 3d of September, and furnish it to the committee?—A. Yes, sir. The record books will show the letters signed by the Acting Attorney-General on that day. They copy everything sent out; but what I mean to say is that I do not think there is anything like a docket kept on which they put down in detail everything that is done.

Q. When these papers came before you you understood that they presented for your consideration the simple question whether in your discretion a suit of that character should be brought?—A. Yes, sir.

Q. And you inferred that as the request came from the United States attorney, he had probably looked into the existence of the facts and satisfied himself as to them sufficiently to decide him in making the application?—A. Yes, sir.

Q. And upon the statement of facts made by him in connection with the other papers you proceeded to determine the question; first, as to the method of procedure, and, second, as to whether there was reasonable cause existing to justify an order to be made.—A. Those were the only two matters I considered at all.

Q. When Senator Harris and Mr. Young called did you have any idea or any suspicion in your mind that they called as interested parties in the subject-matter of the controversy?—A. Well, no, sir. I supposed they had some reason for calling. I really did not know what had brought them there. Senator Harris, when he came in, held a telegram or a letter in his hand and asked the question. I don't think they sat down. I supposed they wanted to know for some reason; whether they had a personal interest in the suit or whether they had been requested by others to call and see, I did not determine; but if I gave it a thought at all I supposed there was something that prompted them to come there and make the inquiry. But it did not occur to me at the time that it was their application I was going to consider. I told them if the papers came I would look at them; and when the papers did come I read the letter of the district attorney and the accompanying documents and made up my mind. There was no suggestion made to me by either of the gentlemen about it.

By Mr. RANNEY:

Q. Inasmuch as they were interested, don't you think it rather singular that they did not mention it?—A. Well, that is a matter about which there may be a difference of opinion.

By the CHAIRMAN:

Q. Is it not usual for Senators and Representatives to call upon matters of business in which they are not personally interested?—A. It is an every-day occurrence.

There is not a day that Senators and Members do not come in there and ask about matters pending in the Department. I suppose that Senator Harris had some such interest as that. I did not stop to consider whether Mr. Young was counsel, or how he was interested. I know this very well: That neither one of them presented any considerations or urged any reasons why I should take action. I told them when the papers came I would consider them, and the action I took was based upon those papers entirely.

By Mr. RANNEY:

Q. Right there, if you will pardon me, I will put a question that I forgot to ask. I see by the report of the reporter of the New York Tribune that he called upon you in relation to that matter afterwards and represented that you told him Mr. Harris and Mr. Young came in and you and they discussed the matter.—A. Well, he was mistaken, as reporters very often are; that is, it depends upon what he means by discussion. We certainly did not discuss any such questions. We discussed the matter of the arrival of the papers, and perhaps he understood me that way. We did not discuss the questions involved in the suit.

Q. Will you say you did not tell him you discussed the matter?—A. I do not think I did. If I said we discussed the matter, I meant the arrival of the papers. I certainly did not tell him we discussed the matter of the bringing of the suit.

By Mr. OATES:

Q. How would it sound as a matter of politeness when a gentleman comes into your office and asks such a question as Senator Harris or Mr. Young put to you, to say, "Have you any interest in it?" or "What business have you to ask this question?"—A. That has not been my style. I endeavor to treat everybody who calls there with courtesy. I do not stop to pry into men's business.

Mr. RANNEY. When anybody else puts such questions Mr. Oates objects; but he is quite liberal to himself.

By Mr. HALL:

Q. State whether the fact of those two individuals having called upon you as stated had anything to do with hastening the subject of the investigation.—A. None whatever. I gave it all the investigation I thought it was entitled to, and made up my mind and acted accordingly.

Q. I understand you to say that at that time you had no knowledge upon the subject of this Pan-Electric Telephone Company or who was interested in it?—A. None in the world.

Q. Or that any officer of the Government was interested directly or indirectly?—A. The first I ever heard of the Pan-Electric Company was after that suit was ordered, when the newspapers took up this discussion.

Q. You had never received any communication verbally or by letter, or in any other manner at all on that subject?—A. Never.

By Mr. RANNEY:

Q. You are quite sure Mr. Young did not tell you he had been to see the Attorney-General about it, and what the Attorney-General had done or refused to do?—A. I am perfectly sure of that. I do not know why Mr. Young did not tell me. I have not read his testimony; but he certainly did not. If he had been to see the Attorney-General he withheld it from me. Whether he thought he would take the chances of my acting independently, or whether he thought I would be embarrassed if he told me, or what his motive was I do not know; but certain it is Mr. Young never told me he had been to see the Attorney-General.

Q. You were entirely in the dark as to what had occurred?—A. Yes, sir; I knew nothing at all. Whether he thought it was not proper to tell me, or why, I do not know; but he did not tell me. I flatter myself though that Mr. Young took this view of it: That being then the responsible head of the Department he would take the risk of having the application considered by me, and supposed if he had said anything to me about having approached the Attorney-General I might make that a reason for not acting.

Q. Did not he ask you to authorize the suit to be brought on the relation of these parties?—A. Oh, no, sir.

Mr. HALL. He says he went there for that purpose.

Mr. EDEN. But he says he did not ask it.

Mr. MILLARD. He says he did not know Mr. Garland was away.

The WITNESS. I do not know what he asked the Attorney-General. The only thing he ever asked me was if the papers had arrived.

By Mr. MOFFATT:

Q. I understood you to say that, in your judgment and in your opinion, the practice of referring such questions as this to the Interior Department was merely one of

courtesy?—A. Yes, sir; I think so. I do not think it is at all binding. In other words, if I had made up my mind that suit ought to be brought, and Mr. Lamar had advised against it; I would not have felt bound by Mr. Lamar's decision.

Q. Do you know of any reason why that courtesy should have been overlooked in this case?—A. No, sir; except that I had what I supposed to be all the information the Patent Office would furnish.

Q. But you do not refer to the Interior Department for information; only as a matter of courtesy?—A. Well, courtesy, and to preserve that sort of comity between the different Departments of the Government. I think, perhaps, the motive is more one of courtesy than anything else. They ask for such information or such views as the Department sees proper to submit. It certainly never has been understood, as I have heard, that any advice or suggestion in response to a reference of that sort is at all binding upon the Department.

Q. Then, it not being binding, and not being for information, what reason was there that the same courtesy should not have been extended in this case as in all others?—A. The only reason was I supposed they could not furnish me any more than I had.

Q. But it is not to furnish information you say; merely an act of courtesy?—A. Not altogether courtesy.

Q. I understood you to say so.—A. No, no; I said not altogether. I suppose that is one reason—to preserve harmonious relations, as far as possible, between the different Departments.

Q. Did that matter of courtesy suggest itself to you at that time?—A. No; it did not.

Mr. OATES. Will you allow me to interpose a question that has occurred to me during your examination?

Mr. MOFFATT. Certainly.

By Mr. OATES:

Q. Were there not cases under Attorney-General Brewster and preceding Attorneys-General where suits were brought to vacate patents, without any reference of them in the first instance to the Secretary of the Interior from the Department of Justice?—A. I have not examined to see whether there are any such precedents or not. I have a general idea that while this is the general usage it is not the invariable practice. I know there are several precedents of this kind; that whenever the Attorney-General has felt himself under any disability, not mental or physical, but any disability from interest, that the Solicitor-General has acted.

By Mr. RANNEY:

Q. Do you know of any suit that was ever maintained in any court that was brought in that way, except the case of Gunning, tried by Judge Wallace?—A. No; that is the only case in which that direct question has come up, that I have knowledge of. But Judge Miller says, in the case of Mowry against Whitney, that the court will not be particular as to the form; it must appear that the suit has the sanction of the Department of Justice. I do not recall any case in which that exact question has arisen except that case.

Q. You do know a case where Judge Shepley said it could not be done?—A. Yes, sir.

Q. When Judge Clifford sat with him?—A. Yes, sir; but I do not think that is the received opinion.

Q. Is not the decision of Judge Wallace in the Gunning case the only case where any subordinate judge has maintained such a position?—A. The only case in which the exact point has been decided, that I remember; but I think it is abundantly clear, from the statement made by Mr. Justice Miller, in the case I referred to, that he would hold and the Supreme Court would hold that a suit ordered by the Acting Attorney-General would be maintained.

Q. Is it not true that the decision of Judge Wallace stands alone in that regard?—A. That is the only case I recall which decides that exact point.

Q. And Judge Shepley and Judge Blodgett have decided otherwise?—A. Well, sir, we will know hereafter what the law is. I suppose it will be settled in this case.

Q. Did you not observe that in that case Judge Wallace decided an issue which was not argued?—A. I looked at the case.

Q. There was no controversy and there was no argument on it?—A. But I have already said I attach more importance to what Judge Miller said in the case of Mowry and Whitney than any other case I referred to. I don't think any lawyer can read that—

By Mr. HALL:

Q. That case was not in your mind at that time, was it?—A. I examined to see whether I had the power to order the suit.

Q. But did you look at any authorities?—A. I did not examine the authorities very minutely; but I examined sufficiently to satisfy my own mind that the Department had the power to order the suit.

By Mr. RANNEY:

Q. Did you not regard that as mere dicta?—A. Well, it is pretty full. It was not the point decided, because it was a case between individuals; but the court said the demurrer was sustained because a suit could only be properly brought in this way.

Q. The court did not say it could be done without legislation of Congress, did it?—A. I think that is the fair inference. I think it is very clear that is his opinion from the language employed.

By the CHAIRMAN:

Q. Have the courts ever passed upon the question whether a reference to the Interior Department is necessary?—A. Oh, no. The application is addressed to the Department of Justice and the responsibility is with that Department. Of course they treat with proper respect any recommendation made by the Interior Department; but it is not binding.

By Mr. RANNEY:

Q. Under what provision of the constitutional law is that done without act of Congress? Where is the power to maintain a suit in the name of the Government?—A. I think it is the inherent power in every Government. I think it is a part of the common law that was brought over by our ancestors. In other words, I think a Government can do what an individual can do. If I make a deed and there has been any fraud committed or any mistake, I have a right to bring a bill in equity to cancel it.

Mr. RANNEY. Pardon me, but I understand you are one of the men who don't believe there is any sovereignty in the United States?

Mr. EDEN. I do not think we should go into a discussion of State's rights.

The WITNESS. I think the United States as a Government has certain inherent powers, and one of them is to recall a grant improperly made of its own motion. I think every Government has that power. I think it is a common-law principle.

By the CHAIRMAN:

Q. In other words, the Government has all the power incident to the granted powers.—A. Yes, sir; I think it would be strange indeed if a patent should be obtained by fraud and there should be no power in the Government to recall it.

By Mr. MOFFATT:

Q. I understood you to state to one of the gentlemen, I think Colonel Oates or Mr. Hall, that you did not recall any instance in which suit had been instituted without reference to the Interior Department?—A. I have not examined to see.

Q. And you did not at that time?—A. No, sir.

Q. In regard to the habits of the office: When a letter is received there containing matter for the attention of the Department, is it generally considered directly by the Attorney-General or the head of the Department, or is it referred in the first instance to some Assistant Attorney-General, by him looked up and briefed and presented to the head of the Department in the ordinary routine of the office?—A. Sometimes the Attorney-General takes charge of matters himself, sometimes he sends them to the Solicitor-General, and sometimes he sends them to one of the Assistant Attorneys-General.

Q. Is there any general rule about it?—A. No general rule. It depends upon the character of the business and the opportunities that gentlemen have to attend to it. It depends upon what they have on hand. The Attorney-General controls that matter himself. He takes some matters in charge and he sends other matters to other officials in the Department.

Q. Did you make any inquiry of any of your assistants to see if they could investigate this matter?—A. No; I did not. I took charge of it myself.

Q. Are you in the habit of returning evenings to perform the duties of your office?—A. I did that last summer almost invariably.

Q. By reason of the large amount of work?—A. That was one reason; and, then, frequently interruptions would come during the day. I went there nearly every evening. If you have been acquainted with these offices here you know that there are a good many interruptions during the day, and it is very difficult to pursue any matter consecutively; and I am in the habit of going back there after dinner and remaining until bed-time, so as to work without interruption.

Q. I understood you to say, in answer to a question of Judge Ranney, that you did not think this case received any more speedy consideration than other cases. Do persons having business before the Department generally get it acted on within twenty-four hours?—A. I think so; generally in matters of this character.

Mr. MOFFATT. It has not been the experience of all of us. I wish all the Departments were as expeditious.

Mr. EDEN. It depends upon what matter it is.

The WITNESS. I have endeavored to dispatch matters that came to me without any unnecessary delay.

By Mr. HALE:

Q. It is stated, as I remember, in that letter from the district attorney, that certain parties there were willing to indemnify the Government against the cost of that suit?—A. Yes, sir.

Q. Did you understand from that statement that they were acting in the public interest, or in some private interest?—A. Well, sir; I do not recall now that I gave that any consideration. I supposed that the application was made in the public interest to order the suit. The whole tenor of the letter and the memorial and the exhibits showed that. I cannot say now what consideration I gave to that statement.

Q. He refers in that letter, as I remember it, to parties who were urging the bringing of the suit, and added that they were willing to indemnify the Government against expense. Did that make the impression on your mind that they were acting for the public, or in some private interest?—A. If I gave it any thought at all, I supposed they must have had some private interest that they supposed would be subserved in the suit.

Q. And that the suit was being brought at their suggestion?—A. Yes; that would be the fair inference.

Q. Primarily for their interest?—A. Certainly, it would have been the inference; but when the suit was ordered I did not suppose it was ordered in the interest of any private parties.

By the CHAIRMAN:

Q. I wish to ask you whether you know of any other expenses having been incurred by the Government than those for counsel fees in this suit?—A. None; and this contract made with the expert electrician, Professor Brackett.

Q. You have approved, then, no other bills?—A. I have approved no bills, except a bill of Mr. Whitman and the bill of Hunton & Chandler.

Q. In your examination by Judge Ranney and also by Mr. Hale, you have spoken of the private interest that parties may have had in this Tennessee suit. Would you regard it as an objection to the use of the name of the Government in such a suit that private advantage might result to certain parties?—A. No; I would not.

Q. Do you mean anything more than to say that the suit ought not to be brought in the name of the Government for the use of certain parties or on the relation of certain parties?—A. That is what I intended to say; and that the paramount object ought to be the public good and not the subserving of private interests in the institution of such a suit.

Q. Can you conceive of the setting aside of a patent without advancing some private interest?—A. Why, of course, where there are so many rival companies in the land they would be incidentally interested in it.

Q. And if there were another patent upon the same subject-matter, would the fact that the setting aside of the one would benefit the other be any objection to the use of the Government's name?—A. I do not think that ought to be considered. I do not think the Government ought to refrain from bringing a suit to rescind a patent surreptitiously obtained, because, peradventure, some private interest might be affected by it.

By Mr. RANNEY:

Q. Supposing the conflicting claim was as to which was the prior invention? Simply that.—A. If that was the only matter involved I should turn it over to private suit; but that is not this case.

By the CHAIRMAN:

Q. Did you ever hear of a suit of that kind to determine a question of priority?—A. I never did.

By Mr. RANNEY:

Q. Would not that be the question between Gray and Bell; that and that only?—A. If Elisha Gray were to bring suit against Bell that would be a question between those two, but that is not this suit. That is not the question involved in this Government suit.

By the CHAIRMAN:

Q. Is not the only question here one involving the validity of the Bell patent?—A. That is it, sir: whether that patent was properly obtained or not, and whether Mr. Bell is entitled to it or not.

By Mr. RANNEY:

Q. That is because of what occurred in regard to Gray's caveat, is it not?—A. That is one matter that enters into it.

Q. Then, it would simply be a question between Bell and Gray?—A. But Mr. Gray is not the only man who claims to be the prior inventor. There are many others, a

whole lot of them. I do not consider that the Government is trying this suit to settle any controverted question between Mr. Gray and Mr. Bell.

By the CHAIRMAN:

Q. It has also been suggested that the setting aside of the Bell patent would only result in the establishment of another monopoly. Do you so understand it?—A. I do not, sir.

Q. Would it result in the establishment of a monopoly to the same extent?—A. I do not so regard it. If I am correctly informed this American Bell Telephone Company has most extensive operations all over the land. They are making a large amount of money, according to common rumor, and it is said that for very small expenditures they are receiving very large rentals. I have received a great many letters since the institution of this suit from all over the country, saying that the popular sympathy is with the suit; that they regard it as a monopoly which ought not to exist unless Mr. Bell is in law entitled to the patent.

Q. My inquiry was not directed to that point. In your view is it possible with the Bell patent standing to establish any other telephone?—A. I don't see how it could be done.

Q. Suppose the Bell patent should be set aside; is it not then a mere question between other inventions of telephones as to the particular mechanical devices?—A. Yes, sir.

Q. The Bell patent, as I understand it, is a patent for the transmission of articulate speech by electricity?—A. Yes, sir. When any question arises it would depend upon what the claim was as to what the controversy would be.

Q. Should that patent be maintained, would it not be impossible to maintain any other patent for transmitting articulate speech by electricity?—A. Well, if this broad claim of Mr. Bell is defeated I do not see how it would be possible for any other company to have such a monopoly as he now enjoys.

By Mr. EDEN:

Q. That is, if the Bell Company got a patent on that broad claim, nobody else could?—A. Nobody else could. In other words, I think it will be found to be too broad and to cover too much.

By Mr. MILLARD:

Q. Had you supposed at the time you made your order that the application to McCorry was made in part by the Pan-Electric Company, would your action have been the same?—A. I think so.

Q. A company of which Mr. Garland was a stockholder and director?—A. That would not have made any difference with me. I do not think there would have been any impropriety in Mr. Garland ordering the suit himself; but he took a different view of it.

By the CHAIRMAN:

Q. If you had known that suits had been brought by private parties against the Bell Company and were pending, would that have deterred you from bringing the Government suits?—A. No, sir; because as I say we expect to make a case in the Government suit that has not been made in any of these other suits.

By Mr. RANNEY:

Q. Not even if the Supreme Court had adjudicated it?—A. If a suit had been brought and determined settling the exact point involved, of course it would, but I do not understand any such suit has been brought.

* By the CHAIRMAN:

Q. As I understand, you think more can be accomplished by a Government suit than could be accomplished by any private individual?—A. Yes, sir.

By Mr. EDEN:

Q. Have you made any examination of the records of your office to see upon what sort of papers other suits have been ordered heretofore?

The WITNESS. Do you mean other suits to vacate patents?

Mr. EDEN. Yes, sir.

A. No, sir; I have not. I can furnish a list of the suits that have been ordered, but it would take considerable investigation to see what papers they were ordered on.

Mr. OATES. I move the committee adjourn until 12 o'clock to-morrow.

The WITNESS. I do not understand I am expected to attend here to-morrow.

The CHAIRMAN. No, sir; we are through with your examination.

The WITNESS. I will send up the papers.

The committee then adjourned until to-morrow, April 7, 1886, at 12 m.

WASHINGTON, D. C., *Wednesday, April 7, 1886.*

The committee was called to order at 12.20 p. m.

The CHAIRMAN. I have requested General Johnston to be present, and if it is the pleasure of the committee we will proceed with his examination.

JOSEPH E. JOHNSTON then came before the committee and was duly sworn.

By the CHAIRMAN (Mr. Boyle):

Question. Do you hold any office under the Government of the United States at this time?—Answer. Yes, sir.

Q. What is it?—A. Commissioner of Railroads.

Q. By whom were you appointed?—A. By the President, on the 3d of April of last year.

Q. Has your appointment been confirmed by the Senate?—A. Yes.

Q. At what date?—A. Well, very soon after the nomination. I think, by the way, that the confirmation was on the 3d of April, perhaps the 2d; but my appointment was completed on the 3d of April, and I received my commission.

Q. Will you state generally and briefly what are the duties of that position?—A. The Commissioner of Railroads has the duty of looking to the interests of the United States in connection with the roads that have been subsidized either with money or land. The largest portion of the business is connected with the accounts of those that have received bonds of the United States. There were six of those roads, but the number was reduced by combination to four.

Q. Had you previously held any civil office under the United States?—A. No, sir.

Q. Were you ever a member of Congress?—A. I was a member of the Forty-sixth Congress.

Q. When did your service terminate?—A. The 4th of March, 1881.

Q. Are you a stockholder in the Pan-Electric Telephone Company?—A. Yes, sir.

Q. Are you interested in the Pan-Electric Company?—A. Yes, sir; as one of the original six stockholders.

Q. At what time did you become interested in the Pan-Electric Company?—A. In the early part of March, 1883, I think it was. The association was formed at that time. It was an association of six—five besides the inventor, Mr. Harris Rogers.

Q. Do you recall the circumstances under which this enterprise was brought to your attention?—A. I was invited by Senator Harris to join an association to bring into use some inventions of Mr. Harris Rogers, which he considered very valuable, especially a telegraphic instrument and a telephone. He told me that Mr. Rogers desired to get him, with such friends, to the number of four others, as he should select, to join him in order to bring his instruments into use.

Q. As I understand from your testimony, you were not at that time connected with the Government in any way?—A. Not in any way.

Q. You may state what occurred between yourself and Senator Harris in the first instance.—A. He made this proposition and explanation to me, expressed a very high opinion of these instruments, and gave me a note of introduction to the inventor, Mr. Harris Rogers, which enabled me to examine them; and I was equally pleased with them, and agreed to become a member of the association. There were five besides Mr. Rogers, and the arrangement was that the property should be divided into ten parts, four to be owned by Mr. Rogers and five by Governor Harris and his four friends, the tenth to remain at the disposal of the association.

Q. You have stated that Governor Harris gave you a note to Mr. Rogers. Had you prior to examining the inventions had any conversation with any other of the gentlemen who subsequently became interested with you in that company?—A. No, sir; I had no conversation in regard to it. The fact is I don't believe I saw any of them between the time of my conversation with Senator Harris and my examination of the instruments and agreeing to become a member of the association.

Q. Who was present when you examined the instruments?—A. Well, I only remember the inventor, Mr. Harris Rogers himself.

Q. Were you present in New York when the written agreement was made upon which the association was formed?—A. No, sir; I was the only one of the six absent.

Q. Senator Garland, I believe, was not present.—A. I thought he was.

Q. He does not sign the paper in person. Had you given authority to any one to represent you in the New York meeting?—A. To Senator Harris, sir.

Q. Had you had conversations with any of the gentlemen associated with you besides Senator Harris prior to the New York meeting?—A. Yes, sir.

Q. With whom?—A. Well, I cannot remember any conversations on the subject, but I saw all of the gentlemen. I knew them all very well. I don't think there was any conversation worth remembering.

Q. In the conversation with Senator Harris or with any other of the gentlemen who became associated with you, was there anything said as to the use of their offi-

cial positions in the enterprise in which you were about to engage?—A. I never heard such an idea expressed. The general idea was, and that was Senator Harris's object as well as the object of Mr. Rogers, to get gentlemen who were best known in the country. I had been a great deal through the Southern country, especially all the country south of Missouri, and I suppose for that reason I was invited to join the association.

Q. Was there any consideration paid by you to the inventor or to any person for him for the interest you were to have in the invention?—A. The arrangement made was upon a principle that is very common in forming business associations. Mr. Rogers had this property and he wanted the assistance of others to bring it into use, and we were to be paid by the profits—our share of the profits—that we would make. That was the only consideration.

Q. What were you to do; what were you to contribute?—A. We as members of the association were to work together to bring the instrument into general use, and the mode which was attempted was that of selling the privilege of using it in the different States. We made I think nine contracts of that kind, each for the privilege in a State.

Q. I notice by the written agreement that the gentlemen associated were to contribute proportionately to the expense of perfecting the inventions and making them available, and that the limitation put upon the managers, or the three persons named as a committee, in the way of assessment, was \$150. Was that the limitation of your liability, or did it extend beyond that?—A. I think that that was simply an understanding that it was a limitation upon the committee, as I remember.

Q. Did you understand it to be more than that?—A. No, sir; I cannot profess any very accurate recollection of the subject, however.

Q. Did you, in point of fact, contribute only that amount, or did you contribute more?—A. I really don't remember, sir. The amount contributed was small. These contracts brought us in some funds, which made it unnecessary to make assessments upon members of the association.

Q. Were there not some assessments?—A. There were some, I think.

Q. Prior to the receipt of the funds?—A. I think so, sir.

Q. Do you recall any conversation with Senator Garland prior to the New York meeting, or did you have any?—A. I don't think I had any special conversation with him. As I said a little while ago, I had conversations with those gentlemen merely as acquaintances. There were some allusions probably to the chances of the success of this enterprise we were going into.

Q. I believe you were made chairman of the association and you are president of the Telephone Company?—A. Yes, sir.

Q. There seems to have been another corporation organized, or, at least, incorporated—the Pan-Electric Telegraph Company?—A. Yes, sir. These six got two charters. We attempted first to get a charter that would enable us to use any invention that Mr. Rogers had made or might make, but we could only, as far as we examined, get a charter for one instrument; and we formed, therefore, two associations, one for using the telegraphic instrument and the other for the telephone. We never succeeded with the telegraphic instrument at all.

Q. Do you mean to say one instrument or one class of instruments?—A. One class of instruments.

Q. Your design, then, was in the first place to obtain a charter that would cover all the inventions of which you had become the owners?—A. Yes, sir; and in that event there would have been only one company.

Q. Did you find any State where the laws permitted such an incorporation?—A. I think not. I think it was for that reason we got two charters to begin with.

Q. Was the Pan-Electric Telegraph Company ever organized, and did it elect officers?—A. Well, as we never did anything, I am not at all certain as to that.

Q. You do not know, then, whether you are the president of that company or not?—A. I don't remember whether there was a formal organization or not. It never went into any practical operation, and I do not think any organization was made.

Q. Have you rendered any services to the Pan-Electric Telephone Company in the way of testing its instruments or in any other way?—A. Yes, sir.

Q. You may state what you have done.—A. During that meeting in New York I remained here, and we tried the telephone and also the telegraphic instrument. Both of those inventions were tried then, the telegraphic instrument by me and the other between the gentlemen who were in New York and me. I afterwards tried the telephonic instrument between Richmond and Washington.

By Mr. OATES:

Q. What was the result of your experiments?—A. We were extremely well satisfied, sir. We thought it the best instrument in the world of its kind.

By the CHAIRMAN:

Q. Have you ever accepted or taken a certificate of your stock in the Pan-Electric

Telephone Company?—A. There is one written, which is in the stock book where it was written. I never took it out.

Q. Do you know of any effort to dispose of the stock of that company?—A. Oh, yes, sir; there were a good many sales of it by Mr. Rogers. There were no sales of it that I ever heard of by the association. We did all that we could to prevent its sale before it had a real value.

Q. I wish you would explain why you did not desire the stock to be put upon the market.—A. Simply as a matter of common honesty. We thought it necessary that it should be worth something before we attempted to bring it out. If we had put it upon the market before we knew whether it would succeed or not, of course all the purchasers would have been swindled. That was the sort of consideration that guided us.

Q. Did any members of the company desire, to your knowledge, to have the stock put upon the market?—A. Only the Rogerses; I never heard of anybody else. I say the Rogerses. The younger Rogers was the actual owner, but he was directed mainly by his father. I think that he divided his stock afterwards, and that his father became a stockholder in that way.

Q. Was the subject ever under consideration in a board meeting as to the propriety of putting the stock upon the market?—A. At the very commencement, sir, and a determination formed and a rule made that it should not be put upon the market.

Mr. RANNEY. It appears of record.

The CHAIRMAN. The record is not conclusive evidence, though.

Mr. RANNEY. You were referring to the action at a board meeting.

The CHAIRMAN. As affecting the individual conduct of each member only. [To the witness] I understand you that no member of the board except Mr. Rogers favored putting stock upon the market?

The WITNESS. Mr. Rogers transferred something like three-eighths of his four-tenths to Colonel Looney, of Memphis, and he was anxious to transfer or sell occasionally.

Q. In this connection I will call your attention to a letter, or what purports to be a letter from you to J. W. Rogers, dated the 23d of December, 1883, and will read it, so as to bring it to your recollection:

"Your note of the 21st was received yesterday afternoon, and I saw Mr. J. Harris Rogers immediately in regard to its contents, as officially I can communicate with no one but him in regard to the stock which is borne on the company's records as his.

"I reminded him that the sale of stock is not permitted by the company, and also that such sales, even if not prohibited, would be very dangerous. For if the enterprise did not succeed, all concerned in them would be considered by the public as swindlers. I mean all concerned—all of us.

"Most respectfully, yours truly,

"J. E. JOHNSTON."

Q. Do you recall the writing of that letter?—A. I remember writing such a letter about the time, and it is rather fixed upon my memory from the fact that I mentioned I had tested this telephone between Richmond and this place. I went to Richmond with Mr. Harris Rogers to use the instrument there, and I remember that just after our return Mr. J. W. Rogers was very anxious to make sales of stock, and put his stock upon the market.

Q. Had your test made at Richmond been successful?—A. Yes, sir; we were very well satisfied with it. Speaking from Richmond to Washington along the telegraph wire, of course, was not so favorable as a test would have been over telephone wires, as telegraph wires are put much closer together, making a great deal more of what electricians call induction.

Q. Were you influenced in any degree in withholding your stock by doubts as to the validity of your patents?—A. Not at all, sir; I never doubted the validity of the telephone patent or either patent, at all, but it was only a doubt as to whether we should be able to bring it before the country and bring it into use. We found what I think none of us knew—at least I did not—that there was a great number of those inventions and there would of necessity be a great deal of competition. I had only heard of the Bell telephone, and did not know there were hundreds of others.

Q. Did you at that time believe, or had you any reason to believe, that your telephone patents were infringements of the Bell patents?—A. Not at all, sir; we got the best evidence we could on the subject. The difference was explained to us by Mr. Harris Rogers, and we employed a gentleman who, we were assured, was one of the leading patent lawyers here, and who had been, we were told, the Commissioner of Patents—Mr. E. M. Marble. After a careful examination, he told us that there was not the slightest infringement; that there was a very decided patentable difference.

Q. Did you know at that time that the Bell patents were claimed to cover the transmission of articulate speech by electricity in every case?—A. I was just going to add then that I had never heard of the broad claim made by the Bell Company that any

telephone or every telephone is an infringement upon their patent. It was some time before we learned that.

Q. Then I ask whether I am to gather from your testimony that you hesitated or refused to put your stock upon the market simply because the usefulness and value of your instruments had not been established or sufficiently tested?—A. Because the success of our enterprise was not assured. I thought it was necessary that we should succeed and get the instruments into use in such a manner as to make the stock really valuable before putting it upon the market.

Q. In that connection were you influenced in any degree by doubts as to the validity of your patents?—A. Not in the slightest degree, sir. I had no doubt of it, sir. I say it was a good while before we learned of this broad claim of the Bell Company that nobody had the right to use any telephone but theirs.

Q. In that connection, your company seems to have sold certain territorial rights for the use of the telephonic instruments?—A. Yes, sir.

Q. Will you explain how you distinguished between the sale of territorial rights and the putting of stock upon the market as affecting the question of honesty?—A. Because the purchasers were as well informed as we were. We gave them all the information we had. We informed them not merely of the possibility, but of the probability of suits, but we were bound in the contract to defend those suits.

Q. If you had had doubt at that time as to the validity of your patents, or as to their infringement upon the Bell or any other patents, would you have sold territorial rights?—A. No, sir; I would have dropped the matter at once, but, as I say, we had not the slightest doubt, and therefore we did not discuss such a question as you are making.

Q. I will put the question the other way. Assuming that you had known that there was a possibility of infringement, would you then have put it into the power of other companies to have put stock upon the market?—A. Oh, no, sir. You have there exactly the principle that I expressed in the first case. We determined not to put stock upon the market until the value of the instrument was determined, or rather until it was determined that it was valuable.

Q. But you put it into the power of other persons in certain districts to form companies and put stock upon the market. How do you distinguish between putting it upon the market yourself and putting it in the power of others to do the same thing?—A. Well, we made those sales afterwards, and indeed we thought we were giving it value by those sales. They were modes of bringing it into use which gave it value. Otherwise, if you carry out that principle it would not make it possible to put it upon the market at all.

By Mr. HALL:

Q. If you had not taken that course you could not have given value to the stock, could you?—A. Certainly not.

Mr. RANNEY. If you had done that yourself, instead of allowing others to do it, it would have had the same effect, would it not?

The CHAIRMAN. In fact, you seem to have put it in the power of others to organize companies and put stock upon the market, although you had declined to put it upon the market yourself, because the success of your enterprise was not established.

Mr. HALL. I suggest that they had only declined to put on the market the stock of their own corporation.

The CHAIRMAN. I think the gentleman will be satisfied with my question, when I put it.

By the CHAIRMAN:

Q. If you had doubted your right to the patents at all, or if you had doubted the validity of your patents, would you have done that much; would you have sold these territorial rights?—A. I would not have attempted to bring the instrument into use at all, sir. If I had any reasonable doubt of the validity of the patent, I would not have attempted it. In the contracts which we made we thought we were bringing the instruments out. We could see no better mode of bringing them out. We were obliged to bring them out in order to give the stock any value.

Q. The view you then entertained was simply that the stock should have market value?—A. Yes, sir; we considered ourselves as doing all we could to give it market value.

Q. Suits were brought against your company alleging that your patents were infringements of the Bell patents. Do you recall that fact?—A. Yes, sir; in Pennsylvania. I do not know of any others.

Mr. RANNEY. Pennsylvania and Maryland.

Q. Did you after the institution of these suits, or after they were threatened, if they were threatened, make any disposition of territorial rights?—A. I don't think that we did, although I cannot remember exactly the order in which those contracts were made. They were made in the West, with a company in Illinois and one in Missouri.

Q. It has been shown from the minutes of the company that in January, 1884, I think, the board resolved to dispose of no more territorial rights, and also resolved to forfeit all the contracts which had not been complied with by the purchasing parties. Do you recall that fact?—A. It must have been much later than 1884.

Q. It may have been January, 1885.—A. I don't think any contract had been made in 1884.

Q. At a meeting of the stockholders?—A. We made a contract that never went into effect, with a gentleman in Indianapolis, in the State of Indiana.

Q. That was in the winter of 1884-'85?—A. No; the winter of 1883-'84. It was some time after that before another contract was made.

Q. There was a meeting of the stockholders in January, and of the directors in April?—A. That must have been in 1885.

Q. At which action of that kind was taken; do you recall the fact of that action having been taken?—A. I do not think that such action was actually taken. I remember very well that there was such a discussion, and perhaps it may have been decided; but I don't think it was ever carried out. I think we have been considering those contracts as existing now.

By Mr. HALL:

Q. You were not to forfeit any contracts usually existing, but those that were in negotiation?—A. Ah, I did not understand; I thought the chairman was speaking of cancelling those already made.

By the CHAIRMAN:

Q. I will call your attention to the minutes, which will enable you to speak more intelligently. I will read you the minutes of April 7, 1885. You are right as to the date:

"The president stated the object of the meeting to be for the purpose of considering various propositions for the purchase of the right to use the Pan-Electric telephone in different localities in exchanges for the benefit of subscribers, and after discussion of the same it was decided by the board that no more rights to establish exchanges should be disposed of pending certain contemplated litigation with the Bell Telephone Company, unless ordered by subsequent motion of the board of directors. It was decided, however, to sell telephones in pairs for individual use on private lines to such parties as may wish to buy them, and the secretary was instructed to furnish telephones on application for such use, charging therefor the sum of \$40 for each telephone complete, including transmitters, receivers, bolls, coil battery, and boxes.

"Mr. Harris offered the following resolution, which was unanimously adopted:

"*Resolved*, That the secretary be, and is hereby, directed to give notice to the various parties to whom the company has sold rights to use the Pan-Electric telephone within certain States, districts, and territories, which contracts have, by their terms, been forfeited, that the company will on a specified day proceed by resolution to declare said contracts and each of them forfeited and annulled."

Do you recall any reason that was given at that meeting for the passage of these resolutions?—A. Simply that those contracts had been existing for something like a year, a good while, and it came to be very evident that the other parties did not consider themselves bound by the terms of the contract, and therefore we concluded it was better for us not to be bound either. The terms of the contract required them to have made a certain progress in a given time, I don't remember what, perhaps thirty or sixty days; and it had not been fulfilled anywhere, and we considered that it was very bad policy to have a set of contracts that did not bind the opposite party at all.

Q. It is stated in the first resolution that it was determined to sell no more territorial rights because of the pendency of this litigation. Do you recall that fact?—A. Yes, sir.

Q. Do you remember any discussion in the board upon that subject?—A. Nothing but the general agreement that in the first place we were bound by the contracts that we had made to defend every suit, and we were not disposed to impose any more heavy obligations of that kind upon ourselves. That was one strong reason, and we were very anxious to get a case tried which might settle the question. We thought that we could make contracts to much better advantage, and we were then discussing a course which we afterwards took to institute suit against the Bell Telephone Company in West Tennessee, where it made a great many publications very derogatory to us and our instruments. We thought that such a suit would test the question of the validity of our patents, and would publish it.

Q. Do you know of your company or any member of the company having been concerned in any attempt to procure legislation which would have resulted to the advantage of your company?—A. I do not think that any of the five, including Governor Harris, ever thought of anything of that sort; I am very sure it never was thought of.

Q. Did you recommend Dr. Rogers for appointment to office under the administration of President Cleveland?—A. I have no recollection of anything of that sort; I am told, though, that my name is on a paper, among eight or ten others.

Q. Was it ever suggested in your hearing that his appointment would be in any way beneficial to the company with which you were connected?—A. Oh, no, sir.

Q. Did that fact ever occur to you in signing such a paper?—A. As I just said, I have not the slightest recollection of ever having signed it, and was very much astonished to hear that my name was on it.

Q. Why were you astonished to hear that your name was on that paper?—A. Because I am told that it is a recommendation of him as an Assistant Attorney-General. I had not the slightest idea he was a lawyer, and never had heard it. That is the only evidence—that application—and my hearing of it very lately.

The CHAIRMAN. I do not think the recommendation is for Assistant Attorney-General.

The WITNESS. Well, as an attorney of some sort.

Mr. RANNEY. An attorney in some of the Departments.

Q. You say you did not know he was a lawyer?—A. No, sir. I knew that he had been a clergyman. I did not know that he had ever been a lawyer, and I believe that his title of doctor comes from his position as a clergyman.

Q. How long have you known him?—A. From the beginning of this enterprise.

Q. You had had no previous acquaintance with him?—A. Not at all, sir. I never heard his name even.

Q. Did you join in recommending the appointment of J. Harris Rogers as electrician of the House of Representatives?—A. I do not remember, sir. I think it is very probable I did. If there had been a chance to procure him the appointment I would have recommended him without any hesitation.

Q. Do you recall the fact that he was an applicant?—A. I am not certain as to that. I have a glimmering recollection of something of that sort, but it is too indistinct for me to make any assertion. I had a very high opinion of him as an electrician.

Q. If you did join in the recommendation, did you have in view any advantage to be secured to your company from his obtaining that position?—A. I cannot imagine any advantage to be derived to the company from such an appointment for him. If I had joined in recommending him for such an office it would have been solely for his own benefit; no other object.

Q. Were you consulted at any time with reference to the bringing of a suit to test the validity of the Bell Telephone patents in the name of the United States?—A. No, sir.

Q. Did you ever have any conversation with Attorney-General Garland upon that subject?—A. Never, sir; and this company never made any application of that sort; never joined in it.

Q. Did you have any conversation with any of the members of this company as to the desirability of having a suit brought in the name of the United States to test the validity of the Bell patents?—A. I do not remember any. If any, it was a very slight one. It was not enough to fix itself in my memory. We were at that time discussing a matter which we afterwards determined upon, of bringing suit against the Bell Telephone Company ourselves, in Memphis.

Q. What was that suit for?—A. The Bell Telephone agent in West Tennessee published a great many attacks upon us, some of them almost scurrilous, but they were all intended to injure the standing of our little association, as well as the character of the instruments. We determined to bring a suit, which we thought would decide at the same time the validity of our patents. That was the real object. We thought that such a suit would decide the validity of our patents.

Q. Do you still hold your interest in these companies?—A. Yes, sir. Now that I think of it, you asked me if the telegraph company had been organized. It must have been organized, because I got, or rather we got, an order from the Western Union to its agent here to test the telegraphic instrument I referred to, and it was tested by him.

Q. (Handing paper to witness.) I show you the recommendation for the appointment of Dr. Rogers. Is your signature there?—A. It is. There is no mistaking my signature, sir.

Q. But you do not recall the fact of having signed it?—A. No, sir. I remember very well that Dr. Rogers asked me to recommend him for a consulship to some French port, and I think I must have assumed that was the recommendation for the consulship. It is the only application of his that I can remember ever having heard of. I remember that distinctly, because he made the request of me in a letter and gave his object for wishing for the office.

By Mr. RANNEY:

Q. That was subsequent to this application, was it not?—A. Oh, I do not know at all. I say I do not remember that at all, so I cannot fix its time as compared with another.

By the CHAIRMAN:

Q. I call your attention to a letter which I find among those printed by the committee, dated March 26, 1884, and which seems to have been written at 10 o'clock and 15 minutes in the evening. It is addressed to Dr. J. W. Rogers and J. Harris Rogers. I will read it to you:

"On receiving your first dispatch at 6.15 I sent it to Senator Harris, who keeps our contracts. He replied immediately that he would comply with your request. Your second dispatch came about three and a half hours after the first. I carried it to the Senator's lodgings, and he being absent, left the dispatch with a note telling him 'I cannot break Colonel Young's locks.' This I telegraphed you at once. I regret this very much, for I will do anything for your advantage that does not seem to me wrong. I don't see, however, how those who insist on the impress of the seal of the party of the first part can be satisfied with its impression by the other party. I do hope that when they see the missing sheet supplied they will be willing to wait until the seal can be obtained without violence.

"With best wishes, yours, very truly,

"J. E. JOHNSTON."

Q. Do you recall the writing of that letter?—A. I recall the circumstances.

Q. What were the circumstances?—A. There was a contract which had not the company's seal affixed, and I was requested, if I remember, to get the seal itself for the use of the other party to the contract. The seal was in Colonel Young's quarters and he was absent, and the only mode of getting hold of it was to break open one of his pieces of furniture, which I declined to do.

Q. Do you recall what contract that was?—A. No, sir; I suppose, though, that it was Dr. Rogers's contract in Pennsylvania.

Q. You say they wanted the seal of your company?—A. Yes, sir; to the contract with Dr. Rogers. Dr. Rogers had the right to use this instrument in Pennsylvania.

Q. In entering into the formation of these companies, did you at any time doubt the integrity, the honesty, or the propriety of the conduct of yourself and your fellow members?—A. No, sir.

Mr. RANNEY. I do not think that is exactly necessary.

The CHAIRMAN. I ask that question simply to give him an opportunity to make the statement.

Mr. RANNEY. It does not seem to me proper to ask a gentleman if he doubts his own integrity.

The WITNESS. I have expressed myself as well as I know how on those subjects, Mr. Chairman. We made these contracts believing that we were giving the contractors the full worth of what they gave us. We believed that our instrument was the best extant, and that industrious men would certainly succeed with it.

Q. I speak of the original association between yourself and the Rogerses, and the formation of this company. Was there anything about it in your mind that rendered it of doubtful honesty and propriety?—A. Nothing under heaven, sir.

The CHAIRMAN. I ask the question only because the same question has been asked other witnesses by the gentleman from Massachusetts (Mr. Ranney), although not just in that form perhaps. He has put substantially the same question.

Mr. RANNEY. Oh, no. If I had put such a question as that I would have deemed it an insult.

The CHAIRMAN. I think if the gentleman will look at the record he will not only find that he put such questions, but also that he made direct imputations against the witnesses.

Mr. RANNEY. I asked for facts that; is all.

Q. So you say you never doubted it?—A. No, sir; and as little now. It was as plain a matter of business to me as could well be. We united together to bring two or three inventions into use which we thought very valuable. We did not doubt at all that we could be able to bring them into use, and that we would give Mr. Rogers at least as much as he gave us; that we would be at least as useful to him as he was to us.

By Mr. RANNEY:

Q. You were speaking of the value of the instrument. Am I to understand that before you went into this matter you had any special knowledge on the subject of telephones?—A. I confess, sir, that I had really never heard of any instrument at the time but Bell's that was in general use, and I never saw any other, and did not know that there were others.

Q. Had you had any practical experience with the art of telephony?—A. Not at all, sir.

Q. Or electricity?—A. My knowledge of electricity was too old; what I knew of electricity was in my youth, and of course it is worth nothing now. It was when there was very little more knowledge of electricity than Dr. Franklin had,

Q. By that remark I am not to understand that you considered this enterprise a "kiting" enterprise?—A. Very far from it, sir; I was contrasting "kiting" with this enterprise.

Q. You alluded to the way Franklin regarded it, and therefore I asked you the question. When you first came to look into this matter, at whose instance was it?—A. Senator Harris, sir, proposed to me to join this association.

Q. Can you fix the date when that was?—A. It was in the early part of March, 1883.

Q. You were then occupying what position?—A. I was the general agent of a fire insurance company, sir.

Q. In Washington?—A. In Washington.

Q. And Mr. Harris was then a Senator?—A. A Senator.

Q. How soon did you look into the matter?—A. Immediately after he suggested it to me. He proposed to me to join this association, and I went to see the instruments. They were shown to me and explained to me, and tested by Mr. Harris Rogers in a small way.

Q. When you did go into it you were satisfied it was a genuine thing and of great value?—A. Yes, sir. Then we obtained the opinion of a gentleman who was very strongly recommended to us as a patent lawyer, and who had been for some time Commissioner of Patents also.

Q. You became satisfied the patents were valid and did not infringe on anybody?—A. Yes, sir.

Q. And you were satisfied that it was a good thing?—A. Yes, sir.

Q. Of great value?—A. Yes, sir.

Q. And you tested it from Richmond to Washington, did you?—A. Yes, sir; and afterwards from Washington to New York.

Q. So that you were satisfied it would become of great value. Of course you did not go into an enterprise intending to impose upon the public then. Do you remember what value you placed on this transmitter to the Bell Telephone Company?—A. Governor Harris and myself, in the office of the Bell Telephone Company in Boston, saw them compared, with the help of our electrician, Mr. Harris Rogers, and Mr. Lockwood—I think his name is—the electrician of that company.

Q. In that negotiation do you remember what value you and Mr. Harris placed upon the transmitter which you then proposed to sell to the Bell Telephone Company?—A. There was no proposition of that sort. There was no attempt at expressing a money value.

Q. You gave some indication, did you not?—A. Governor Harris made a proposition which I never exactly understood myself.

Q. It was some millions, was it not?—A. No, sir; there was no expression of any money value at all. Governor Harris proposed—

Q. You were endeavoring to sell, I suppose—

Mr. HALL. I suggest that the witness be allowed to make a full answer.

Mr. RANNEY. If at any time you have not finished an answer, General, when I interrupt you, I would thank you to let me know you have not finished. I do not mean to interrupt you.

The WITNESS. I say I did not understand exactly Governor Harris's proposition. It was that the Bell Telephone Company should permit our instrument to be connected with their wires and used by their customers in some way; but I could not understand exactly the meaning of his proposition. It was one which Mr. Vail rejected at once. It was a mode of using it; and I suppose his object was to convince the Bell Telephone Company of its value. I suppose it was a sort of test.

Q. I am not alluding to it as implying any impropriety in your conduct, but I understand this to be the fact: That you had an idea of selling out the telephone of Rogers to the Bell Telephone Company, which you had a perfect right to do. I do not allude to it as an improper thing. That was so, was it not?—A. Yes, sir; there was an idea of making some sort of bargain.

Q. It was to sell this transmitter, was it not?—A. Yes, sir; it was to make some proper arrangement with that company, either an alliance or a sale.

Q. Were you cognizant of the fact that Senator Harris mentioned that their idea of the price was some millions?—A. I do not think he made any estimate of its value in money.

Q. Were you not asked to name a price which you wanted or would like for it?—A. He asked Mr. Vail, after Mr. Vail had rejected his proposition, what he thought of its value; and Mr. Vail said he evidently had such an extravagant idea of its value that it was not worth his while to name what he should regard as its value.

Q. What had Senator Harris said to Mr. Vail to give him that idea?—A. He had spoken of a sort of use that I told you I did not understand. He proposed that Mr. Vail should permit this instrument to be used in some way or other by his customers alongside of the other.

Q. I understood you to say that Mr. Vail said to Senator Harris that his idea of

the value was such that he could not entertain it. That would imply that Senator Harris had in some way communicated his opinion of its value.—A. Not in a money way; at least, I have no recollection of anything of that sort. We were always together, the three of us.

Q. If you were talking of selling to the Bell Telephone Company, you and Senator Harris and your associates, among yourselves, must have said something to indicate what you estimated its value to be in case you should sell it?—A. Mr. Harris went there, as I explained, very badly, of course, because I did not understand his scheme exactly, so that I cannot explain it; but it was the permission by Mr. Vail to his agents to use this instrument in some way alongside of their own, having connection with their wires.

Q. And to be paid a royalty?—A. I do not know what it was.

Q. Perhaps you did not notice my question. I understood you to say there was an idea on the part of your associates of selling out this transmitter to the Bell Telephone Company. My question was whether among yourselves you had not talked over the price you would ask for it?—A. I don't remember, sir.

Q. You do not remember that you ever talked about the price you estimated it at?—A. I have no doubt we did; but I don't think there was ever any deliberate discussion of the question as to an agreement upon a sum.

Q. What was the talk among yourselves as to the price you would ask for it?—A. I don't remember. I don't remember that its value was ever precisely estimated in that way.

Q. Did you not estimate the value among yourselves?—A. That is what I am speaking of. I don't remember any sum being fixed upon as its value.

Q. Do I understand you to say you cannot tell whether it was \$5 or \$5,000,000?—A. I did not use those terms.

Q. I use them as a limitation each way.—A. I don't remember that any sum was ever fixed upon.

Q. I understand your answer, and will therefore leave it. You did not understand that Mr. J. Harris Rogers claimed to have invented the art or method of transmitting articulate speech by electricity, did you?—A. Oh, no.

Q. All you understood was that Mr. Rogers had invented an apparatus by which it could be done?—A. Yes, sir; that he thought he had made a great improvement upon preceding inventions.

Q. So that he did not claim to have invented the thing which had priority to what we term Bell's invention?—A. No, sir.

Q. In fact, his claim of invention on the telephone matter was that he had invented that instrument called a microphone, what is called the transmitter, was it not, by which the thing could be accomplished in part?—A. The transmitter is a part of every telephone, I believe.

Q. That was the invention that you were exhibiting?—A. The construction of that transmitter was Rogers's invention.

Q. That is, it was what he claimed was a new form of it?—A. Yes, sir.

Q. Better than the Blake transmitter?—A. Yes, sir.

Q. Did you participate in getting the charter at New York?—A. I think that Mr. Rogers got the charter in New York. We had several charters; we had charters in New York and Tennessee, I know.

Q. I do not want to waste any time in regard to matters with reference to which others have testified; I only want to put to you general questions. I simply want to know whether you took charge, personally, or had anything to do, or much to do with getting the charter of incorporation?—A. Nothing, sir.

Q. Then I will not spend time on it. You say you had had Mr. Marble's opinion; did you ever have Senator Garland's opinion likewise?—A. Well, Senator Garland was not an expert in those matters; I do not think that we consulted him as to the validity of the patent; that required an electrician.

Q. You went into association with him, and you got his opinion on the matter of infringement, did you not?—A. Well, I do not think that Mr. Garland's opinion would have been valuable in that matter, because only the opinion of an electrician, I should think, would be worth anything on such a matter.

Q. Are you aware, then, that Senator Garland, one of your associates, had issued or delivered an opinion of his own as to the patent question?—A. No, sir.

Q. You were not aware of it?—A. Not at all, sir.

Q. Were you aware that Senator Harris, who is a lawyer himself, had given his opinion at the time?—A. I conversed more with Senator Harris on the subject than anybody else, and I think he derived his opinions from the electrician. I do not think he gave any opinion as a professional man.

Q. Have you read the several opinions that have been put into this case, one by Senator Garland, and one also by Senator Harris?—A. No, sir; not one that Senator Harris had written.

Q. Did you know of any of them?—A. No, sir.

Q. You never knew of them at the time?—A. No, sir; this is the first mention to my ear.

Q. Were you aware of the opinion that Senator Garland sent to Mr. Myers?—A. No, sir.

Q. Did you know anything about the negotiations for the sale to Mr. Myers of rights in the several States?—A. I knew of the sale of rights to use the instruments in Indiana.

Q. There were several other States included in the contract; did you ever know anything about that?—A. Yes; it was a matter of agreement; we agreed upon it.

Q. If I recollect rightly, the aggregate sum paid in the several States was about \$90,000; I may be mistaken about that, but that is the impression I have. Did you ever know anything about those negotiations?—A. They were brought before four or five of us. The contract, whatever it was, was written by Senator Harris; he wrote all those contracts.

Q. Did he submit it to you?—A. It was signed by me.

Q. Of course you read them before you signed them, or didn't you?—A. O yes; I read or heard them read.

Q. Had you aught to do with the negotiations preceding the execution of the written agreements?—A. The negotiations, I suppose, were conducted in our little party of four or five, all of us present.

Q. Were these negotiations made verbally, or by correspondence?—A. Verbally.

Q. Did you know Mr. Myers?—A. I never saw him before.

Q. Do you know whether he was purchasing those rights under that contract for himself or for other people?—A. It was supposed that he was purchasing for himself.

Q. Did you know anybody else associated with him?—A. I do not remember.

Q. Do you know of any verbal arrangement in connection with him that is not incorporated or merged into the written agreement—any understanding about the profits?—A. I remember very little of it, for the contract never went into operation.

Q. Do you remember whether, before that contract was made, Mr. Myers obtained a written opinion from Senator Garland about the patents?—A. I never heard of it; at least, if I heard of it, I have forgotten it.

Q. You were not aware, if it was the fact, that Mr. Myers, before he made the agreement and entered into it, procured from Mr. Garland his written opinion about the patents?—A. No, sir. I can hardly imagine, though, that anyone would have depended upon the opinion of the best lawyer in the world, who was not an electrician, in a matter of that sort. Only an electrician could decide upon the validity of such a patent.

Q. You thought it very strange that Mr. Myers sought the opinion of Senator Garland, or do you mean that you thought it strange that Mr. Garland gave it?—A. I was speaking simply of Mr. Myers's view of the matter. I cannot imagine what he could want with the opinion as to the validity of an electrical patent from one who was not an electrician.

Q. There is a question beyond that mere matter of science, a legal question of infringement, is there not?—A. Well, but that infringement can only be detected by an electrician. At least that is my idea on the subject; I may be wrong.

Q. It depends on legal questions, too?—A. Yes, but the legal questions cannot be applied very well without a knowledge of electricity.

Q. That may be. The law is not of any consequence unless it is given with reference to a state of facts. Senator Garland was a lawyer of some note and distinction in the Southwest, I take it?—A. Yes.

Q. Very well known as a lawyer and a Senator?—A. But not very likely to have observed or to have had before him cases in which electricity was involved, or in which telephonic instruments were involved.

Q. If he gave any opinions you have them. You mean that you would not place much stress on an opinion which he might give?—A. I mean that in such a case as you have described I would not have thought of applying to him for an opinion.

A. I do not want to go over these matters repeatedly, but I will allude to it. I understand that, from examination, you gentlemen were perfectly satisfied that these patents were good and valid; that there was no infringement; that they were valuable, and you took this interest in them which you have mentioned understandingly?—A. Yes. I will say, sir, that our opinions were, to my mind now, very extravagant; we had the highest possible opinion of the value of those inventions.

Q. Pardon me. It is the opinion which you then formed and on which you then acted that I am speaking of, and not your present opinion. You said that you understood from Dr. Rogers and his son, who made this distribution of interests, that they relied on you gentlemen for your influence and position in the Southwest. I understood you to make an answer substantially to that effect?—A. That was my understanding, sir.

Q. And you understood that it was not any wealth that you gentlemen might have?—A. No. I do not think there was a rich man among us.

Q. It was for your influence and position, and well-known reputation for integrity of character—which nobody will deny—that you took the interest, and not for the capital that you might be expected to put into it?—A. No, sir; it could not have been, as there was no capitalist among us.

Q. In order to utilize the patents and get them before the public and make them a success, he desired the association with him of such men as have been named; that is your understanding?—A. That is my understanding.

Q. To give confidence in the matter; it was with that view, as you understand, that you all went into it?—A. Yes.

Q. You did not concern yourself, you say, as to the details of the corporation? You wrote this letter in December, 1883, in regard to the impropriety of putting on the market or selling the stock, because if it did not prove a success you would all be called swindlers. That was in 1883, I believe?—A. I think about the end of 1883.

Q. Subsequent to that time, how many territorial rights within your knowledge did your associates proceed to sell?—A. One in Pennsylvania, one here, Illinois, Missouri, Tennessee, Alabama, and Texas.

Q. If I remember rightly about those contracts it was contemplated to form corporations, and your company as a part of the consideration was to take certain shares of stock in those corporations which are specified.—A. Yes, sir.

Q. You are aware of that. Were you likewise aware that in those contracts for the sale of territorial rights, the formation of corporations and the issuing of certificates of stock, there was no restriction against those subordinate corporations putting their stock on the market?—A. There was none that I know of.

Q. You were aware that there was none?—A. I believe there was none.

Q. And you were aware likewise that the value of that stock in the subordinate corporations depended upon the value of the territorial rights which the parent company sold them?—A. We believed that they depended upon the value of the instrument in the hands of industrious people who would bring it into use. We had no doubt that those companies would bring the instrument into use; they had no opposition, or next to none.

Q. Perhaps you did not comprehend my question; it was my fault undoubtedly; my question was designed to be this: Whether you were aware that the foundation of these subordinate companies—the right to use instruments and put them into operation, the right to form corporations and manage them—depended upon the value of the territorial rights which you sold them. If they got no interest in those patent rights of which the parent company held exclusive control, of course they could not form corporations to carry on their operations. You knew that, of course?—A. I do not think that I understand you, sir.

Q. Were not the subordinate companies based entirely on the territorial rights which the parent company sold them?—A. They depended upon the territorial rights, yes, the right to use that instrument and the value of that instrument.

Q. Your parent company and your original associates held the exclusive property in the letters patent of young Mr. Rogers, present and all prospective or future ones he might make; that embraced the whole of it; and this sale of territory was only of the same right you had to those particular localities?—A. Yes.

Q. In those contracts you made with those corporations you were aware that you were to have a certain amount of stock as the consideration for the sale of those rights?—A. Yes.

Q. And you were aware likewise, I presume, that they proceeded to organize those corporations and issue certificates of stock in due form?—A. That was a right, of course; I do not know how many have exercised it.

Q. As president of the parent company you, of course, received, or you seem to have—they have been produced here—certificates of stock issued by those subordinate companies. You were aware of that?—A. I must have been.

Q. There was no limitation in those certificates as to the rights of the parties owning them putting them on the market and selling them?—A. There was no limitation of that sort by us.

Q. So that, if I understand you, General, you had scruples or reasons sufficient for you why the parent company who held the entire interest in the patent rights should not put stock on the market; you had scruples against that and did not want it done lest, if you did not succeed, you might be called swindlers; but you had none against these local companies doing so who had only a partial interest in it.—A. I think your argument would have prevented any possibility of our ever getting our instrument into use. The sale of the instrument was the only mode of bringing it into use and and getting it before the country.

Q. Undoubtedly.—A. We believed that in each case there was a good prospect of success on the part of the company formed—the company in Missouri, for instance;

we looked upon its success as certain. It was the only mode by which we could get the instrument into use. If we did not sell it of course we should stand still.

Q. I do not exactly see why the parent company, the company in Tennessee, could not have gone and done that same thing, as well as the subordinate companies, with equal propriety.—A. I do not know that it is very much worth while to discuss that. There was no harm in our keeping the stock unsold, undistributed.

Q. In your judgment, was there any reason why it would have subjected your associates of the original company to such charges as you indicate in your letter any more than it would have compromised the subordinate companies who issued stock and put it on the market?—A. There was this difference: That at the time when we made this rule we had not adopted any mode of bringing the instrument into view. We applied it in those contracts where we thought success was so certain, and therefore we had no scruples about making such contracts. We did not think there was the danger of worthless stock in the subordinate companies which I believe we had thought there was in the parent company.

Q. What seems to trouble me, and the chairman too, if I understand you, is when you had stock based on the entire capital constituted by the patent—had stock issued—why there could be anything worse in issuing that stock and putting it on the market than there should be on the part of the subordinate companies doing it when they had only a limited interest.—A. I was attempting to show that it was not inconsistent in us to make those contracts—not inconsistent with the first provision. If I understand you, you were arguing against our first provision to sell.

Q. I do not make any charge that you were in that position, General, but I say simply, following the line of the chairman's inquiry, that I do not see how you in that letter could regard it as improper in the parent company, and possibly an improper thing in you, to put it on the market, and at the same time sanction that very thing on the part of the subordinate companies.—A. Pardon me, sir, it was not at the same time; it was much later; but if we had made such contracts, then we should have done it with the utmost confidence; we believed that we were running no risk whatever, and it would have taken a number of those small companies to make our stock valuable, if you think a moment. So I cannot see how much inconsistency arose from our action.

Mr. EDEN. I would like to ask the witness a question.

Mr. RANNEY. I wish you would not interfere. Let us observe the rule.

Mr. EDEN. It has been customary, when a member of the committee desired to ask a question, for the gentleman who is examining the witness to allow him to do so.

Mr. RANNEY. It will break down the rule.

Mr. EDEN. It has been done by yourself very frequently.

Mr. HALL. Half a dozen times.

Mr. RANNEY. If the other members of the committee will consent to it—

Mr. EDEN. I shall not insist upon it at all. I only wanted to ask a question on the point you are just leaving.

The WITNESS. What I was attempting to do—*attempting*, I say—was to show that there was no inconsistency, in our agreeing to this arrangement in the States, with the general position.

Q. I do not want to dwell upon it, but as you were president of the company you were perfectly familiar with it. As a matter of fact, as I understand, your parent company as such never proceeded to set up and operate the telephone, to receive royalties and do it as a business?—A. No, sir; not directly.

Q. You really became a company in your practical operation which engaged in the sale of territorial rights.—A. But if you will excuse me, sir, we had barely begun; we were stopped.

Q. We have seen how far you went. You organized a corporation in Tennessee before you allowed to be organized two subordinate companies in Tennessee, or one which was it?—A. One, I think.

Q. And that subordinate company was the one practically to operate the telephone. I believe I understand the position which you had. The profits which you were realizing out of these patents—A. Which we hoped to realize.

Q. Which you did realize, so far as you went, were from the sale of territorial rights. So far as you went you became simply a dealer in territorial rights. We have the details of the corporation, and I do not want to take time in repeating them. You have said, however, in answer to brother Boyle, with reference to the action of the company directors in January, 1885, that you then stopped issuing stock in the parent company. Do I understand you to say that after that vote which you read, you or your company actually did not issue any stock of the parent company?—A. We did not begin to issue stock of the parent company. We never did issue stock of the parent company.

Q. I do not know whether you call it stock. We have a stock-book here with certificates of stock in it. You do not call that stock?—A. Yes, sir.

Q. Then do you wish to qualify your answer?—A. Well, when you spoke I was thinking of sales. That was forbidden.

The CHAIRMAN. That was the question and answer before, as I recollect. I asked him nothing about issuing stock.

The WITNESS. It was the selling of stock——

Q. Did the vote forbid the sale of stock?

Mr. HALL. Let the witness answer the question.

The CHAIRMAN. Let him answer.

The WITNESS. I am perfectly satisfied myself.

Mr. RANNEY. I know, general, that you mean to be fair.

The WITNESS. I say I am perfectly satisfied with your manner of asking.

Mr. HALL. He could probably observe some courtesy.

Mr. RANNEY. I addressed General Johnston.

Q. Now, I mean to treat you with the utmost respect, for I have nothing but the highest respect for you, and if any question I shall put shall intimate otherwise, I hope you will remind me of it.

Mr. EDEN. It would be more comfortable in listening to the testimony if you would permit the witness to answer one question before putting another to him.

The CHAIRMAN. If the witness will indicate at any time that he desires to finish an answer there will certainly be no objection on the part of any member to his doing so.

Mr. RANNEY. It is not my purpose to interrupt any answer before it is finished, and if I do so unintentionally I hope the witness will say so.

Mr. EDEN. I do not ask it on account of the witness so much as on my own account, for I want to hear what he wishes to say.

Mr. RANNEY. I am dealing with the witness, but if I am breaking the rule I am not doing so intentionally, and will be only too glad to have the matter called to my attention.

Q. The chairman read the vote to you, which embraced, as I now remember it, not only the sale of rights, but the sale of stock in the company.

The CHAIRMAN. I think the gentleman is in error about that. My recollection of the vote was that there was no selling of stock referred to. I think there was no allusion to the sale of stock.

Mr. RANNEY. That was a stockholders' meeting?

Mr. MILLARD. There was no allusion to sales of stock.

The WITNESS. There was one matter which, perhaps, created a little confusion. At one time last year we determined that it would be necessary to raise money with which to meet expected expenses of suits, and so a stock assessment was made of 10 per cent. for that purpose.

Mr. RANNEY. Let me understand. Did you refer to the directors or stockholders?

The CHAIRMAN. To the directors' meeting, as to the sale of rights.

Q. Were you aware of the vote which restricted the sale of stock of the parent company?—A. The sale of stock of the parent company was forbidden—I do not think it was restricted, but that was in the beginning, in 1883.

Q. And were you aware that notwithstanding that, subsequently the company did go on and allow sales and transfers of stock?—A. The company could not help itself; but they did not issue stock to purchasers.

Q. What did they issue when a sale was made?—A. Something like an order from Mr. Rogers setting forth that the bearer had purchased so many shares; and generally in those cases a paper was given to the effect that whenever the company determined to issue stock the holder should receive that amount.

Q. But were you aware that the stock ledger shows that they went right along selling whatever stock was sold and keeping a ledger account of the transfers?—A. No, sir; I was not aware of that.

Q. I see that on the ledger which I have here, called a stock-book, the stock is charged to the Pan-Electric Company, and then on the transfers sales are credited, running from page 66 to 137, original page. On that page, 137, there is an account of stock and transfers, where they are charged with certificates. You will see what it is, and it will be better than to put it into the record and encumber it. [Book handed to witness.]

The CHAIRMAN. I suggest to the gentleman from Massachusetts that it has not appeared that the company ever issued a single certificate of stock.

Mr. RANNEY. I do not mean to mislead the witness.

The CHAIRMAN. I make the suggestion because I think you are under a misapprehension.

Mr. MILLARD. You do not mean the telephone company, do you?

The CHAIRMAN. Yes.

Mr. RANNEY. I am not under any misapprehension. I am familiar with everything about it so far as it has gone. I am not under a cloud myself, and I certainly shall not mislead any one.

The CHAIRMAN. I call the gentleman's attention to the fact that the evidence so far is to the effect that not a single certificate of stock was ever issued to any party whatever.

Mr. MILLARD. They issued certificates that they were entitled to so many shares.

The WITNESS. That they *would be* entitled to stock?

Q. Have you looked at the record?—A. I have looked at three or four pages of the book you handed me.

Q. And you find, do you not, the entries of certificates issued to various parties?—A. Yes.

Q. Purporting to be certificates of stock?—A. (After looking through the book further.) The names are all of persons who did not belong to the association; of course they became stockholders.

Q. That is what I had reference to. Are you aware of what was the form of certificate issued? There is the certificate book that has been put in evidence. Look at the first one in it—the others follow—and state whether, to your knowledge, that is the form of certificate?—A. This is undoubtedly the form.

Q. Do you know of any other certificate book that you had?—A. No, sir.

Q. You observe there that it begins in 1885, do you not?—A. Yes, sir.

Q. What was the form of certificate, if there was any, which was adopted prior to that time?—A. I think that this book was made a year or two previously, but the certificates were not filled until the date here.

Q. I observe on that book—you will correct me if necessary—that prior to that time, in 1883 and 1884, there purports to have been stock issued; in some places the certificates are mentioned. Do you know what form of certificates was used before that book?—A. I know of no other than this. I think this book was in Colonel Young's office for a year or so before any certificate was filled.

Q. You were not aware of any other? Then I pass from that. I do not want to waste time on this, because I only wanted to direct your attention to it.—A. I do not myself consider it time wasted. (Witness makes further search in the book.)

Q. If not, I certainly would not deprive you of the privilege of using the time in your own way, but I do not want it charged to me.—A. This was made in 1885; I remember it, sir. That is not the stock-certificate book; it is a certificate that the holder will be entitled to a stock certificate whenever the board of directors choose to issue stock.

Mr. RANNEY. These books are just alike.

Mr. HALL. Yes.

Mr. RANNEY. Then why spend time on them?

Mr. HALL. I do not know who is spending time on them.

Q. The two books are just alike?—A. Yes, sir.

Q. And I understand you to say that they are the only ones you ever knew about?—

A. I had not then read the certificates.

Q. You have now.—A. I have now.

Q. There will be no mistake about that. Do you know of certificates being issued by the Pan-Electric Company of New York?—A. No, sir. Immediately after that meeting in New York, I think, the two Rogerses remained there, and they sent me a stock-book which they themselves had gotten up, and they put forth a sort of prospectus which you will find in this little pamphlet of letters.

Q. Yes, we have had that. That stock-book they sent you from New York was prepared and proposed to be issued by the company organized in the State of New York, was it?—A. I fancy not, because we had a charter from the State of New York, but no company was ever organized there.

Q. Was not that stock-book gotten up in view of going on there?—A. Mr. Rogers was pretty wild occasionally, and I do not know what object he had.

Q. You did not go on under the New York charter, did you?—A. I do not remember, sir, whether the New York charter covered the telephone or telegraph company.

Q. It appears here, I believe, that it covered only the telegraph.—A. But we considered each of those charters as covering our business.

Q. I understand from the papers put in here that the Pan-Electric Telephone Company had conveyed to it only the telephone patents. Did you ever put in operation, utilize, or monetize, or whatever you call it, the other patents, not the telephone patents?—A. The only attempt was my getting the telegraphic instruments tried by the manager of the Western Union Telegraph Company here.

Q. That is all you have done about it?—A. That is all.

Q. So far as you know, the old company embraced, together with its branches, the telegraph and telephone?—A. A little more.

Q. If there is anything more, state it.—A. Mr. Rogers invented an electric light, and we discussed in his presence whether or not it was worth our while to attempt to bring it out; but we all thought, he among others, that it would not be a promising enterprise.

Q. Is there anything else that you know of?—A. I do not know of any other instrument. There was nothing that attracted my attention except those.

Q. Then the Pan-Electric Telephone Company the parent company as it would seem, was the one with reference to which what was done was confined; and in that all you did was to sell rights in the States, and in those sales you agreed to protect the patents?—A. Yes, sir.

Q. Without being liable or undertaking to be liable for any damages?—A. Our contract was to defend the suits instituted.

Q. But not to pay any damages?—A. No, sir.

Q. You were to step in and defend the suits. You say that after a while you knew that it was claimed that your telephone patents—I say yours, meaning those of yourself and associates, those owning them—infringed the Bell telephone. You became aware that it was claimed that that was so?—A. This claim to the exclusive use of electricity in telephoning was the only manner in which we considered ourselves as infringing.

Q. You said you were anxious to meet that contest and have it decided, I understood you?—A. Yes, sir.

Q. Were you aware that the Rogers company organized in the State of Pennsylvania was sued by the Bell Telephone Company, in which suit they claimed that there was this infringement? Were you aware of that suit being brought?—A. Yes, sir.

Q. And under your contract your company was required to defend that suit. What steps did you take to do that?—A. We employed a lawyer who was recommended to us by several of the Philadelphia members in the House of Representatives; I cannot remember his name. But when the time came, I think that he let the suit go by default.

Q. Did you understand why, after employing counsel and when you were under a contract to defend the suit, you did not defend it?—A. That was the course taken by our lawyer.

Q. Did you know why it was taken?—A. Well, I think, sir, that I can only judge from what he said on the subject in the beginning, that it was idle to try a case there against the Bell Telephone Company.

Q. Did he give a reason?—A. He said that they had possession of everything there in the courts.

Q. Had possession of every *thing* in the courts?—A. Yes; they managed and controlled the courts.

Q. Did they control the judges?—A. He did not say judges; he said the courts and the bar.

Q. You did not have any difficulty in finding lawyers who would engage for your case if you would only pay them, did you?—A. This one we engaged at the recommendation of a friend in the House of Representatives from Philadelphia.

Q. Do you remember who that was?—A. I have just said that I cannot think of his name.

Q. You did not find any difficulty in employing able counsel in Philadelphia, notorious for its able men, "Philadelphia lawyers"? You did not have any difficulty in getting good lawyers, did you?—A. Mr. Young employed him.

Q. I do not mean to press it too far, but I want to know this: If the reason of it was that the Bell Company had retained all the good lawyers, so that you could not get good ones, or was it something else?—A. Well, I did not mean to give that impression, and the truth is I do not know exactly how, but it was something very like that. I should like very much if you would let Mr. Young answer that question.

Q. We have had him. You were president of the company, and I may have more confidence in your answers than in his.—A. But Mr. Young managed the case at that time as a lawyer, so far as we were concerned.

Q. You were president of the company?—A. I was president of the company, but he managed the case, he being a lawyer.

Q. What I want to know is, if I do not interrupt you, was it reported that it was because all the good lawyers in the State of Pennsylvania were retained and controlled by the Bell Telephone Company?—A. No; that the Bell Telephone Company had an influence there which made it idle for people in our position to attempt to contend with it. That is about the amount of it. I cannot pretend to give the words.

Q. Frankly, general, was it this: Because you could not get lawyers to properly try your case, or because you could not trust the courts?—A. This gentleman who was employed was recommended to us as an eminent lawyer.

Q. And there was no trouble on that score?—A. Certainly not.

Q. Then the trouble was where?—A. I cannot express it any better than I have, because I tell you I was pretty ignorant of the matter myself; I did not attend to it at all. We put it into the hands of Mr. Young, who was a lawyer himself, and he went to Philadelphia and employed this gentleman.

Q. Who made that report to you, Mr. Casey Young or the lawyer himself?—A. The whole report was simply—

Q. No, who made it?—A. I think Colonel Young himself did.

Q. Now we will get what Colonel Young said. Did he say that you could not get an honest judge in Pennsylvania?—A. What I attempted to say was that the influence of that company was so great in Pennsylvania that we could not contend against it.

Q. You knew that it had to be decided by the courts, did you not?—A. Of course.

Q. Frankly, did not Colonel Young say that you could not trust the judges of the State of Pennsylvania?—A. No, sir; this is not Colonel Young's language, but the language which he repeated from this lawyer.

Q. Did he say the trouble was with the judges of the courts of Pennsylvania?—A. No, sir.

Q. What was it?—A. I have said, as well as I know how, that the influence of that company was such in Pennsylvania that it was not worth our while, that we could not contend against it in court in a suit.

Q. That is as far as you can go, is it?—A. That is as far as I can go.

Q. Did he not say that the courts had had telephone cases before them and had already formed an opinion on them?—A. No, sir; he did not go into details, but it was a general expression like that I have given you.

Q. He advised going into Tennessee, did he not, to bring suit? I mean Casey Young.—A. Casey Young advised going somewhere else than to Pennsylvania. We had contracts in five or six Western States, and we all thought it would be more advantageous to make a suit in the West.

Q. Did he mention any judge that he would prefer?—A. No, sir.

Q. Where was the conference, if you had one, when it was determined to go to Memphis with the suit that the company brought there?—A. The suit in Memphis was brought on account of the attacks made upon it in Memphis by the Bell Telephone Company's agents.

Q. That was not confined to Tennessee, was it?—A. I do not know whether it was or not, but it was stronger there than anywhere else.

Q. Was it not said that they had circulated newspapers or circulars in the Southwest?—A. My attention was called only to that in Memphis; we had a great deal of that. There were attacks made on us in New Orleans by other people, by a different company.

Q. Frankly, General, I wish you would recall whether the judges were not talked about in the talk you had with Colonel Young; was it not suggested or concluded that a suit in the district where Judge Baxter sat would be most advisable?—A. I do not think that Judge Baxter was considered as particularly advisable.

Q. Was his name mentioned?—A. I have heard his name mentioned frequently, and particularly as very antagonistic to Senator Harris.

Q. I only want to confine it to the time of your conferences about that matter.—A. That is what I am speaking of.

Q. Was it mentioned?—A. It was mentioned in that way, talking of judges all over the country.

Q. What did they say about Judge Baxter?—A. That Judge Baxter was very hostile to Senator Harris.

Q. What else did they say?—A. I do not remember anything else particularly.

Q. Did they make any allusion to his hostility to monopolies in patents?—A. No, sir.

Q. Are you sure?—A. No, sir; I am not sure. I am only saying what I remember. Of course I am not sure that I remember everything, because conversations of that sort did not make a great impression on me.

Q. You will pardon me for my inquiry; I do not know whether you are a member of the bar; my familiarity with your name has come from another direction. Are you a member of the bar?—A. No.

Q. So you do not know Judge Baxter's reputation in that way?—A. No, sir; not at all.

Q. Was he a Tennessee man?—A. I have not the slightest idea. I think from what I have seen since his death probably he was, but I never heard it before.

Q. You do remember that in conversation the name of Judge Baxter was canvassed among other judges?—A. I remember his being spoken of in just that way.

Q. You remember that some one said about him that he was not on good terms with Senator Harris?—A. Yes, strongly hostile.

Q. Where was that said?—A. In the conversation about the bringing of this suit.

Q. But I would like the place. Where were you when that was said?—A. I do not know.

Q. Can you not recall the occasion when that was said and where that was discussed?—A. Not at all. It was in Washington.

Q. Who was present?—A. I cannot remember. As I just said at the first conversation, that did not make any impression on me.

Q. Do you remember whether it was after Casey Young came from Pennsylvania,

where he concluded to withdraw from that suit?—A. I do not know that he did conclude to withdraw; I had the impression that the gentleman whom he employed there—

Q. Do you recollect who suggested that Judge Baxter was hostile to Senator Harris and would not be a good judge?—A. I think it was Senator Harris himself. I mention that as a probability.

Q. Did he object to him?—A. I say I mention it simply as a probability that Senator Harris may have said it.

Q. You do not remember the fact?—A. No; I do not remember. Those conversations made very little impression on me; they were mere matters upon which I could not act, for I had no information.

Q. As you were president of the company, I thought possibly you might have been consulted about it?—A. Oh, those were matters for the lawyers to decide. Senator Harris and Colonel Young decided everything connected with the law matters.

Q. I thought possibly they might have reported to you. You say Casey Young did report to you the result of his Philadelphia experience and his action on the advice of counsel there.—A. My idea was that the counsel decided that matter.

Q. I did not know but Mr. Young might, as counsel, while expressing his views about the judges of the courts in Pennsylvania, have expressed his preference for some other judge.—A. That case could not have been tried anywhere else, of course; the Bell company brought it in Pennsylvania; the infringement was in Pennsylvania.

Q. What is the last meeting of the board or of your associates that you remember attending?—A. I think that the last was in the spring of last year, 1885.

Q. Where was that?—A. In Washington.

Q. Have you never met since then?—A. I think not. There was a meeting with reference to this assessment I have just mentioned, of 10 per cent. of the stock, to raise money. I think that is the last I remember.

Q. I mean formal meetings first, and then informal ones?—A. There have been informal meetings of two or three of us, but none of consequence enough to have made any impression on my memory.

Q. Were you present in Washington at any meeting in 1885 after July 12, after Casey Young came from Pittsburgh?—A. I was not in Washington at that time.

Q. Were you aware of Casey Young, your counsel, going to Pittsburgh to see Mr. Van Benthuyzen in the suit which he had at Pittsburgh?—A. I heard it a few days ago for the first time.

Q. For the first time that you ever heard of it?—A. Yes, sir; I have no recollection of having ever heard of it before.

Q. Where were you during the last days of July and the first days of August, 1885?—A. On the Pacific coast.

Q. Where were you during the last days of August and first days of September?—A. In the western part of Pennsylvania.

Q. Did you during those months meet Casey Young?—A. No.

Q. Or Mr. Van Benthuyzen?—A. I don't think I have ever seen him.

Q. You never met him?—A. If I ever met him it was so casually that I do not remember it.

Q. Do you know whether before that time your company had had a controversy with him or with his company down in New Orleans?—A. Yes; he charged that Rogers had sold to us the instrument which Rogers had some years before sold to him (Van Benthuyzen).

Q. And the controversy grew out of that?—A. And I had the patents examined here by Mr. Marble, who announced that there was a plain patentable difference between them.

Q. Was there any feeling between your company or its directors and Van Benthuyzen, growing out of that controversy?—A. Not that I know of. Mr. Marble was requested to make a report on the subject, and that report, when made, was sent to our agent in New Orleans for publication.

Q. It was printed in the New Orleans Picayune, was it?—A. I do not know what paper published it; all I know is that it was sent down there for publication.

Q. Have you heard anything more about any controversy between you and Van Benthuyzen, or known anything of it, since the 1st of August, say, 1885?—A. I have never heard anything except that which you mention in New Orleans.

Q. Do you know, if it is true, how it happened that your differences arose with Van Benthuyzen or with his company about the 1st of August, 1885? Have you any personal knowledge about it?—A. No.

Q. Did anybody ever show you any contract that had been made with him or his company, any contract between him and yourself, or between him and your company, Casey Young and Senator Harris signing for your company?—A. No, sir; I did not see such a paper.

Q. They did not show you any in August?—A. I just said that I was in California and Oregon in those times.

Q. Did they write to you about it?—A. No, sir. A letter could not have found me if they had.

Q. After your return were you present at any meeting of any number of your associates when Senator Harris told them what he had done about signing the contract?—A. No, sir. I never heard Senator Harris say anything on that subject. I do not think I could have forgotten it if I had.

Q. Nobody, then, ever spoke to you about any contract, if there was any, made between Van Benthuyzen for the National Improved Telephone Company and the Pan-Electric Company, or the officers thereof, about the 1st of August, 1885?—A. I feel sure that I could not have heard it myself.

Q. Did anybody ever speak to you at that time or subsequently, before this investigation began, about a supplemental agreement?—A. No, sir; I should not have understood a supplemental contract not knowing the first.

Q. Did you ever know that there was one?—A. No, sir.

Q. Did Colonel Young ever tell you that there had been one made?—A. No, sir; if there had been such a contract I would have been obliged to see it, I should think; I do not see how it could have been concealed from me.

Q. I am asking for the fact, whether that fact was true.—A. I have just said.

Q. Is not the first time you ever heard of it since it was brought out in this investigation?

The WITNESS. Do you speak of an actual contract?

Mr. RANNEY Yes, a written contract. Casey Young says he signed with Van Benthuyzen a written contract, and that Mr. Harris signed it on behalf of the Pan-Electric Company and Mr. Van Benthuyzen on behalf of his company; that the agreement was made first verbally at Pittsburgh, then put in writing, and signed soon afterward here in Washington about the 30th of July or 1st of August.

The WITNESS. Colonel Young told me a few days ago that such a paper had been drawn up.

Q. I do not ask you what he told you recently—that would be after this investigation began. Before this investigation began had you ever been informed of that paper?—A. I was just going to tell you what I was informed of, but I do not know whether it is the one you mean or not.

Q. I interrupted you because I understood you were telling what Casey Young told you within a few days.—A. I was going to say simply that Colonel Young told me that they made such a paper.

Q. When was it he told you?—A. Within a week, I should think.

Q. You see that does not come within my inquiry, what he has been telling you since this investigation began.—A. I never saw any such paper even, and I could not have possibly forgotten it if I had.

Q. Then before this investigation was begun, if there was any written paper drawn between Van Benthuyzen, representing his company and the Pan-Electric Company, it had never been communicated to you?—A. I am sure it could not have been.

Q. Either personally or by writing?—A. I am sure it could not have been.

Q. If there was any paper supplemental to that signed on the 27th of August, 1885, that had never been communicated to you before this investigation began?—A. No, sir; I had never had a hand in any contract of that sort.

Q. No, I did not suppose you had, general, and I wanted to give you the opportunity to state it. Do you know any reason why, if such a paper had been made, it should have been concealed from you?—A. I do not know at all the character of the paper, sir, and I cannot state.

Q. You have not seen it even now?—A. No, sir.

Q. You, of course, were not here, according to your statement, during these transactions in Washington in relation to bringing a Government suit and in relation to these contracts during the months of July, August, and September. Who was the vice-president of your company at that time? Who acted as president?—A. Senator Harris was vice-president.

Q. And Casey Young had been your principal attorney, had he not?—A. Senator Garland was nominally, but Colonel Young was very active in our business and attended more to it than anybody else.

Q. You understood that Senator Garland was appointed as attorney of your company, and, so far as you know, remained so down to this time, for aught I know?—A. Yes, sir; I suppose he is, but he has never attended to the business.

Q. He has never resigned, withdrawn, or been discharged?—A. No, sir. He has never attended to the business; Colonel Young attended to it.

Q. By any appointment of the company making him attorney by substitution for Garland?—A. Simply as one of the executive committee.

Q. He has been pretty active?—A. Yes, sir.

Q. During the last year the business has been left substantially in his hands, has it not?—A. Very much, I think.

Q. You seem to have had no meetings?—A. I do not remember any meetings since last spring, or perhaps as late as June.

Q. It seems to me remarkable—explain it, general—why since May 4, 1885, during the time of the transactions that are now under investigation, there is no record of any meeting on the part of you men associated with or interested more or less in this matter.—A. I think it may very well have been because there has been nothing to do. These companies that we formed in different States were all idle.

Q. So far as any business was concerned you have not seen any occasion to have any meetings?—A. I have not seen any occasion for a meeting, and I have been here since the middle of September last.

Q. Perhaps you have not at this time been informed of what was done by Senator Harris and by Casey Young in matters affecting your company?—A. Well, I have not been informed of anything that made any impression upon me. I thought there was nothing to do.

Q. You had nothing to do with the business. Whatever has been done in trying to get a Government suit brought in behalf of the Pan-Electric Company you have had nothing to do with it?—A. I do not think anybody has had anything to do with it, because as far as my knowledge goes, we were opposed to it.

Q. Pardon me; I would like to have you answer for yourself. You have had nothing to do with it?

Mr. EDEN. I think the gentleman ought to be permitted to answer.

Q. If you know anything of anybody else doing anything else you may state it.—

A. My conversations with Colonel Young and Senator Harris gave me that impression. Colonel Young was last spring and summer opposed entirely to our company's making any such petition.

Q. Colonel Young was?—A. Yes.

Q. He has always been opposed to any suit being brought for the benefit of the Pan-Electric Company, do you mean?—A. No.

Q. In the name of the Government?—A. In the name of the Government.

Q. He has always been opposed?—A. I think so. It has only been talked of, I think, since last spring.

Q. When did it first begin to be talked about?—A. I say last spring.

Q. Where was it?—A. Here in Washington. That is as near as I can come.

Q. Who was present, to your knowledge, when it first began to be talked about?—A. I cannot say.

Q. Recall it, if you can, General.—A. I did not hear any earnest conversation on this subject; it never was formally discussed by us.

Q. Who mentioned it, please?—A. As I said a little while ago, there was no formal discussion, so that I do not remember.

Q. What was said on the subject?—A. Simply an opposition to our going into it.

Q. Who said it?—A. I remember Colonel Young had that opinion.

Q. In "opposition to our going into it." What?—A. That application to the Government.

Q. Who suggested it? There must have been some conversation preceding that?—

A. Certainly; I have said that there was. But I have said that it was not formal enough to make any impression.

Q. You do not know who made it?—A. No, sir.

Q. Do you not know where it was?—A. I only know it was in Washington here.

Q. In the street, at a hotel, or in a room?—A. Well, we used to meet in Senator Harris's room and in Colonel Young's room, and once or twice we met in a room in the Ebbitt House, but I cannot remember.

Q. Can you remember which one of these places it was?—A. No, sir; because, as I tell you, there was no formal discussion. It was not earnest enough to fix itself upon my memory.

Q. Will you fix how early in the spring it was?—A. I think it must have been in May; I do not know positively; I cannot come very near the time; it might have been in June.

Q. You went away how soon after that?—A. I went the latter part of June or the first of July.

Q. So that it must have been before that time?—A. Yes, sir; it must have been before that time; that is as near as I can come to it.

Q. I don't want to tease you or doubt your word about it, you will understand me; I just want to see how much you remember and how much you do not remember. You do remember, then, that at some interview before you went away, here in Washington, the subject matter of a Government suit was discussed?—A. It was spoken of, not discussed; it was not earnest enough for that.

Q. But you don't remember who spoke of it?—A. I have the impression that Colonel Young was unfavorable to our engaging in it. His idea was that we should bring our own suit against the Bell Telephone Company in Memphis; that is my recollection.

Q. You see the difficulty with me in understanding you is, that you remember something Colonel Young said in objection to it, without remembering what the talk was preceding it that led to that objection. You see my difficulty?—A. I confess that I cannot see that it is a difficulty. It is very natural for a man to remember one thing spoken and not another, not some other.

Q. I only want to get what you do remember. But when you say that you remember Colonel Young objected to it, I want to know what thing had been said to which he objected?—A. It was this idea of our being engaged in this application for a Government suit. It was known that some company or possibly companies were disposed, or perhaps had determined, perhaps had made the application; I do not remember what the state of the case was; but that produced the conversation.

Q. And do not remember what that conversation was?—A. Only in a general way mention of the fact that the National Improved Company, as it is called, that New Orleans company, was either taking steps or had taken them in that direction.

Q. And that as early as June?—A. It was before I left here.

Q. And you left here before the 1st of July?—A. About that time.

Q. Can you fix the exact date when you left?—A. No, I cannot fix it.

Q. Have you no means of determining the date when you left?—A. No, sir. I could, I suppose, obtain it at the Interior Department.

Q. I am sorry to trouble you, but I would like that date fixed. Let me see if I can refresh your recollection. Was not the subject raised by a reference to the fact that Dr. Rogers had on May 24, 1885, I think it was, filed an application to Mr. Garland to have a suit brought; was not that the occasion of the conversation?—A. It might have been; I do not remember that it was.

Q. Had you been informed, as you now remember, that Dr. Rogers had sent in to Mr. Garland a request that a Government suit should be brought?—A. I saw a reference to it in a publication of Dr. Rogers not very long ago, and it was new to me then. I do not remember ever having heard of it before.

Q. But you are now unable to state whether that fact was alluded to as giving rise to the conversation?—A. That possibly might have been it.

Q. You are unable to state now, after dwelling on that fact, any more of the conversation?—A. Yes, sir.

Q. Can you now recall who was present at the time?—A. No, sir.

Q. Pardon my ignorance, but you said you thought you could learn at the Interior Department. Are you connected with the Interior Department now?—A. Yes, sir.

Q. In what relation?—A. I am Commissioner of Railroad Affairs; Commissioner of the Pacific Railroads.

Q. When were you appointed to office?—A. On the 3d of April of last year.

Q. I was not present when the question was put to you before. I was aware that you were on that Commission, but I was not aware that that placed you under the Interior Department. Is that office under Secretary Lamar?—A. Yes, sir.

Q. How long have you known Mr. Lamar?—A. About five and twenty years.

Q. I suppose the fact that you were connected with this Pan-Electric Company, this stock, was a thing known in the South pretty generally, was it not?—A. It was known in certain States, but the company has done so little that I do not think it was much known in the South.

Q. I understand there were circulars sent out and companies formed?—A. I never heard of any circulars issued here.

Q. Well, down in Mississippi?—A. Those State companies no doubt issued circulars.

Q. Do you know (if you needed anything with your great reputation) who aided, assisted, or recommended you in getting your appointment?—A. Well, there were a good many.

Q. How many of your associates in this Pan-Electric Company?—A. Oh, none of them—well, there was Senator Harris.

Q. Did not Mr. Garland recommend it?—A. There was Senator Harris, and Mr. Robert McLane, who is my brother-in-law, they aided in the matter.

Q. And Mr. Garland likewise?—A. No, sir; Mr. Garland did not recommend the appointment.

Mr. OATES. I saw a list with fifty or one hundred members of Congress' names appended to it recommending General Johnston, and I signed it myself.

Mr. RANNEY. If the general had brought it to me I would have signed it. [To the witness.] Do you know whether Mr. Lamar knew of your being concerned in this Pan-Electric matter?—A. I do not know that he did. I do not suppose that he did, for the company was so small, and had so little business, that I think very few persons knew of its existence.

Q. Let me see; is Mr. Atkins in that Department, too?—A. Yes, sir.

Q. And Mr. Upshaw?—A. Yes, sir.

Q. Do you know of anybody else—I do not speak of it as an impropriety—who was interested, directly or indirectly, in the Pan-Electric Company who is connected with

the Interior Department?—A. No, sir. I did not know that Mr. Upshaw was connected with the Pan-Electric Company.

Q. He was the one who had a contract to purchase?—A. I did not know that.

Q. I do not mean to intimate that you used any improper influence, general. I have too high a regard for you to do that.—A. I haven't the slightest suspicion of it, sir.

Q. Nobody will suspect you of it.—A. I have conceit enough, sir, to suppose so.

Mr. RANNEY. I believe that is all. If you will be kind enough to ascertain—we will take your word for it, I will for one—the date when you left Washington.

The WITNESS. I will do so.

By Mr. OATES :

Q. When you wrote that letter in 1883 to Dr. Rogers objecting to the issuing or selling of stock of the Pan Electric Telephone Company, you had not then been satisfied of its utility by all the tests that were made?—A. Yes, sir; we were satisfied of its value then. At the time I wrote that letter I had just returned from Richmond, where we had tried it between Richmond and Washington, and the articulation was very distinct over that 116 miles, and we had no doubt about the value of the instrument at all.

Q. I am speaking of the letter which you wrote to him, in which you objected to putting the stock on the market, because, you stated, if it should prove a failure you would be regarded by the public as swindlers.—A. Yes, sir; but that referred to our want of success in bringing it into use, and not to a doubt as to the value of the instrument.

Q. When was it that your company first sold territorial rights; that is, the right in States to the use of that telephone?—A. It seems to me that it was in the early fall of 1884, but I have a very indistinct recollection.

Q. Missouri was the first State sold, was it not?—A. I think so.

Q. That was about May, 1884, was it not?—A. Well, May of 1884 is as far back in my memory as May of 1864; I cannot identify it.

Q. I think the record shows that from May along through 1884 those sales were made. At the time when you began and your company continued to make those sales to local companies, the right of the State for the use of that instrument, were you satisfied that there was no humbug about it, but that it was an excellent telephone, and that you were selling a thing of value?—A. Yes, sir; perfectly satisfied. We took every means in our power not only to ascertain that it was an excellent instrument, but that it did not infringe upon any other patent.

Q. Why was it that your company resolved not to make any further sales in January, I believe it was, or April, 1885?

The WITNESS. Was it as early as January?

The CHAIRMAN. The resolution was passed in January.

The WITNESS. There were two reasons; the principal one was that we were not disposed to subject ourselves to the liability of more suits and the expense of more suits, and another was that the companies which had been formed under contracts with us were all standing still; we had gained nothing.

Q. Do you know why it was that they were standing still?—A. On account of the apprehension of applications for injunctions upon them, and their losing whatever expenses that might cost.

Q. Then, the true object of that part of that resolution was to suspend operations until the questions involved were settled by the court?—A. Yes, sir.

By Mr. MILLARD :

Q. Did you not, at the very next meeting, authorize the further sale of territory?—A. I really cannot remember. That book is better than my memory.

Q. I call your attention to what occurred on Monday evening, May 4, 1885, according to the record in this book. On that date I find this entry:

"The secretary informed the meeting that Mr. S. H. Newsom, of Las Vegas, Territory of New Mexico, desired to negotiate with the company for the purchase of New Mexico and certain States in the Republic of Old Mexico, for the purpose of putting in operation therein the Pan-Electric telephone. On motion of Mr. Rogers, the president and secretary were authorized to make such contract with Mr. Newsom as they might see proper.

"On motion, the meeting adjourned subject to the call of the president.

"J. E. JOHNSTON.

"CASEY YOUNG,

"Secretary."

The WITNESS. Was anything ever done upon that?

Mr. MILLARD. I do not know. I simply want to know whether they were authorized to make contracts for the further sale of territory.

The WITNESS. I have just read it.

Q. It so appears, does it not?—A. What you have just read must be true, but the thing was not done.

Q. Do you know why it was not done?—A. Nobody was anxious to do it; that was the reason.

Q. Was it not because you were not able to effect the sale?—A. I do not think we ever tried.

Q. It is a fact, isn't it, that after you had learned of these litigations, and after the meeting of April, 1885, you did authorize contracts to be made for the further sale of territory?—A. I certainly would not contradict that record there, but I know we did not sell any more.

Q. Let me call your attention to this letter to which the Chairman and Mr. Ranney and Mr. Oates called your attention: "I reminded him that the sale of stock is not permitted by the company, and also that such sales, even if not prohibited, would be very dangerous." I want to get your idea of what you meant by saying it "would be very dangerous"?—A. Simply from the possibility of our failing to get this instrument into use, when, of course, all the stock put out would be worthless and all the purchasers swindled.

Q. What, in your mind, at that time, was to prevent you from getting it into use?—A. Nothing but the doubt that there is upon the success of every business enterprise; nothing more.

Q. Did you not, after writing this letter, in fact, sell to Senator Vest?—A. I do not know. I do not think the company made a sale to Senator Vest.

Q. In Senator Vest's evidence he sets out a bill of sale signed by yourself, J. Harris Rogers, Casey Young, Isham G. Harris, A. H. Garland, and J. D. C. Atkins, under date of July, 1884, for stock on which he paid Senator Harris a thousand dollars. Do you recall anything about that?—A. I remember that Mr. Vest did make a purchase, but I had no idea that I had any hand in it.

Q. You had forgotten that you had signed the bill of sale?

Mr. HALL. That does not necessarily follow.

The WITNESS. I cannot imagine why a bill of sale should be signed by all those people.

Q. It says: "In testimony whereof we have hereto set our hands and affixed our seals on this the fourth of June, 1884." Then follow the signatures.

Mr. HALL. It does not follow that they signed it individually.

Mr. MILLARD. Then I will call your attention further to this:

OFFICE OF THE PAN-ELECTRIC TELEPHONE COMPANY.

This certificate entitles George G. Vest to 90 shares of the capital stock of the Pan-Electric Telephone Company, of the par value of one hundred dollars each, so soon as the validity of the patents is judicially determined in any litigation instituted for that purpose. But this certificate is not transferable except with the consent of the president and secretary of the company marked hereon.

In witness whereof, the company has caused its corporate seal, and the official signatures of its president and secretary, to be hereto attached at its office in the city of Washington, D. C., on this the 28th day of April, 1885.

[SEAL.]

J. E. JOHNSTON, *President.*

CASEY YOUNG, *Secretary.*

The WITNESS. Well, what does that certificate set forth?

Mr. MILLARD. That the company, by you as president and Casey Young as secretary, issued a certificate for ninety shares to Senator Vest.

The WITNESS. Is it a positive stock certificate?

Mr. MILLARD. Yes.

The CHAIRMAN. No; it is not a stock certificate at all.

Mr. MILLARD. It is a certificate showing that Senator Vest is entitled to ninety shares.

The WITNESS. That he "will be," is it not?

Mr. MILLARD. No.

Mr. HALL. Will you give me the page on which that is printed?

Mr. MILLARD. It is printed on page 300 of the testimony.

Mr. HALL. It is always competent for a witness when called to speak of a paper to be allowed to see it. I suppose there is no objection to my showing it to him?

Mr. MILLARD. No; I want him to see it.

The WITNESS. I think if you will look at this certificate you will see that it is not a stock certificate; it is conditional.

Mr. MILLARD. Entirely so.

The WITNESS. There are a number of others like this.

Q. What others are there besides this?—A. Those books show [indicating] that the holder will be entitled to such certificate whenever the company thinks the time has come for issuing them.

Q. Not quite that. Is not this a true copy of the certificate set out here as subscribed by you? Please look and see.—A. I don't know anything about that. I do not pretend to take ground of that sort. I only say that it is not a stock certificate.

Q. I will read you the evidence of Senator Vest on this point.

The CHAIRMAN. Did you read the certificate?

Mr. MILLARD. Yes, I did. This is what Senator Vest says: "In June, 1884, I purchased 100 shares of stock in the Pan-Electric Telephone Company, for which I paid to Senator Isham G. Harris, treasurer of the company, \$1,000 cash, giving my check on the National Metropolitan Bank of this city for that amount, and which check my bank book shows to have been paid on the next day. At the time of the purchase I received from Senator Harris the following paper." That is the first paper that I showed you that purports to be signed by all of you collectively, and then follows the certificate, which was signed.

The WITNESS. There is a book of certificates here which was made after that, but embodying pretty much that idea; but they were not transferable.

Mr. MILLARD. It says not.

The WITNESS. But entitled the holder to a stock certificate at a given time, just as that does.

Q. And it was signed by you, and he paid a thousand dollars for it; that is the sum and substance of it?—A. Yes, sir.

Q. How much stock did you receive in the Pan-Electric Telephone Company yourself?—A. There were five of us, and they estimated the stock at \$5,000,000 and we five had equal shares of half of that, which would be \$500,000.

Q. At the time of your receipt of that, how much had you limited your expenditures to—\$150 each?—A. Oh, that was a particular matter.

Q. The reason I ask you that is, I find this letter purporting to have been written by yourself under date of March 31, 1883: "I agree with you that it will be best to exhibit first the automatic telephone, especially in view of our being limited to an assessment of \$150 each member, for expenses."

The CHAIRMAN. To whom is that addressed?

Mr. MILLARD. That is addressed to J. Harris Rogers, under date of March 31, 1883.

The CHAIRMAN. One of the members of that committee.

Q. So I ask you this question: If at the time you received your stock you had not limited each of yourselves to an expense of \$150?—A. I think that was a limit to the authority of the executive committee; that it was not permitted to go further in expenses than a sum that would require \$150 each from the members of it; that is my recollection.

Mr. EDEN. I think that is plain enough not to require any explanation.

Q. And I understand you have paid nothing more for your stock than was paid from all your assessments to the extent of \$300 or \$400?—A. Well, I do not think that we have the same ideas on that subject.

Q. I mean in money.—A. Our association was formed in a manner very common in the establishment of business firms. The amount of it was—

The CHAIRMAN. The amount of money paid in by each was about \$400, or nearly that.

The WITNESS. Let me state that that money was not paid for our stock; our stock was given to us for the services that we were to render.

Q. That is precisely as I understand it; and afterwards certain assessments were made for the purpose of utilizing the patent?—A. To meet the necessary expenses; and this assessment included the Rogerses.

Q. And has been paid back to you by the company?—A. Yes, sir.

By Mr. HALL:

Q. I understood you just now to say that the real consideration of the transfer of your interest in these patents was the services and personal influence that you supposed might be brought to bear to aid in utilizing them.—A. For services that we might render.

Q. As is often the case in forming a copartnership, one man puts in the capital as against the personal service and business experience of the other?—A. Yes, sir; precisely; that is what I refer to.

Q. Now, in regard to the subordinate companies. After you had organized the Pan-Electric Telephone Company, it was the purpose of the members clearly of that organization not to put its stock upon the market until the success of the enterprise was insured and it had obtained a value?—A. Yes, sir.

Q. What was your idea as to what constituted the practical value of a property of that kind belonging to a corporation?—A. Well, it scarcely can be considered as having a value. I think our language shows that we were considering the value as a thing in the future entirely; that it had none at the time.

Q. Is it not one of the essential qualities of a patent that its value is whatever the owner chooses to ask for it?—A. It is whatever the owner can get for the property.

Q. And an article which has no market price or market value the owner may put a price upon it whether he can find a buyer or not; that is the essential feature of a patent, is it not?—A. Yes, sir.

Mr. HANBACK. We need not argue upon that; we admit that always.

Q. However ingeniously devised, does not the essential value of a patent consist in putting it on the market in such a way as to find purchasers?—A. Yes, sir; certainly.

Q. And giving it a publicly known market value?—A. It is that which gives it and determines its value.

Q. And it was to accomplish that feature of the enterprise that you gentlemen to whom these transfers were made by Dr. Rogers, proposed to devote your energies and personal services?—A. Precisely.

Q. After your company was organized you were certainly at liberty to sell or to extend territorial rights to individuals as well as corporations in the various States, were you not?—A. Oh, yes, sir.

Q. So that in Missouri, if you had seen proper, you could have sold the right which you did sell to the company there, to a mere individual or to two or three individuals instead of to a corporation?—A. I think that the bargain was generally with an individual who acted for the company, and then the contract was confirmed.

Q. Did the Pan-Electric Telephone Company take any active part in organizing those local companies?—A. None at all; that was their own affair.

Q. Do you know, as a matter of fact, whether the stock of those local companies was issued as paid-up stock without any money being paid in or not?—A. No, sir.

Q. Is there not reason to believe that money was paid in on the capital stock of those corporations?

Mr. MILLARD. I submit that is going too far, unless the witness knows about it.

The WITNESS. I do not know anything about that.

Mr. HALL. I am glad you made that suggestion, for if we are going in any direction where we are not authorized to investigate, I will accept it. But the inquiry was made of this witness as to what his ideas of propriety were, not in regard to the issuing of stock by the parent company, but in putting it in the power of the subordinate companies to issue shares, and it proceeded on the idea that it was issued on the capital stock, without having a fund paid in. [To the witness.] I will ask you if those local companies did not pay money into the parent company as a consideration?

The WITNESS. Some of them.

Q. The Missouri company?—A. The Missouri company did.

Q. Do you know how much?—A. No, sir.

Q. It was several thousand dollars?—A. Yes, sir.

Mr. RANNEY. That has all been put in.

Mr. HALL. I know you did it, but for an entirely different purpose. I will ask you if you object to the question.

The CHAIRMAN. There is no objection.

Mr. RANNEY. If you persist after the objection I made there would be no value in insisting on my objection.

Mr. HALL. I suppose your objection is all right.

Mr. RANNEY. I made a suggestion, not an objection. I am not in the habit of interfering with an examination if I can help it.

Mr. HALL. Oh, yes, you interfere as much as anybody in examinations. [To the witness.] Now, if those companies, in order to secure the license to vend this patent in the territories, paid funds to your company at their very inception, it is a reasonable inference, is it not, that they did not issue paid-up stock without having funds to pay it?

The WITNESS. I should think that was a very conclusive evidence.

Q. In regard to those local companies, have you ever heard any complaint made by any persons as stockholders in them that they had been imposed upon in having that stock put upon them?—A. No, sir.

Q. Have you ever heard any persons as creditors or otherwise claim that they had been wronged in any way by those local companies?—A. No, sir; never.

Mr. HALL. I have no further questions.

Mr. MILLARD. Before the general leaves, I wish you would pass that paper to him, Mr. Hall, and see if he recognizes it. [Handing a paper to the witness.] I simply want you to identify the paper, and say if you signed it. I refer to the paper purporting to be an agreement between the Pan-Electric Company and Mr. Upshaw.

The WITNESS. Yes, sir; with Mr. A. B. Upshaw.

Q. It was executed by yourself as president?—A. Yes, sir; that is my signature.

By Mr. MOFFATT:

Q. I understood you to say that you were not aware that your company was interested in any of these applications to the Government to institute suit to vacate patents. Were you aware who were the applicants who made that application?—A. The National Improved Telephone Company of New Orleans, I have always understood. I have no precise information on the subject.

Q. Were you aware that the attorney of your company, Colonel Gantt, signed that application?—A. No, sir; I do not know that Colonel Gantt is exactly attorney of

this company. I do not think he had that position; he may have been employed. By the way, he was employed by those engaged by this company to prosecute this suit against the Bell Telephone Company in Memphis.

Q. Were you aware that Colonel Young and Colonel Gantt came here and appeared before the Interior Department to argue this application?—A. Yes, sir.

Q. How did you understand they appeared here; in what capacity?—A. I understood that they did not appear for the Pan-Electric Company. I have an idea that they were engaged either by this New Orleans company or by individuals.

Q. Who informed you of that fact?—A. I say I inferred that, because they were not employed by the Pan-Electric Company, and I did not trouble myself to ascertain who their employers were.

Q. Were you aware that the Pan-Electric Company paid the expenses of both Colonel Young and Colonel Gantt to come here and argue those cases?—A. No, sir.

Q. Were you aware that the Pan-Electric Company paid for the printing of the briefs in that case presented to the Department?—A. No, sir; I had no knowledge of that sort.

Q. If they did do it, you would think the Pan-Electric Company had something to do with it?—A. Well, I did not think it had that to do with it. It is a very unprofitable part of it.

Q. You would not think that the Pan-Electric Company would be paying those bills of Colonel Gantt's and Colonel Young's, the printing of the briefs, without some interest?—A. An individual might do it.

Q. Not if you found it charged up on the books of the company?—A. I might think that it ought not to have been charged up.

Mr. MILLARD. But if it was actually paid by the company it ought to go on the books.

The WITNESS. The question is whether it was paid by the company or by an individual.

Q. It would not be on the books if it was paid by an individual. You expressed an opinion that the legal opinion of Attorney-General Garland on a question of patent rights, involving electricity, would not be worthy of a great deal of consideration probably?—A. In regard to patents I think not, unless he was an electrician.

Q. Then what would you think of the opinion of Mr. Goode, a person not a patent lawyer and not acquainted with electrical patents, after a very few hours of examination of the matter?

Mr. EDEN. I do not think it is necessary to go into that question. I object to that.

The CHAIRMAN. As this investigation involves all these gentlemen, their opinions might be very important.

Mr. EDEN. The witness is asked as to the value of Mr. Goode's opinion as a lawyer.

Mr. MOFFATT. He has given an opinion in regard to Mr. Garland.

Mr. EDEN. Judge Ranney asked him that. Besides, Mr. Garland is connected with the Pan-Electric Company.

Mr. MOFFATT. I would like to have the question answered.

Mr. HALL. There is no pretense that Mr. Goode has given an opinion on that subject.

Mr. MOFFATT. I do not ask him what his opinion would be on that subject, but I asked him what he would think of an opinion of Mr. Goode's under those circumstances.

Mr. RANNEY. There is no claim that he ever gave an opinion or had any on anything.

Mr. HALL. I do not understand that remark.

Mr. RANNEY. It is in reply to yours.

Mr. HALL. It is just as well then if it is not understood.

(The stenographer read the pending question.)

The CHAIRMAN. I do not see any harm in that.

Mr. RANNEY. I do not see any harm in it, but I do not think it is proper to ask his opinion about the conduct of Mr. Goode, unless all the facts are known to the witness.

The CHAIRMAN. I take it for granted that the gentleman from Michigan has some purpose or reason for asking the question, and so far as I am concerned I do not object to it.

Mr. EDEN. I object to it. It cannot amount to anything in this investigation, and it is for that reason I object. It don't affect anybody in the world.

Mr. RANNEY. I think it ought to be left to the judgment and discretion of the interrogator.

The CHAIRMAN. That has been the course before.

Mr. HALL. Mr. Goode has been here and given his testimony, and of course a question of that kind reflects upon him in a professional sense.

The CHAIRMAN. It is entirely conjecture, but I suppose it is connected with the speedy disposition that Mr. Goode made of the application.

Mr. MOFFATT. That is all.

Mr. HALE. I do not think the witness should be required to answer such a question; I do not think it would be proper.

The WITNESS. I should prefer not to answer the question. I should dislike to, very much.

Mr. RANNEY. Let that go in as his answer and leave it there.

Mr. EDEN. I think Mr. Goode is entitled to decent treatment by the committee.

Mr. MOFFATT. I see nothing improper in that question any more than in similar questions relating to Mr. Garland.

Mr. RANNEY. The witness has answered that he prefers not to answer it, and I think we ought to leave it there.

Mr. MOFFATT. I have no further questions.

The CHAIRMAN. The gentleman from Missouri can interrogate the witness.

Mr. HALE. I have no questions to ask.

By Mr. RANNEY:

Q. I have observed, since I examined you, a letter of yours on the 13th page of the printed appendix, No. 224, written in Washington under date of August 3, 1883, and addressed to J. Harris Rogers, the first sentence of which I will read to you: "To my great disappointment, I find nothing in regard to Philip Reis in the Encyclopedia Britannica, nor in a voluminous biographical work." Do you know the occasion of your writing that?—A. Yes, sir; it was in regard to the German, Reis inventions.

Q. Had there a question been raised then as to the validity of either the Rogers patent or the Bell patent?—A. No, sir. That was entirely in connection with the Bell patents. It was claimed by a good many people that Reis had invented an effective telephone ten or fifteen years before Bell's patent, and I was looking for some evidence on that subject.

Q. It had been mooted whether Philip Reis had himself invented the telephone before Bell?—A. Yes, sir.

Q. Do you know how that question arose, so that you happened to write that letter?—A. I was looking for evidence in regard to the German inventions, and had been referred by Dr. Rogers to the works named there.

Q. With a view of attacking the Bell telephone?—A. I was looking for evidence.

Q. This seems to have been in reply to something. Do you know how the question arose, whether on your own suggestion or the suggestion of somebody else, by reason of which you wrote this letter?—A. It was by Dr. Rogers's suggestion, I take it.

Q. I remember somewhere in this correspondence a letter of yours; the exact language I do not remember, but I think you wrote a letter in which you spoke of some one being in town ready to pay \$75,000 for a State right. Have you that letter?

The CHAIRMAN. I have the letter you speak of [producing the letter].

Mr. RANNEY. This is among the letters which were laid aside as not being material. I will read it:

WASHINGTON, D. C., February 25, 1884.

MY DEAR SIR: I have your telegram of this morning. You are the judge of the time of leaving New York, but I give circumstances here which you may consider.

There is a gentleman from the west here with \$75,000 in hand to be paid for our privilege in Missouri and a royalty of \$10. To my mind's eye that is attractive. Think of the necessary expenses that sum would cover, leaving a dividend, and the market value it would give our stock. But this gentleman will not contract until he has seen Harlan's lines in operation. So I beg you to send us as soon as possible eight or ten telephones to sway this customer. Now, we have also to help Myers as much as we can with a small number of instruments that will enable him to show in cities how much it is worth. We promised Harlan fifty, the first ten to be delivered as soon as they could be made, and the use of these by Harlan's customers is to decide our \$75,000 bidder. Now, take these matters in connection with what you have before you, and come to us with eight or ten instruments as soon as possible.

In reference to Mr. Gantt, he and not J. has the privilege and power of appointing the day of exhibition.

Very truly, yours,

J. E. JOHNSTON.

J. HARRIS ROGERS.

Do you remember that letter?—A. No, sir.

Mr. RANNEY. We had better look up the original if there is any doubt about the authenticity of it.

The WITNESS. I do not express any doubt, but I cannot understand about the \$75,000; that seems to be incredible.

Q. Do you remember who the bidder from Missouri of \$75,000 was?—A. No, sir; I say that sum is so much larger than any we saw that I can hardly believe it.

Mr. HALL. That letter is not in the record.

The CHAIRMAN. No; it is not printed.

Mr. RANNEY. This is as printed in a newspaper, and it is dated February 25, 1885. It must be among the letters laid aside as immaterial, though I do not know why that should be. Colonel Young suggests to me what may serve your recollection that he told you that was from Mr. Boffinger, from Missouri, or some such name.

The WITNESS. Yes, I remember the name.

The CHAIRMAN. It is the letter numbered 144 in the list of those letters supposed to be irrelevant.

Mr. RANNEY. There are a good many of those letters not deemed material that I have looked at. It was suggested originally that they might become material. Here is another letter dated February 28, 1884. I will hand the originals of these letters to the witness.

(The letters referred to were handed to the witness for his inspection.)

Q. Do you find them to be your letters?—A. Yes, sir.

Q. You have identified those two letters, one of February 25, 1884, and the other of February 28, 1884. Do you now recall that man who was here as a bidder for \$75,000?

—A. If I remember the name I do not remember the sum. It seems to be rather incredible, so much above any offer that we had.

Q. You do not doubt the fact that you wrote that at the time and mentioned \$75,000?—A. No, sir; not at all; that is my writing.

Q. As the thing looks now, it may seem to be a large sum, but it was rather rose colored then, was it not?—A. Yes, it was too large; too rosy.

Q. Do you doubt whether \$75,000 was the sum that a man was here as a bidder, depending on certain things?—A. Well, he must have said so. I fancy that that was the authority for what I wrote there.

Q. Now let me read the second letter. This is written to Dr. & J. H. Rogers:

WASHINGTON, D. C., *February 28, 1884.*

DEAR SIRS: Your letter was received at 11½ to-day, and shown as soon as practicable to Senator Harris and Colonel Young, and it was agreed that I should (Congress being in session) direct Colonel Young's secretary to carry the contract for Washington with Messrs. Gustin & Harlan to the colonel. However, the young man was absent, so I left written instructions for him.

All this made it evident that the contracts could not be dispatched by to-night's mail, and so I "wired" you. They will go as soon as possible, however, but I doubt if they can reach you to-morrow. Would it not be feasible for Mr. Harris Rogers to come Saturday, as you have been intending, while Dr. Rogers remains to attend to the Pennsylvania business?

We have several conditional proposals, for which instruments are necessary. These people want so see the instrument as it is in common use, they say, not as it is for exhibition; so they wait to see Gustin & Harlan's customers using theirs. Myers writes the same thing from Indianapolis, so we are pining to have the result of your recent labors. If you give them to us at once you'll find in a short time that the Pennsylvania contract will be a small part of your wealth.

Telegraph me your wishes on receiving this.

Yours, very truly,

J. E. JOHNSTON.

Messrs. J. W. & J. H. ROGERS.

You say that is your handwriting also?—A. Yes, sir.

Q. You seemed to think the contract of Dr. Rogers in Pennsylvania, then, would be a very small portion of his wealth. You had a very great idea of the value of this thing, then?—A. Yes, sir; I have remarked in the beginning we had very extravagant notions in regard to the value of that instrument and those things. The Rogerses were then supervising or making the same instrument for exhibition.

Q. Did your associates seem to agree with you in that opinion?—A. Yes, sir.

Q. So that if that was so, you men that had got this instrument thought you had got a pretty good thing?

Mr. MOFFATT. What is the date of that letter?

The WITNESS. It is dated the 28th of February, 1884.

Dr. RANNEY. Here is another letter I find which alludes to you:

WAR RECORDS OFFICE, 2005 G STREET, N. W.,

Washington, D. C., October 31, 1884.

MY DEAR DOCTOR: I send the inclosed papers to you at the request of our common friend, General A. D. Upshur, who is one of the finest business men I ever knew, and who ought to be in charge of the company's office in this city. General Johnston was

to see me this morning, and I urged on him to open and keep open a Washington office, with an intelligent, courteous gentleman in charge. I hope you and Harry will urge this. You have caught several Tartars. My dear Rogers, stick to the friends "whose adoption is tried." You have enough to make you a good fortune, but you must have proper confederates. Big names do not always win. Acknowledge receipt.

Your friend,

MARCUS J. WRIGHT.

Dr. J. W. ROGERS.

I see that alludes to something connected with you, and you were to see Dr. Rogers and write that morning in relation to that matter. Do you remember it?—A. No, sir, I do not. I doubt if I went to see him in relation to anything. Mr. Wright is a clerk in the War Records Office, where I used to visit Colonel Scott occasionally. In those days I did not have much to do, and probably I saw him in that way.

Q. Is General A. B. Upshaw the gentleman who bought Alabama?—A. Yes sir.

Q. It is spelled here Upshur and somewhere else Upshaw.—A. It is Upshaw.

Did you know him?—A. I did not know him then.

Q. He is now in the Interior Department?—A. I believe so.

Q. He is spoken of as a man proper to take charge of the office in this city. Do you remember about that?—A. No, sir; that was not written to me.

Q. No, it was written to Dr. Rogers, but alludes to Mr. Upshur and that you were to see Mr. Wright about having Upshur in an office here. Do you recall anything about that?—A. No, sir; I never had any idea of that kind. I fancy that he thought such an office was to be established, just as before an election, to do the canvassing.

Q. Were you canvassing for this thing as in an election?—A. No; I say I take it that that was General Wright's idea that that was the proper mode of proceeding.

Q. He is in the War Department?—A. Yes, sir; he is in the war records office.

Q. It would be more likely to be a matter of strategy than war, wouldn't it, by analogy?—A. Yes, sir.

Q. There is one letter of January 23, 1884, written by you to Dr. Rogers, which I will read:

"Since writing in reply to your note to the Pan-Electric Company I have seen several members of the company who reminded me that the telephones you ordered were expressly for the directors, mainly those here, and that a gentleman who wishes to purchase our right in Missouri is waiting to see Harlan's lines. That is why my anxiety for your return is expressed. I have had that anxiety without doubting that the object of your work in New York was accomplished.

"Yours, truly,"

That seems to have preceded the others. There are two letters of yours on the subject. Don't that recall it to you?—A. Well, the Rogerses were supervising the making of some telephones at the time——

Q. That does not recall anything more about the Missouri matter?—A. No, sir; nothing.

Q. I see in a letter of yours here, of February 25, 1884, you write about giving telephones to Myers to help him. How were you proposing to help Myers by giving him telephones?—A. Mr. Myers at that time was negotiating for the privilege of using instrument in Indiana, and wanted some instrument for exhibition.

Q. I suppose all there is about it, general, is, that for a part of this time, the early part, you all supposed there were millions in this thing?—A. Oh, yes, sir.

By Mr. EDEN:

Q. You say that Marcus J. Wright, who wrote that letter that has been spoken of, was a clerk in the War Department?—A. Yes, sir.

Q. But not recently appointed?—A. No, sir.

Q. He has been there for a number of years?—A. He is in the office of war records. He brought a great many papers from the South, and is retained in that office in connection with them.

By the CHAIRMAN:

Q. Speaking of the value of these improvements, did you regard them as then having this great value, or as having a future value of that kind?—A. As having a future value. They could have no value then.

Q. Had they at the time they were put into the company any market value?—A. No, sir; I think not. They were not known at all.

Q. I see that the capital of the Pan-Electric Telephone Company was fixed at \$5,000,000. Was that regarded as an indication of the value of the stock at that time?—A. No, sir; as the value it would have.

Q. That it might have?—A. Yes, sir.

Q. I observe also that some stock was actually sold at about three-and-a-half or four cents on the dollar?—A. Well, Dr. Rogers has sold it at almost any price, for a few cents on the dollar.

Q. The company made two or three sales, one to Senator Vest at 10 cents on the dollar; and to Mrs. Howard, and Mrs. Carlisle, I think, at the same rate, or at 5 cents on the dollar. I speak of that as indicating the value of the stock at that time. Do you recall those things?—A. I remember the two ladies that you speak of. I did not know at the time Senator Vest purchased his.

By Mr. RANNEY:

Q. One question suggests another. You say that although you did not consider the patents in the market then worth \$5,000,000, that was a sum named which you expected they would be worth?—A. Yes, sir.

Q. It was a scheme into which you entered?—A. Yes, sir.

Q. And was that the opinion, so far as you know, of your associates, too, as to why that was worth \$5,000,000?—A. I do not think I was at all ahead of the rest in my estimate of the value.

Q. So that you did not get up a capital of \$5,000,000 on an inflated, fictitious stock, but a sum that you thought the patents would be worth, a genuine incorporation, not a kiting concern?—A. Yes, sir; we expected by the time we were satisfied it was safe to issue the stock, it would come to a value something like that.

Q. The fact has been called to your attention that there were some sales made to Senator Vest and others. I suppose those sales were simply to let those people in on the "ground floor" at a nominal sum?—A. Yes, sir.

Q. That is the way you took Colonel Looney in, I suppose?—A. Colonel Looney was taken in by the Rogerses. They let him have something like three-eighths of their four-tenths.

Q. And that is the way you were going to let in that man who took the tenth for which Mr. Hewitt had been named. I don't know that you had anything to do with that.—A. No, sir; I don't know when that occurred.

Q. You were not at New York?—A. No, sir. The scheme had been arranged when I came into the association, not as to the value but that this tenth was to be reserved for the use of the company to furnish funds and to pay certain obligations that Dr. Rogers had contracted before.

Q. Did you have anything to do with the Washington Telephone Company?—A. Never directly.

Q. You are aware that they formed a corporation of \$5,000,000, embracing the States of Virginia, West Virginia, Maryland, and Delaware, and that you took certificates of stock for your share?—A. I fancy I did at the time, but I have forgotten it. I must have known it at the time.

Q. Did you think that was to represent the real value or the prospective value?—A. I never supposed the stock would go up to that value.

The CHAIRMAN. There seems to be no further interrogatories, and we shall not require the further attendance of General Johnston.

Mr. EDEN. I move that the committee adjourn until to-morrow at 12 o'clock.

The motion was agreed to, and the committee adjourned.

WASHINGTON, D. C., *Thursday, April 8, 1886.*

The committee was called to order at 12.40 p. m.

The Chairman (Mr. BOYLE) read a dispatch from Mr. W. Van Benthuyzen, dated at Danville, Va., stating that he would reach Washington late Thursday night and be ready to appear before the committee on Monday.

The CHAIRMAN. Senator Harris has sent me the corrected proof of his testimony for the first day, and asks that the corrections indicated by him may be made. Is there any objection to that?

Mr. HALL. Have you examined them, Mr. Chairman?

The CHAIRMAN. I have looked over them; I do not think there is anything material. I do not know how it may appear to the committee. There are not a great many of them. I will read them, and if there be no objection, hand them to the reporter and let the proof be corrected.

(The corrections were read, and there being no objection, they were ordered to be made.)

The CHAIRMAN. Mr. Gardner is here under subpoena. Is it the pleasure of the committee that he be sworn?

THOMAS H. GARDNER then came before the committee and was duly sworn.

By the CHAIRMAN (Mr. BOYLE):

Question. Where do you reside?—Answer. In Baltimore city; that is, I claim my residence there; I spend most of my time in Washington.

Q. How long have you been a resident of Baltimore?—A. I was born there, and have lived there nearly all my life, except about ten or twelve years.

Q. Have you at any time had any connection with the Pan-Electric Telephone Company? I speak of the principal company.—A. Yes.

Q. What connection have you had with it?—A. None except so far as related to our own company.

Q. I want to distinguish between them.—A. Our company is the licensee of the Pan-Electric Company.

Q. You have no connection with the original company?—A. Not directly connected with it, except that their office is in the same room with ours.

Q. Where is your office?—A. No. 600 Thirteenth street northwest, in this city.

Q. Have they any person in their office?—A. No, sir; occasionally General Johnston and Mr. Young come there, but very seldom.

Q. What company do you say you are connected with?—A. I am the secretary and a director of the Washington Telephone Company.

Q. Does it hold its rights, whatever they may be, under the Pan-Electric Telephone Company?—A. It is the licensee of the Pan-Electric Telephone Company.

Q. What territory does its license cover?—A. The two Virginias, Maryland, Delaware, and the District of Columbia.

Q. Where was it incorporated?—A. In Tennessee.

Q. Was there a contract between the Pan-Electric Telephone Company and the gentlemen who formed the Washington Telephone Company?—A. Yes, sir.

Q. What is its title?—A. The Washington Telephone Company.

Q. Have you the contract?—A. Yes, sir.

Q. Will you produce it?—A. I am not sure that I have the original contract, but I have a copy on the minutes of the company.

Q. Produce the original if you have it.—A. I will see among the papers. [The witness produces several packages of books and papers]. I am under the impression that General Johnson has that in Baltimore.

Q. What General Johnson?—A. General Bradley T. Johnson, who is the attorney and president of the company; but I can find a copy in the minutes; here is a copy.

The CHAIRMAN. Is there any objection to receiving a copy?

Mr. RANNEY. Of what?

The CHAIRMAN. Of the contract between the Pan-Electric Telephone Company and the Washington Telephone Company. (To the witness.) You may look at this book of minutes and give us the date of this contract.

The WITNESS. The date of the contract is the 14th day of March, 1884.

Q. Are you correct about that?—A. The date upon which it was executed was the 24th day of May, 1884.

Q. What date do you refer to as the 14th of March, 1884?—A. That was the date of the preamble to the contract.

Q. That refers to the contract between the Pan-Electric Company and Dr. Harlan?—A. Yes, sir.

Q. What date do you say?—A. The 24th of May.

Q. I see the date is changed.—A. Yes; but that date is correct; the alteration was made afterwards by me.

Q. What was the other date written there?—A. The 9th day of June. This was the actual date at which Senator Harris signed it; Dr. Harlan signed it on the 9th day of June. This was copied by myself.

Q. What was the consideration paid to the Pan-Electric Telephone Company by yourself?—A. One-fourth of the capital stock.

Q. Any bonus for the use of the instruments?—A. No, sir; one-fourth of the capital stock was all absolutely.

Q. Who was to furnish the instruments?—A. They were to be manufactured by ourselves at our own expense, or paid for by ourselves. We had the right to use all these patents.

Q. You say that under the rights acquired under this contract you had a company incorporated in Tennessee?—A. We had, in the State of Tennessee.

Q. Who attended to obtaining the charter?—A. Dr. Harlan, I think. I was not at that time secretary of the company.

Q. Were you connected with the company at that time?—A. No, sir; I became connected with it in July, 1884.

Q. Have you any knowledge whatever of the steps taken to procure the charter?—A. I have not, sir; my impression is that Dr. Harlan and Mr. Gustin were the parties who obtained the charter.

Q. You became the secretary in July of 1884?—A. Yes, the minutes will show; I think it was in July, 1884.

Q. Did you then go into the office you now occupy?—A. No, sir; our office then was at 1226 F street.

Q. Was the office of the Pan-Electric Telephone Company in the same building at that time?—A. No, sir; not at that time.

Q. When did you move into your present quarters?—A. I think some time in 1885, probably about May.

Q. At what time did you become associated in office with the Pan-Electric Telephone Company?—A. About May, 1885.

Q. Did you take the office together?—A. The Pan-Electric had previously had the first floor of that building, and had not used it, and I applied to them for desk room in their office as it would be more economical and better for our company; they agreed to it, and we took the third floor—the top floor.

Q. What is the capital of your Washington company?—A. It was originally \$5,000,000, but was afterwards reduced to \$2,500,000 by a supplementary charter, which is in this book.

Q. At what time was that done?—A. That book will show. I think it was about July, 1884. [Referring to book.] The supplemental charter was obtained on the 13th of September, 1884.

Q. What is the date of the original charter?—A. The 24th day of May, 1884.

Q. The same day that the contract was executed?—A. Oh, the original charter?

Q. Yes.—A. Excuse me; the original charter appears here as bearing date the 1st of May.

Q. That was before the date of your contract?—A. Yes, sir; the original charter was obtained before the date of the contract.

Q. I understand that you were not connected with the company then?—A. No, sir; I was not.

Q. Have you any knowledge of the fact, or can you state from anything you have since learned, how it came to be incorporated before you had your contract with the parent company?—A. You see that this contract sets forth that: "Whereas on the 14th day of March, 1884, the Pan-Electric Telephone Company entered into a contract with J. A. Harlan and G. A. Gustin," which was afterwards confirmed by this other company.

Q. Have you that contract?—A. No, sir; we have never had that; that was a contract entered into between J. A. Harlan and George A. Gustin and the Pan-Electric Telephone Company.

Mr. CASEY YOUNG. It is in that box, Mr. Chairman.

Q. Who were the parties named in the original charter of incorporation?—A. J. A. Harlan, C. W. Long, George A. Gustin, E. K. Goldsborough, and Casey Young.

Q. Who were named as incorporators in the supplemental charter, if there was any change?—A. J. A. Harlan, C. W. Long, George A. Gustin, Casey Young, and R. A. Hooe.

Q. The parties are the same, then, with the exception of the last named gentlemen?—A. Yes, the substitution of Hooe for Goldsborough.

Q. Was this last charter intended to supplant the first one, or was it an amendment to it?—A. It was an amendment, a supplemental charter, reducing the capital stock and making provision for the payment of the one-fourth of the stock due the company as the stock should be issued—one-fourth of the aggregate amount issued, not one-fourth of the whole capital stock at once, but to be paid as the stock should be issued.

Q. What was to be paid?—A. The capital stock due the parent company was to be paid as the aggregate stock was issued.

Q. I understand you that the original charter provided for a disposition of the stock, of one-fourth of the stock?—A. The original charter provided that we should pay the parent company one-fourth of the stock for the right to use the instruments.

Q. Is that set out in the charter?—A. No, sir; it is set out in the contract.

Q. Is there anything in regard to that in the supplemental charter?—A. No, sir; I got the two confounded, the charter and the contract. "The capital stock of this company shall consist of 25,000 shares, of the par value of \$100 each, making a total capital stock of \$2,500,000, instead of \$5,000,000, as provided and authorized in the original articles of incorporation." That is all there is in the charter.

Q. Then were the terms of the contract made with the company modified in that respect?—A. Yes, sir. It says: "The capital stock of the Washington Telephone Company shall be reduced by amendment to its charter to 5,000 shares of \$100 each, all which may be issued at the discretion of the party of the second part as full-paid and non-assessable stock. The party of the first part shall be entitled to one-fourth of the whole of the capital stock as payment for the rights and franchises assigned by it to the party of the second part; but it shall only be entitled to vote on stock actually issued to it, and certificates for the same given, equal to 25 per cent. of the whole of the stock actually in existence and issued."

Q. Is that the provision of the supplemental charter?—A. Yes, sir.

Q. That is to say, that it should be allotted the one-fourth of the entire capital, but should vote only to the extent of one-fourth of the stock actually issued?—A. No, sir. It says further: "It being the intent and meaning of the parties hereto that the

Pan-Electric Telephone Company shall at all times be entitled to 25 per cent. of the stock of the Washington Telephone Company actually issued."

Q. Does that provide for delivering to the parent company the one-fourth of the entire capital stock?—A. No, sir; not in that charter. It did in the other.

Q. I so understood it from the reading.—A. No, sir. Shall I read it again?

Mr. RANNEY. They had one-fourth of the reduced capital.

The CHAIRMAN. Allow me to read it.

"The capital stock of the Washington Telephone Company shall be reduced by an amendment to its charter to 5,000 shares of \$100 each, all of which may be issued at the discretion of the party of the second part as full-paid and non-assessable stock. The party of the first part shall be entitled to a quarter of the whole of the capital stock as payment for the rights and franchises assigned by it to the party of the second part; but it shall only be entitled to vote on stock actually issued to it, and certificates for the same given, equal to 25 per cent. of the whole of the stock actually in existence and issued, it being the intent and meaning of the parties hereto that the Pan-Electric Telephone Company shall at all times be entitled to 25 per cent. of the stock of the Washington Telephone Company actually issued, so as to be entitled to 25 per cent. of all earnings and dividends and one-quarter of the voting power of the stock in existence as long as it holds stock issued and paid to them."

Q. Was this supplemental charter obtained after you became connected with the company?—A. Yes, sir.

Q. Have you any recollection as to who attended to procuring it?—A. General Bradley T. Johnson, the attorney of the company, attended to all that matter.

Q. Have you any recollection as to why the capital stock was reduced one-half?—A. None specially, except that it was deemed too large an amount, and it was thought that it would be better to reduce the capital stock.

Q. Had you any conversation with any members of the Pan-Electric Company upon that matter?—A. No, sir; I never had any conversation with the officers of that company.

Q. Was there ever any money put into the company by the stockholders?

Mr. RANNEY. He means at the organization.

The WITNESS. At the organization?

The CHAIRMAN. At the organization, or afterwards?

A. There was at the organization.

Q. How much?—A. Fifty dollars apiece, I think, was the amount paid in.

Q. How many of them were there?—A. There were ten at that time.

Q. And they paid in \$50 each?—A. Yes, sir.

Q. Was there any money paid in subsequently?—A. None, except from the sale of stock. They organized a company in Baltimore, a certain amount of the stock of which they were authorized to sell, and the subscribers had the right to the use of telephones for two years. In that way the capital was paid in.

Q. I will ask you what disposition you made of the capital stock originally; was it allotted or issued or retained by the company?—A. Some of it was allotted to Dr. Harlan and Mr. Gustin for promotion. Each of them were allotted 500 shares of the stock of the company for promotion, and that was issued to them, and then it was determined to pay the president and officers of the company such an amount of stock as salary, and that was to be retained in the treasury by the treasurer as trustee, and not to be offered for sale. Then 500 shares were authorized to be sold by the Baltimore agent to organize the company in Baltimore and in Maryland.

Q. At the par value of \$100?—A. No; it was authorized to be sold at \$20 a share.

Q. I mean the par value of the shares?—A. Yes, the par value of the stock was \$100.

Q. You say your agent was authorized to sell how many?—A. Five hundred shares at \$20 a share.

Q. Who was your agent?—A. E. J. Henkle.

Mr. MILLARD. Have you your stock book here?

(The witness produced the stock book called for.)

Q. Five hundred shares were to be sold on account of the company?—A. Yes, sir; to organize a company in Maryland. The company was organized there, and there is an exchange in operation in Baltimore City now on the strength of the money obtained.

Q. Did you organize a company under the Washington Telephone Company?—A. That was subsequently done; that was done last summer.

Q. But the sale of stock was the 500 shares of the stock of the Washington Telephone Company authorized to be sold, as I understand?—A. Yes; that became afterwards the property of the company we licensed in Maryland, known as the Washington Telephone Company of Maryland.

Q. Was there any part of these 500 shares sold?—A. Yes, sir.

Q. Can you state what amount?—A. I cannot tell exactly, but very nearly \$10,000

was obtained by the sale of stock in Baltimore City, which was invested in organizing an exchange, putting up private lines, &c., in the State of Maryland.

Q. Ten thousand dollars' worth at \$20 a share?—A. Yes, sir; about that.

Q. That would take the whole of the 500 shares?—A. Yes, sir. I think the whole of it was sold, but each subscriber was entitled to the use of a telephone for two years without pay.

Q. What disposition was made of that money?—A. That was invested in private lines and in an exchange which is now in operation in Baltimore.

Q. That, I understand you, was done prior to the organization of the Baltimore company?—A. Yes, sir; the Baltimore company, I think, was organized somewhere in June or July; the book of minutes will show.

Q. How was that stock made available to the Baltimore company? I understand you that that passed through the Baltimore company.—A. Yes, sir.

Q. In what way?—A. After the organization of the Baltimore company we turned over to them all the rights, franchises, &c., that were enjoyed in Maryland.

Q. But you had sold 500 shares of the stock?—A. Yes, sir; it had been sold for the company, but had been used in Baltimore in the development of the Baltimore and Maryland properties.

Q. Did the purchasers of the stock become organized as the Baltimore company? Were they the gentlemen who constituted that company?—A. No, sir; this book of minutes will show the names of the parties who obtained the contract from us to organize the Washington Telephone Company of Maryland.

Q. Then do these purchasers still hold stock in the Washington Telephone Company?—A. Yes, sir; they are stockholders in the Washington Telephone Company.

Q. They have no connection with the Baltimore Telephone Company?—A. None specially, except that it obligated itself to perform all contracts entered into by these parties, and it assumed all indebtedness of the company there.

Q. You have no indebtedness of the purchasers of stock?—A. No, sir.

Q. What the Baltimore company assumed then, I presume, was the obligation to allow them to use telephones for two years?—A. Yes, sir.

Q. Can you name the purchasers of these 500 shares?—A. I could not exactly identify all of them; their names are on the books of the company; I think there are somewhere about two or three hundred of them; their names are contained in this stock ledger.

Q. I speak of the original purchasers from the company.—A. Yes, sir; their names are here.

Q. Two or three hundred of them?—A. Several hundred of them; yes, sir.

Q. It would average only a couple of shares apiece?—A. It was limited to five shares apiece; each one took five shares of stock.

By Mr. HANBACK:

Q. At \$10 a share?—A. Yes, sir; each party subscribed \$100 and got five shares of stock and the privilege of the use of a telephone for two years.

By the CHAIRMAN:

Q. Was that \$10,000 used for the establishment of lines in Baltimore?—A. Yes, sir.

Q. Were those lines turned over to the Baltimore company?—A. Yes, sir.

Q. Was any part of the money ever divided among the shareholders in the original company?—A. No, sir; never a cent.

Q. Have you established any other companies under the rights granted to the Washington Telephone Company?—A. Yes, sir; we have some private lines in Virginia and West Virginia, and a few private lines in the District of Columbia.

Q. You speak of private lines; but have there been any other companies organized?—A. In Virginia there is a company called the Loudoun and Fauquier Company, which purchased the telephones from us. They simply formed that company, but it was not really chartered.

Q. Any other?—A. I think not in Virginia. There were several in Maryland, but of course when we made the assignment to the Maryland company it was transferred to them.

Q. Are you connected with the Maryland company?—A. No, sir.

Q. Do you know whether that company has sold any of its stock?—A. I do not, of my own knowledge; I have heard they have.

Q. Do you know whether that company extended the lines which had been established by the Washington Telephone Company of Baltimore?—A. They were proceeding to do it as rapidly as possible until they were restrained last fall by the court from proceeding with any new business.

Q. To what extent had they gone in the way of extending their lines?—A. We had an exchange of more than a hundred telephones, and a large number of private lines in the city furnished to these subscribers, and were prepared to put up five hundred

additional telephones at the time the restraining order was issued in the suit by the Bell Telephone Company.

Q. Was there a final injunction in that case?—A. No, sir; the court was to have heard it on the 25th of January, but at that time Judge Bond was very ill and could not attend, and I do not think they have been able to get a hearing since.

Q. Did the Washington Telephone Company ever establish any lines in Washington?—A. Yes, sir; we have a few private lines here. We would have established them very generally, but we were not allowed the poles. We could not put up poles, and it was difficult to obtain the use of house-tops, and there was no underground system that we could use. We think now that we shall be able to obviate that difficulty at an early day, because we have an underground system that we think will answer the purpose, and we think we shall be able very shortly to establish an exchange, or attempt to do so, at least.

Q. Has your Washington Telephone Company obtained any money from any other source than the sale of those 500 shares?—A. No, sir.

Q. What has been the business of the company? For what purpose does it maintain an office?—A. It is obliged, under its charter, to have its principal office in the city of Washington.

Q. But it is doing nothing?—A. Not a great deal here, but it was doing something in the rest of its territory, in Virginia and West Virginia.

Q. Is it still doing business in Virginia and West Virginia?—A. We are temporarily restrained, you know, from proceeding there. Judge Bond's circuit includes the two Virginias and Maryland, but the restraining order does not operate upon us here.

Q. Does the Baltimore injunction extend beyond restraining the Maryland company?—A. Yes, sir; it was against the Washington Telephone Company that this suit was brought.

Q. You have spoken, Mr. Gardner, of having difficulty about the establishment of your lines in this city; you were not able, you say, to obtain the use of poles?—A. The District Commissioners passed an order some time ago that no more lines should be allowed above ground and providing that those already up should be taken down as rapidly as possible, and substituting an underground system.

Q. Have you any lines at all in the city?—A. We have some private lines here.

Q. Had there been any attempt to procure legislation in relation to the establishment of lines in Washington?—A. None, whatever. In Baltimore we obtained from the city council the right to put up poles, but we have never made any attempt in that direction in Washington.

Q. What did you do in the way of procuring the consent of the Commissioners of the District of Columbia?—A. We made no effort to procure the consent of the Commissioners, as it was understood that they would not grant it. It was generally understood that the lines all had to go under ground, and they would not allow any additional poles to be erected.

Q. Have you made any application to the Commissioners?—A. Our company has not to my knowledge.

Q. Has any company, or any person connected with these companies, or either of them, made any such application?—A. No, sir; not that I know of.

Q. Has your company a part of its stock yet undisposed of?—A. Yes, sir.

Q. What part of it?—A. I suppose about one-half of it has not been disposed of.

Q. How many shares were there originally?—A. Twenty-five thousand shares, at \$100 a share.

Q. So you think you have over 12,000 shares yet, or about that?—A. There are 12,000 shares that are disposed of, and there is some that is not finally disposed of.

Q. Can you state what disposition has been made of the 12,000 shares?—A. Yes, sir; 1,000 shares were appropriated first for promotion, and the balance has been issued to subscribers in Baltimore, and to the officers of the company.

Q. What number of shares was allotted for promotion?—A. One thousand shares.

Q. To whom?—A. Five hundred shares to Dr. J. A. Harlan, and 500 shares to George A. Gustin.

Q. Who were the other gentlemen to whom shares were allotted?—A. The president—

Q. That is Bradley T. Johnson. How many shares did Bradley T. Johnson get?—A. The company voted him 400 shares per annum as president, and 250 shares per annum as director. The then secretary and treasurer, Dr. Goldsborough—he is not now either secretary or treasurer, but a director of the company—was voted 400 shares per annum.

Q. Who else?—A. The directors were each voted 250 shares per annum, and the attorneys of the company were voted 100 shares each per annum.

Q. How many directors?—A. There were ten directors. There are nine now.

Q. Do you recall any others?—A. No. The books will show precisely the allotment.

Q. Mr. Young spoke of having been allotted a certain amount of stock—I have forgotten the amount—\$50,000, I think.—A. Mr. Young was mistaken. It was afterwards reduced to 2,500 shares, to \$2,500,000, and the allotment was 250 shares, or \$25,000 instead of \$50,000.

By Mr. RANNEY:

Q. It was \$50,000 originally?—A. Yes; but that was never carried out.

By the CHAIRMAN:

Q. How much was Mr. Young allotted?—A. Two hundred and fifty shares.

Q. Twenty-five thousand dollars?—A. Yes, sir.

Q. Was that the same amount that the other directors were allotted?—A. The same amount precisely. I will state in that connection that Colonel Young never received any stock at all. It is on the book, and was never delivered to him.

Q. Was this \$25,000 in addition to his annual allotment?—A. No, sir; that was the salary for the directors.

Q. And I understand you they have an annual allowance?—A. That was the annual allowance.

Q. That was the first year, was it?—A. Yes, the first year; there was only one year. The company was organized somewhere in June, 1884, and has only been in existence a little over a year.

Q. Are the directors all entitled to another allotment of stock for the current year at its close?—A. The salaries were all stopped in December—the salaries of the directors were stopped, and an amount of stock voted them in lieu of all salaries.

Q. What amount was voted to them?—A. Five hundred shares apiece, to be assessed whenever called upon for the benefit of the company.

By Mr. RANNEY:

Q. You mean they were to have that number of shares annually as salary?—A. No, sir; they were to have that in lieu of all pay in the future, and that was subject to any assessment that might be made by the company for the development of the company. You will find that noted in the record of the proceedings of the last meeting.

By the CHAIRMAN:

Q. Did they undertake to serve as directors for any certain time for that allowance?—A. I suppose they were to continue as long as the stockholders chose to elect them.

Q. Would they be obliged to serve?—A. Not necessarily obliged to.

Q. You see they might get the 500 shares for the first year's service?—A. They are not men likely to shirk any responsibility.

Q. You say that this stock voted to the directors is subject to assessment?—A. Yes, sir.

Q. To what extent?—A. To any extent that may be required; it could be wiped out entirely.

Q. Has there been any meeting latterly?—A. Not since the last meeting recorded in the book which was, I think, the 10th of September. There has been no meeting since that time.

Q. Have you named a sufficient number to cover the 12,000 shares?—A. I don't know that I have; but you will find the matter contained in the books. I will not undertake from memory to say exactly, because I kept a record of every transaction of the company, and the books will show exactly.

Q. Take out any class? You say the company has provided for the payment of the president, secretary, treasurer, attorneys, and directors.—A. Yes, sir.

Q. Has it made any other disposition of the stock?—A. None whatever. This inquiry relates, as I understand it, simply to whether any stock has been issued to any member of the legislative, executive, or judicial service, and under that resolution I can say that our company has never issued any stock to any one in that connection.

The CHAIRMAN. I do not recall the resolution, but I do not think those are the terms.

Mr. EDEN. That is it substantially, I think, Mr. Chairman.

The CHAIRMAN. I do not think it speaks of issuing stock to any member of the legislature.

The WITNESS. (Reading from the House resolution authorizing this investigation.) "And to make full inquiry into the issuance of stock known as the Pan-Electric Telephone stock, or any stock of any other company, companies, or organization springing out of the Pan-Electric Telephone Company, to any person or persons connected at the time of such issuance with either the legislative, executive, or judicial departments of the Government." That is as far as the inquiry seems to go. I think this investigation into the private affairs of the company is probably not warranted by the resolution. Still, I am not disposed to withhold anything at all.

Q. We have not gone very far yet into the private affairs of your company. You do not seem to have issued any except to the officers of the company?—A. No, sir.

Q. And one of them is a member of Congress?—A. No member of Congress or member of the legislature or member of any of the Executive Departments holds any stock of our company.

Q. Is there any person connected in any way with that company who holds any office under the Government of the United States?—A. None whatever; I do not think there is a single member of our company holds any office under the Government of the United States.

The CHAIRMAN. Mr. Ranney, you can take the witness.

By Mr. RANNEY:

Q. By the records I see that this company was organized June 6?—A. The first meeting was held June 3, and the charter was accepted and adopted, and a committee appointed to prepare by-laws. At the second meeting, June 4, the by-laws were adopted, and at the third meeting, June 6, I think, the officers were elected under the by-laws.

Q. On May 15, 1884, I see by your records, Casey Young was present and called to the chair?—A. May 15, 1884? Look at the top for the correct date.

Q. Oh, yes; the first meeting was June 3, 1884. You are right. At that meeting Casey Young was present and presided?—A. Yes. I don't think he has attended more than two or three meetings since I became secretary.

The CHAIRMAN. Before you go on, Mr. Ranney, I wish to ask the witness about another matter.

By the CHAIRMAN:

Q. Are you acquainted with J. Harris Rogers?—A. Well, sir, I have a limited acquaintance with him.

Q. Have you any recollection of having had a conversation with him during the year 1885 with reference to a contemplated suit in the name of the United States to test the validity of the Bell patents?—A. I never had any such conversation as he details in his statement which I have here before me.

Q. On what page is that?—A. On page 19. He came to my office, as he stated in his testimony, some time in July, the exact date I don't remember. Some general conversation ensued, and I believe something was said about a suit; but the suit I referred to, and supposed he referred to, was a suit about to be brought, or which had been brought, by the Pan-Electric Company against the Bell Telephone Company, at Memphis, Tenn., and there was no allusion made, so far as my recollection goes, to any Government suit; I am positive about that. Subsequently, several weeks afterwards, Mr. Rogers came to my office and wanted me to refresh his memory about it—wanted to know if I didn't recollect that there had been some conversation about a Government suit. I told him emphatically that there had never been any such conversation in my presence; that I had never heard anything about a Government suit, and didn't know anything of it at all until the 10th of September; that the first knowledge I ever had of any Government suit was at a meeting of the board of directors, when General Bradley T. Johnson, president, received a telegram from Mr. Gantt, of Memphis, stating that a Government suit had been brought. That was the first knowledge I ever had of any Government suit. Mr. Rogers is entirely mistaken.

Q. Had Colonel Young, prior to your conversation with Mr. Rogers, ever said anything to you about the bringing of a Government suit?—A. Never; I never had any conversation with him on that subject. I had very little acquaintance with Colonel Young until after the Government suit was brought; in fact, until about the time they were to appear before the Interior Department. I did not know him when I was elected assistant secretary. I knew him by reputation, of course, but I had no personal acquaintance, and he did not attend any of our meetings after I was elected secretary, certainly not more than two or three meetings; and after my election as secretary he did not attend a single meeting except the first one.

Q. You say that Mr. Rogers did come to your office?—A. Yes.

Q. Had you had any conversation with Colonel Young in regard to this matter that Mr. Rogers has testified to?—A. None whatever. He states here that he was sent to my office by Colonel Young, for what purpose he does not state. I know of no business that I had with Colonel Young that would have caused him to send Mr. Harris to my office; it was of course used as the Pan-Electric office, but it was seldom attended by any of the Pan-Electric officers.

Q. Do you recall what Mr. Rogers said when he came to your office?—A. No. He came in, and we had a general talk about the interests of the company. At that time the suit in Tennessee, in Memphis, was being talked of, and I had in my mind entirely the suit of the Pan-Electric Company against the Bell Telephone Company. In fact I knew nothing about that suit until it was brought. The first I ever saw of that was in the Baltimore Sun, I think, of the 21st of July, which set forth that on

the 11th of July there had been a suit brought by the Pan-Electric Telephone Company against the American Bell Telephone Company.

Q. You say you did have a conversation with Rogers in regard to some suit?—A. Yes, sir; but it is distinctly in my recollection that it was in regard to a suit pending, or about to be brought in Memphis by the Pan-Electric against the American Bell Telephone Company.

Q. Can you say that you did not talk to him about a Government suit?—A. Yes. I never knew about any Government suit, as I said before, until it was brought, and until this paper, drawn by General Johnson, which I will submit, was read at the meeting of the board of directors. I happened to find this among my papers. It was presented by General Bradley T. Johnson at a meeting of the board of directors on the 10th of September.

Mr. RANNEY. Let us see what you are proposing to read.

The WITNESS (handing the paper to Mr. Ranney). It is a paper signed by General Bradley T. Johnson; there is his signature. He submitted this, and that was the first knowledge I ever had of any Government suit; it was announced by telegram, which he read at the meeting. That is simply a report submitted to the meeting, and on the back of it you will see an addition. That report was not adopted.

By Mr. RANNEY:

Q. What is the date of that?—A. September 10. You will find it in the proceedings as having been presented, but other provision having been made, it was not incorporated in the proceedings.

By the CHAIRMAN:

Q. I see the part you speak of is this: "I have been assured last Thursday"—A. That would have been the 3d of September. He may have had some assurance, but he never mentioned it to me. He speaks of having had some assurance on the preceding Thursday, which would have been the 3d of September; that was the day the Solicitor-General said the suit was ordered.

Q. The 3d of September would have been the date?—A. Yes, sir.

Q. This was on the 10th?—A. Thursday, 10th, and the preceding Thursday would have been the 3d. He said he was assured, but where he got his assurance he did not state. In fact, I had overlooked that paper.

Q. "I have been assured last Thursday that a bill would at once be filed by the United States to vacate Bell's patents. I am unable to ascertain if it has been so filed."

Mr. MOFFAT. What is that?

The CHAIRMAN. It is a report made by General Bradley T. Johnson, president of the Washington Telephone Company, to the directors, dated September 10, 1885.

Mr. RANNEY. In which he says that he was assured on the 3d of September that the bill would be brought?

The CHAIRMAN. Yes; I will read it:

"If that suit has been brought, or when it is brought, some value may be imparted to our stock; but in the pressure for time now upon us I am obliged to take the action I have taken."

The WITNESS. That was with reference to the suit of the Bell Company against us in Baltimore. There was some provision made by our company to pay counsel fees to defend that suit in Baltimore brought by the Bell Company.

Mr. MOFFAT. Did I understand you to say that he got that information from Colonel Gantt?

The WITNESS. No, sir; I did not say so. I don't know where he got it, I said. That was the first intimation I had of anything of the sort; in fact, reading that part of it never struck me; but when the telegram was afterwards received on that day, which he refers to on the back of that report—

Q. Here is something on the back of it.—A. Yes, that is the part I refer to.

The CHAIRMAN: I will read it:

"After reading this I have received a telegram from Gantt & Patterson, attorneys at Memphis, stating that the bill by the United States against the Bell Company has been filed in the United States court there, and they will send a copy, which telegram I read to you."

The WITNESS. It was read at that meeting, and that was the first knowledge I ever had of any Government suit.

Mr. RANNEY. Does he say whose telegram?

The CHAIRMAN. Yes, it was from Gantt & Patterson.

Mr. RANNEY. When you are through with that I would like to read it.

The CHAIRMAN. Yes; I find an indorsement on this paper as follows: "Report of General B. T. Johnson, made to the board of directors, September 10, 1885; not acted upon because of satisfactory provision otherwise made."

The WITNESS. Yes, I made that indorsement on the back of it; I did not incorporate it in the proceedings for that reason.

Q. What did you refer to by "satisfactory provision"?—A. He asked a certain amount of stock as compensation for the defense of that suit in Baltimore, and that amount was rather more than we were willing to allow, but we afterwards made an allowance which was satisfactory to him and to the rest of the directors.

Q. I observe in that report that he asked to be relieved from the office of president, so that he can take upon himself the duties of counsel?—A. Yes, but the board refused to accept his resignation, and at the next meeting he withdrew the request.

Q. You say the suit was pending in Baltimore at that time, on the 10th of September?—A. Yes, sir.

Q. Do you know when it was brought?—A. Some time in July, I think. I have got a slip from the Baltimore Sun stating the time; I happened to keep this slip.

Q. When was the hearing set, if you remember?—A. I see by this slip from the Baltimore Sun of Friday, July 17: "The American Bell Telephone Company, of Boston, and the Chesapeake and Potomac Telephone Company, of New York, by ex-Attorney-General Charles P. Gwinn, filed a bill in the United States circuit court"—

Mr. RANNEY. We all know about that. I think it is hardly proper to encumber the record with a newspaper statement of that kind.

Q. But have you any personal recollection as to the time set for the hearing of the motion for the preliminary injunction? If so, you may state it.—A. Yes; that was, I think, on the second Monday of September. Yes, I was at the meeting which was held for the purpose of making provision for that hearing.

Q. That would be the 14th?—A. Yes, sir. This meeting was held just in advance a few days, to make provision for that meeting of the court; that court met, I think, on the second Monday of September.

Q. You say this was the first knowledge you had of the bringing, or intention to bring, any Government suit?—A. Yes; the first knowledge I had; I knew of no other suit; it was always in my mind up to that time that it was the suit of the Pan-Electric Company against the American Bell Telephone Company.

Q. Who were the counsel for your company in the Baltimore suit?—A. The counsel in the Baltimore suit were General Bradley T. Johnson, and his son, John P. Poe, and Archibald Stirling, jr.

Q. Who was the district attorney there at that time?—A. He was Archibald T. Stirling, jr. He is still district attorney. I understand that Mr. Hayes has just been appointed to supersede him, but he is still there, and has been in that office for a number of years.

Q. He was employed by your company as counsel?—A. Yes, sir; at least General Johnson said so; I know nothing about that part of it.

Q. Did he appear in the suit?—A. Yes, sir; my memory is that he did appear in the suit at the September term of the court.

Q. Had you any conversation with Colonel Young, before the visit of J. Harris Rogers to your office, respecting any suit?—A. I never had any conversation with Colonel Young, prior to the 10th of September, respecting any suit. In fact, I don't think I saw Colonel Young; Colonel Young was away a greater part of the time, and I had no occasion to see him; I was not very intimate with him, never was until the commencement of this suit, and I never saw much of him, and never met him, until I became assistant secretary of the company, to make his acquaintance.

The CHAIRMAN. That is all that I desire to ask.

By Mr. RANNEY:

Q. I see by your records, page 5, that the first meeting, held June 3, 1884, was held at Casey Young's office?—A. Yes, sir; so it appears; I was not secretary of the company at that time.

Q. This is the record you have produced here?—A. Yes, sir.

Q. I call your attention to the fact, and put in the fact, that "a called meeting of the Washington Telephone Company was held at the office of Hon. Casey Young, No. 606, Thirteenth street, Washington, D. C., June 3, 1884, at 4.30 p. m.; present, Hon. Casey Young," and others whose names I need not give. And then, "On motion of Dr. Harlan, Hon. Casey Young was called to the chair, and by request explained the object of the meeting and the prospects of the company." The next meeting was called June 4, the following day, as appears on page 11 of this record, "Meeting held pursuant to adjournment. The directors of the Washington Telephone Company met at the office of Hon. Casey Young. Present, Hon. Casey Young" with others whose names are unimportant. On the same page: "Hon. Casey Young nominated Dr. J. A. Harlan, of Washington, D. C., for vice-president." On June 6 (page 19): "Meeting held at the office of Hon. Casey Young." Page 20 of the record, June 9, 1884: "Meeting held at the office of Hon. Casey Young," the same place as before. Present, the first one named, Hon. Casey Young.—A. That happened because the company had not provided for an office at that time.

Q. I am reading the record. We will come to that by and by. Next, on page 21, June 1, 1884: "Office of Washington Telephone Company, 1226 F street." Was that

the company's office afterwards?—A. Yes, that was the company's office and continued to be the place of meeting of the company until the office was taken where it now is.

Q. Up to that time you held all the meetings at Casey Young's office?—A. Yes, sir; at the request of the directors, as I understand. I was not then assistant secretary or connected with the company.

Q. "Office of Washington Telephone Company, 1226 F street, June 14, 1884. Present, Messrs. Young" and others. Young's is the first name. You do not know any other Young connected with that company than Casey Young, do you?—A. No, sir.

Q. I do not read the details of the business transactions. On page 25: "Washington, June 20, 1884, room of Hon. Casey Young, 4.30 p. m., the board of directors met."—A. I think that was a meeting called by General Bradley T. Johnson.

Q. I am reading now. "Present, Young, Harlan," and others. There was business transacted at that time, but I will not read it. I will put in this vote among the other votes passed at that meeting when he was present: "That the following number of shares be paid to the officers, agents, and promoters of this company," and it goes on and states the amounts and details, which, perhaps, it is not necessary to put in.—A. That was afterwards rescinded.

Q. One moment. I do not say that that is material here. The fourth vote on page 26 is: "Voted that the pool so formed shall be at any time terminated on the demand of the holders of three-fourths of it." That is signed by Bradley T. Johnson, Casey Young, and E. J. Henkle. I also read the third vote: "That the stock issued to each of the directors for his services on payment of \$500 called for, and to the officers and agents, according to the above schedule, shall be fully paid and nonassessable; that half of it shall be transferred to a trustee, who shall hold it with the power of voting it, and shall issue certificates for the stock so pooled for the owners of it."

"Fourth. That the pool so formed shall at any time be terminated on the demand of the holders of three-fourths of it." Which report, on motion, was adopted.

Mr. EDEN. Is Mr. Young's name in that?

Mr. RANNEY. It is a report that that be done.

The CHAIRMAN. What pool is that?

Mr. EDEN. I object to putting that into the record unless it is shown that some officer of the Government is connected with it.

Mr. RANNEY. I read the report and it is signed by Casey Young.

Mr. EDEN. I asked you if Mr. Young's name was in it.

Mr. RANNEY. And I said it was.

Mr. EDEN. You did not answer me; I presume you did not hear me.

Mr. RANNEY. I had previously read it. Casey Young was present at that meeting, and he and Bradley T. Johnson and Mr. Henkle signed the report and the report was adopted.

Mr. HALL. What is the date of that meeting?

Mr. RANNEY. June 20, 1884, page 25 of this record.

The WITNESS. If you will turn over you will find that that was rescinded.

Mr. RANNEY. That is not my object. I want to show that Mr. Young was active in it. "July 3, 1884, met at the office of the company."

The CHAIRMAN. I suppose these minutes are accepted as true, but they do not prove the presence of Casey Young or anybody else.

Mr. EDEN. The reason I suggested an objection was this: The witness very properly, as I thought, suggested that it would not be necessary for the committee to investigate the private affairs of his company, only as to stock issued to officers of the Government. It has been decided by the Supreme Court that a committee of Congress has no right to the private books of anybody.

The WITNESS. I have always thought so.

Mr. EDEN. There may be a great many things in that book that were entirely proper, but which the company would not want to be published to the world. Of course, if there is anything that implicates any officer of the Government, it is our duty, under the resolution, to investigate it.

Mr. RANNEY. We are now investigating this company, which is one of the subordinate companies to the parent company. An objection of that kind does not come properly from a member of the committee, I think. If any objection of that kind is pertinent, it should come from the company itself.

Mr. EDEN. The witness has made the point.

The WITNESS. I did make the point that it referred to the issuance of stock to no person connected with either the executive, legislative, or judicial branches of the Government.

Mr. EDEN. I will state, in reply to the remark of the gentleman from Massachusetts, that I am not the only member of the committee who has made objections. I have heard others make a great many.

The CHAIRMAN. There is no objection to making objections, that is certain.

Q. July 31, 1884, there was a meeting held at which Casey Young was present, and

a resolution was passed repealing and revoking the allowance of stock previously voted. That is what you referred to?—A. That is what I referred to.

Q. Page 57, April 25, 1885, there was a meeting of the board of directors, and Hon. Casey Young, among others, was present. Business was transacted.—A. I don't think that out of the whole twenty odd meetings ever held Mr. Young ever attended more than four or five.

Mr. RANNEY. This is the evidence, and you will be kind enough to let me put it in.

The CHAIRMAN. The evidence of a witness, it seems to me, would be better on that point. The minutes do not prove it at all. He was constructively present.

Q. On the same page there is a note of another meeting held by the board of directors, at which, among others, Casey Young was present. Considerable business seems to have been transacted, the details of which are probably unimportant. July 13, 1885, page 66 of the record, this vote was passed: "The president and counsel of this company is hereby instructed to notify the Pan-Electric Telephone Company of the existing condition of the contention between this company and the American Bell Telephone Company, and the C. and P. Telephone Company"—what is that?—A. The Chesapeake and Potomac Telephone Company.

Q. (Continuing.) "And to call upon the Pan-Electric Telephone Company to comply with its contract with the company to furnish counsel and pay expenses of defending the rights of this company."

Mr. MILLARD. What is the date of that?

Mr. RANNEY. July 13, 1885.

A. General Bradley Johnson is mistaken in that, because he thought of bringing suit himself, and the parent company was not obliged to prosecute any suits brought by our company, but only to defend suits brought by the Bell Company. When Johnson had been informed of that nothing was done.

Q. "The president is instructed to notify said Pan-Electric Company that this company will proceed in such manner as is necessary, and will hold the Pan-Electric Company responsible for all costs, loss, damages, and counsel fees expended and incurred by it; and the president is hereby directed to employ counsel to assist the regular counsel of the company, and to proceed forthwith in such manner as he may deem necessary. In case of the failure of the Pan-Electric Company to furnish funds for protecting the patent rights of this company acquired of it, the president is hereby directed to call a special meeting of all the stockholders of this company to lay before such meeting a report of the condition of affairs, and to ask authority from it to use all the stock of the company yet undisposed of, with the rights and property of the company, including stock-list and contracts with other companies, for the purpose of paying the expenses of litigation with the American Bell Telephone Company, and to notify the Pan-Electric Company that this company will hold it responsible for such costs, fees, and damages incurred. On motion, adjourned." Then, September 10, 1885, you voted the last vote. "General Johnson read a report, upon which no action was taken."—A. That is the report referred to.

Q. "Because of satisfactory provisions already made for the defense of the suit of the American Bell Telephone Company against this company." Do you remember what day was set down for the hearing of that application for a preliminary injunction in that suit, brought in the United States circuit court by the American Bell Telephone Company against the Pan-Electric Company and the Washington Company?—A. It was set down for the second Monday in September.

Q. What day of the month would that be?—A. I think that would be the 14th; Thursday was the 10th.

Q. That would be the day appointed for the hearing of that application for a preliminary injunction?—A. Yes, sir.

Q. On that day, when they were assembled for the hearing there, did not the United States district attorney appear with a copy of the bill in the Memphis case?—A. I am not able say.

Q. Was not an application made for an injunction, and was not the fact that the Government had brought suit at Memphis given as a reason why the injunction should not be granted?—A. That may have been one of the reasons. It is more than probable that between the 10th and 14th of September General Johnson may have obtained a copy of the bill in the Memphis case; it is very likely he did, and it was certainly very proper that he should have done so.

Q. I am not asking about the propriety of it; I am asking for the fact, and I wish you would confine yourself to that.—A. I was not at the trial; I was here in Washington, and did not charge my memory with it. I was not aware, as I stated before, that suit was to be brought; I have stated that I was not aware of that until the 10th day of September. If I had been the attorney of the company at that time I should certainly have applied for a copy of the bill, and filed it in the case.

Q. Were you not aware that a previous time had been set for the hearing of that case in Baltimore, and that it was postponed until the 15th of September?—A. I do not remember.

Q. Are you a lawyer?—A. No, sir; I am not a lawyer; I have been in the circuit court for six years.

Q. Then you were not aware of that?—A. No, sir. I think the original hearing was some time in July, and I think it was set down then, because the court could not take it up at that time.

Q. Be kind enough to read that report of Mr. Johnson.—A. It is rather a difficult handwriting to read.

Q. That is why I ask you to read it.—A. (Reading:)

SEPTEMBER 10, 1885.

To the directors of the Washington Telephone Company :

GENTLEMEN: After the passage of your resolution directing me to notify the Pan-Electric Telephone Company when suit was brought by us against the American Bell Telephone Company and to demand that it undertake the expense of that suit, and on failure to do so we would hold it responsible for costs, suit was brought against us by the American Bell Telephone Company on July 16. I addressed a notice to that effect to General Joseph E. Johnston, president, Hon. A. H. Garland, director and counsel, and Hon. Casey Young, secretary and treasurer of the Pan-Electric Telephone Company, and required it to furnish counsel and pay expenses. I have received no response except that Colonel Young informs me here that they are without means so to do. Acting, then, on the spirit of your resolution, I have determined to appropriate 10,000 shares of this company and 5,000 shares owned by it in the Washington Telephone Company of Maryland to pay counsel fees and those of associates, and to try with it to raise some money to pay expenses. I have tried and am unable to raise any money at all by sale or by the hypothecation of this stock. At the last meeting of the board, although the resolution then passed looked to giving full authority to dispose of all the stock and property of this company in defense of its rights, I had a verbal understanding with the board that I would conclude no arrangement without first notifying them. I have tried since September 1 to get a meeting of the board to get it to ratify or reject this arrangement, but unsuccessfully. All our stock will be worthless if the injunction is issued on the 15th instant. I purpose to use the stock specified to try and save it. I have been assured last Thursday that a bill would at once be filed by the United States to vacate Bell's patents. I am unable to ascertain if it has been so filed. If that suit has been brought or when it is brought some value may be imparted to our stock. But in the pressure for time now upon us I am obliged to take the action I have taken.

I respectfully request to be relieved from the place of president, so as to devote myself exclusively to my duty as counsel.

BRADLEY T. JOHNSON.

The CHAIRMAN. Now put in what is on the back of it.

The WITNESS. (Reading:)

"After reading this I have received a telegram from Gantt & Patterson, attorneys at Memphis, stating that the bill by the United States against the Bell Company has been filed in the United States court there, and they will send a copy, which telegram I read you."

By Mr. RANNEY:

Q. You say the district attorney appeared in that suit?—A. Yes, sir.

Q. How did you know that fact?—A. I saw it in the newspapers, I think, at the time.

Q. And then when you answered Mr. Boyle that the district attorney appeared by the 15th—did you ever know of his appearing before the 15th?—A. Before the second Monday in September? No, sir.

Q. That was the first time that he appeared. Did you not also say—

The CHAIRMAN. Did you say that was the first time he appeared?

The WITNESS. My understanding is that he was retained as counsel, and appeared at the first hearing of the case, in July.

Q. Were you there?—A. No, sir; I was not.

Q. Did you see it in the papers?—A. I am not sure; I have some such impression.

Q. I do not like impressions of that kind if the fact is material. Your answer to Mr. Boyle would seem to imply that you were stating a fact within your knowledge.—

A. What was my answer to Mr. Boyle? Mr. Boyle did not ask me that question.

The CHAIRMAN. I asked you whether he appeared as counsel for the company.

The WITNESS. I stated that I thought he had been retained as counsel.

Q. What personal knowledge had you of that fact that he had been retained?—A. I had been so informed by either General Johnson or Dr. Henkle.

Q. Do you know when you were informed?—A. No, sir; I cannot fix the time.

Q. Have you any knowledge of his appearing in that suit before September 15?—A. No, I would not be positive about that. I have an impression that he did, but I am not sure about it.

Q. You have an impression that he appeared, then?—A. I think he did.

Q. Now, are you sure of that?—A. The impression was made on my mind by reading the papers at the time. I read the Baltimore Sun of the next day.

Q. You read the proceedings as published in the papers?—A. Yes, sir.

Q. Did you not find it in the proceedings that he appeared on behalf of the Government, with the record of these proceedings at Memphis and ask to set aside all those proceedings because of it?—A. No, sir; I never understood that he appeared in behalf of the Government, because I knew that he did not, and my recollection is that he so stated to the court, that he did not appear on behalf of the Government.

Q. Were you there?—A. No, sir; I was not there.

Q. You are merely stating what you read in the newspapers?—A. Yes, sir; what I read in the newspapers.

Q. We will not waste time on that species of information. You did have an interview with young Rogers at your office, to which you have testified. Can you fix the date of that?—A. Not exactly; but it was some time in July, I am pretty sure. I am not positive, but it is my impression it was in July.

Q. Can't you fix the date?—A. Not exactly; no, sir. I think it was somewhere about the middle or latter part of July, but exactly I could not fix it.

Q. You are only going on probabilities anyway?—A. Well, I did not charge my memory with it.

Q. Might it not have been as late as August?—A. It was not as late as August; I am very sure of that.

Q. How are you sure of that?—A. Well, I am reasonably sure of it—as sure as I can be of anything in the past that I made no note of.

Q. Is there anything in your mind to enable you to fix the date when it was?—A. I cannot fix the date any nearer than to say it is my belief it was some time in July; what time I cannot say. It was some time after the publication in the Baltimore papers of the bringing of the Pan-Electric Telephone Company's suit at Memphis.

Q. And you have got no means of fixing it?—A. No, sir; no positive means of fixing it.

Q. Do you remember copying any contract between Mr. Van Benthuyzen and the Pan-Electric Telephone Company?—A. I do.

Q. When?—A. I cannot fix the date of that, but I think it was about the latter part of July or first of August.

Q. At whose request did you copy it?—A. At the request of Colonel Young.

Q. How many copies did you make of it?—A. I made several; I don't remember whether it was two or three. I will state that Colonel Young came into my office at No. 600 Thirteenth street. There was no one in the office but myself. He said he wanted a paper copied, and had no one whom he could get to copy it, and asked me if I would do it. I said I would with pleasure, and I set to work and copied the paper—not as was stated by the witness the other day. He made no request to me not to disclose the contents of the paper.

Q. Don't go beyond my question.—A. I happened to recollect what the witness stated the other day, and I state positively that that is not so. I made those copies, two or three, I will not be positive which, and I took the original of the copies and placed them in an envelope, sealed it, and addressed it to the Hon. Casey Young or rather I carried it to the office, and left it on the desk, a desk in the same office; at any rate, I understand that he got it. It was sealed up.

Q. It was a copy of a contract already executed?—A. I am not sure whether the contract was executed or not. In making a copy of a paper a party is not apt to charge his mind carefully with what the contents of the paper may be. I made those three copies in a short time.

Q. Three copies of the original?—A. I think so.

Q. Do you mean to say that you had an original paper put into your hands of which you made three copies?—A. Yes, sir; I think I made three.

Q. It was a contract between whom?—A. Between the National Improved Telephone Company and the Pan-Electric Telephone Company; that is my recollection of the matter.

Q. Was it signed by Casey Young or Senator Harris?—A. I could not say whose names were appended to it.

Mr. HALL. I did not understand him to say that anybody's was.

Q. Can you fix the time when it was?—A. I cannot fix it any nearer than I think it was the latter part of July or the 1st of August.

Q. Can you swear whether it was signed by anybody at the time you copied it?—A. No, sir; I could not.

Q. Will you swear that it was not?—A. I will not swear that it was not, for I do not remember definitely. It made no impression on my mind. It appeared to me simply a contract between the National Improved Company and the Pan-Electric Telephone Company to join issues in regard to the defense of certain suits against those companies.

Q. I did not ask you for the contents of it.—A. I am not giving the contents.

Q. Do you know in whose handwriting the paper was that you made a copy of.—A. No, sir; I do not. I did not identify the handwriting. I made it just as I would make a copy at the request of anybody.

Q. Will you hand me that supplemental paper? Was it not in Casey Young's handwriting?—A. I am not sufficiently familiar with Colonel Young's handwriting to identify it.

Q. Who did you first tell it to that you did make copies of the contract?—A. I never have told it to a living soul, according to my recollection, and I was surprised the other day—

Q. When you were here you said you were coming on next.—A. You asked me to bring the copies, and I said I had no copies.

Q. And you asked me how I knew it, and I said it was a spirit telegraph. You say you never mentioned it. How do you suppose that anybody found it out and told me that you made three copies of that contract?—A. I cannot imagine; it is something inexplicable to me. I know I never told any one.

Q. You had no telephone that would indicate that to me?—A. I don't know how you got it, unless you got it from the same source—some mysterious source—from which you have gotten a good many other things during the progress of this investigation.

Q. I told you that I wanted some of those copies, didn't I?—A. Yes, sir.

Q. And you expressed some surprise, and asked me how I knew of it?—A. Yes, sir.

Q. You had kept it religiously secret up to that time, hadn't you?—A. I had never told any one, because I would not tell any one of a matter of that sort.

Q. Why not?—A. Because it was a confidential matter.

Q. What do you mean by saying it was confidential; did he tell you to keep it quiet?—A. No, sir; I said he did not.

Q. Why did you treat it as confidential?—A. Because I consider all matters of that sort as confidential.

Q. You do not know what has become of that contract, do you?—A. No, sir; I do not. I have not seen it since I inclosed them with the original in the envelope.

Q. Please look at this paper which I hand you, and see if that is it [handing a paper to the witness.] I do that simply for identification. I do not want your recollection of the original contract, but I want you simply to identify that if it is the one.—A. Do you want me to identify this?

Q. I want you to read it, and perhaps you may have recollection enough about the contract of which you made three copies, to tell me whether it is the original which you copied?—A. No, sir; I see at once that this is not the original.

Q. Did you ever see that before?—A. No, sir; I never saw that paper before.

Mr. HALL. It would be well to have the stenographer note what paper you hand the witness, so that it can be identified.

The CHAIRMAN. It is the paper called the supplemental contract.

Mr. RANNEY. I was calling the witness' attention to it for the purpose of identifying it.

Mr. HALL. But the record does not show what paper it is.

Mr. RANNEY. Your suggestion is a good one, and I was acting on it before you made it. This paper says, "In addition to the agreement made and entered into between the above-mentioned companies at the city of Washington, D. C., on the 4th day of August, A. D. 1885, it is hereby further stipulated and agreed by and between the same, as follows, viz." That identifies it. It is what is called the supplemental agreement.

Mr. MILLARD. You never saw that paper before?

The WITNESS. No, sir; I never saw it before. I believe the paper referred to is the one I made a copy of. I said it was about the latter part of July or the 1st of August, but I could not state positively.

Q. This much you remember about the contents. You could not recite the contents of the paper?—A. I would not attempt to do it.

Q. But you remember enough of it to say that it was a contract between the parties you name. Are you confident that that was not already signed by Casey Young for the Pan-Electric Telephone Company, and by Mr. Van Benthuyzen for the National Improved Telephone Company?—A. I am not sure; I would not state positively either way.

Q. What is your best recollection?—A. I would not say, because I did not pay enough attention either way.

Q. You have answered that you will not say whether it was signed or not?—A. No, sir; I won't say; I cannot remember whether it was a duly executed paper or not.

Q. Did you copy it yourself personally, or get some one else to do it?—A. I copied it myself.

Q. Where?—A. In the office of the company, at No. 600 13th street.

Q. Did Casey Young bring the paper there?—A. Colonel Young brought the paper there, handed it to me, and asked me to make a copy of it.

Q. How long did it take you to make it?—A. I am not a very rapid writer, and I suppose to make three copies of a contract as long as that would take me an hour.

Q. Did he pay you anything for it?—A. No, sir.

Q. You never charged anything, so that you have an entry on your book which would help you remember?—A. No, sir.

Q. Can't you remember how many pages there were of it?—A. No, sir; it was not very long, according to my recollection. I don't think there was over a page or two, probably two pages; not over that, I think.

Q. Will you swear there were not three?—A. I tell you that my memory is not sufficiently distinct. I do not think anybody who has not charged himself with remembering the contents of the paper could remember it.

Q. You say you are totally in the dark now. Don't you know in any way how that fact became known? You cannot conceive that you ever mentioned it to anybody, can you?—A. I have said that I have no recollection of mentioning it to anybody, and it is not likely that I would have mentioned it; it was a matter not concerning anybody else.

Q. You had a conversation with Mr. Rogers after you did it, had you not?—A. No, sir; I think the conversation with Mr. Rogers, was prior to that.

Q. I do not wish to keep repeating it, but I will ask you if, subsequent to that time, Mr. Rogers did have a conversation with you in relation to the Government suit, and whether you did not then in that conversation tell him that you had drawn three copies of that contract?—A. No, sir; I positively state that I never had any conversation with Mr. Rogers about my Government suit whatever. I stated that in my testimony before—that I never had.

Q. I will tell you frankly I got my information from young Mr. Rogers; he says that you told him of that conversation. That is where I got my information.—A. He never got it from me, because he is not a person that I would ordinarily have much to say to.

Q. You see I am informed of what is the truth. You would not be likely to sleep with anybody where you would talk in your sleep about it?—A. No, sir.

Q. Young Rogers is the source of my information, and he says at the time you told him about this Government suit.—A. Mr. Rogers called at my office, and we had a conversation, and my recollection is distinct that it related to the suit of the Pan-Electric Telephone Company. I never had any conversation about any Government suit. If he had any such thing on his mind he didn't disclose it to me, and in his testimony here he states that—

Q. We will not argue it. We know what he states. I have no objection to your stating your recollection about it. Now, can you fix the date of these conversations with young Rogers?—A. I cannot be positive, but I know at the second conversation a colored man, John Fletcher, the man who acts as electrician of our company, was present, and he remembers Mr. Rogers coming in—

Q. Let him state what he remembers, not you. Have you any means of fixing it, except that the colored man was there the second time?—A. I have no means, and he has none, of fixing the date.

Q. Have you been trying to refresh his recollection on it?—A. No, sir.

Q. Did you take enough interest in it to go and hunt him up?—A. No, sir.

Q. Have you taken interest enough in it since this investigation began to go and hunt up the colored man to see what he remembers about it?—A. Yes; I was sufficiently interested in it when I saw a misstatement to go and refresh my recollection about it.

Q. That was the occasion of it?—A. Yes, sir.

Q. It had reference to see whether he knew anything about these three copies of the agreement you made?—A. That was not in reference to the three copies of the agreement; the colored man heard the conversation.

Q. How long ago was it that you went to the colored man to see how much he remembered about it?—A. Fully a week or ten days, or something like that; but I don't want you to insinuate that I had that conversation with the colored man for the purpose of getting him to remember it.

Q. I only want the fact that, in view of what Mr. Rogers said about it, you went and saw the colored man.—A. No, sir; the colored man is at my office every day, and volunteered his testimony to say that he remembered about it.

Q. Is he Mr. Harris's colored man or Casey Young's colored man?—A. I don't know that he is the colored man for anybody. He is acquainted with the telephone, and has been doing work for us.

Q. Where is he now?—A. He can be found at the office. I can find him for you.

Q. Is he in your employ?—A. Sometimes.

Q. Is he now?—A. Occasionally; not now.

Q. He is an off-and-on man, now?—A. Yes, sir.

Q. When was he Mr. Rogers's man, or in his employ?—A. I think he learned his business with Mr. Rogers; he was with him four or five years—with Harry Rogers—and knows as much about telephones, I guess, as Mr. Rogers does. He is quite an intelligent man; not an educated man.

Q. You have no means of fixing the date yourself?—A. None whatever.

Q. Have you any means of fixing the length of time that elapsed between the two interviews?—A. No, sir; but I think it was several weeks. It struck me as being very strange that Mr. Rogers—

Q. No matter what strikes you unless it is something that fixes the date.—A. But I desire to make this statement—

Q. You need not unless it bears on the date.—A. It does not bear on the date, but on the time between the two dates. It struck me as being very strange that he should have come there a second time to ask me if I remembered the conversation held on the first occasion, and I told him that that conversation, according to my recollection, related entirely to the suit of the Pan-Electric Telephone Company against the American Bell Telephone Company. And then he met me another day on the street, when he was under the influence of liquor, and commenced to talk, and seemed to find some fault because my memory did not agree with his, and I turned on my heel and left him.

Q. When was that?—A. That was some time after the second interview.

Q. How long after?—A. I could not fix it, but some time afterwards. I think, however, the suit had been brought by the Government at that time.

Q. What occasion was there to have any talk about it?—A. He seemed to feel aggrieved that I did not recollect that he had talked about the Government suit.

Q. What consequence had it become then?—A. I don't know; it seemed to be of great consequence to him.

Q. Was it before or after this thing had been disclosed in the newspapers?

The WITNESS. Before or after what?

Mr. RANNEY. Was it before or after this information about this affair had come out in the newspapers; in the World and the Tribune?—A. It was after; this conversation that I refer to last was after the suit of the Government on the 10th of September; I think so.

Q. It had not become of any particular consequence, had it, then, what your conversation related to the first time that he came to see you?—A. I did not know what his purpose was; but it struck me as queer that he wanted me to remember that the talk had been about one thing when it was about an entirely different affair. I had not talked about the Government suit.

Q. I would like your exact conversation. Tell me how the first conversation began, and how it proceeded. Give the first conversation that you had with young Rogers.—

A. If you will let me read a paper which I prepared afterwards, and which was in consequence of my memory, you will get it exactly.

The CHAIRMAN. You can refer to it.

Q. Is that what you recollect since?—A. Yes, sir.

Q. When did you write it?—A. Two or three weeks ago.

Q. That is not a proper paper.—A. Well, it merely corroborates my present statement.

Q. If you made a memorandum about the time it would be proper; but if you have been writing down statements since, I prefer to go on your memory.—A. Very well; it is substantially the same thing. You asked to have it exactly.

Q. At whose request did you write that down?—A. At whose request? What do mean by that?

Q. I mean this paper that you wrote down three weeks ago.—A. Why, who could make any request—

The CHAIRMAN. Just answer if anybody did.

The WITNESS. No, sir; not at all; nobody ever talked to me about it.

Q. Was it before or after Mr. Rogers testified here that you wrote that down?—A. It was after.

Q. How long after?—A. A short time.

Q. Who had been to see you about it?—A. No one; not a soul.

Q. Won't you from your memory go back to the first conversation that you had with Mr. Rogers; where was it?—A. It was in my office, as I stated to you. He came in there. He states here that he was sent by Casey Young—

Q. Don't tell what he states here; please confine yourself. When was it, to the best of your recollection?—A. I said I could not fix the time; some time in July, I think.

Q. How early?—A. I cannot fix it.

Q. How long before you wrote the copies of those agreements?—A. I cannot fix that, because it had no connection in my recollection with the matter at all.

Q. Is there anything that you can fix it by?—A. No, sir; I would not be positive about its being July.

Q. Wasn't it in June or August?—A. No, sir; I think not. I think it was in July, and I said about the latter part of July. I cannot fix the date.

Q. What part of the day was it?—A. I don't know that I can fix the time of the day. I think it was probably in the forenoon.

Q. Was anybody present?—A. No one at that interview, I think.

Q. How long did the interview last?—A. Not very long.

Q. About how long?—A. I should suppose ten or fifteen minutes.

Q. What was first said?—A. I could not remember, and probably it never would have been fixed on my mind.

Q. Who spoke first?—A. That is a question that you would not undertake to answer, would you, in regard to any conversation that you held months ago?

Q. What is the first that you remember about the conversation?—A. I don't remember anything particularly. The conversation was general, and it drifted into a talk about the company and the suit.

Q. Tell me in specific language all that was said, who said it, and in what connection it was said.—A. I would not attempt to do that, because I did not charge my memory sufficiently for that.

Q. Can you state a word that was said?—A. No, sir; I cannot state a word that was said. I could not recollect now what I said two days ago, the words, but I might recollect the substance of them.

Q. Can you remember of that interview a single remark that he made or that you made?—A. No, sir: I do not know that I can. I could only remember the substance of the talk, and that there was nothing said on my part—

Q. The substance is what I mean, not the exact language. Give me the substance of any remark that you made.—A. I don't think it is possible for anybody to do that in a matter that occurred several months ago.

Q. But this much is true; you did talk about suits?—A. We did talk about the interests of the telephone companies.

Q. You did talk over the matters of suits?—A. I think so.

Q. And the method of litigation?—A. Yes, sir.

Q. What did you say?—A. As I said it was in my mind—

Q. Not what was in your mind, but what did you say?—A. I say I could not repeat a conversation that occurred months ago.

Q. But you talked it over about some of the suits?—A. Oh, I don't know. He came in there, I was not at all expecting him, or any thing of the sort; he just dropped in and took a seat and we entered into a conversation, and something was said about suits probably, and if it was, it was in relation to—

Q. Ah, you say something was said probably. I want something definite; tell me what was said.—A. I say most positively that in that conversation there was nothing said on my part or understood to be said on his part, in reference to any Government suit.

Q. This is a matter of memory, and I want to deal fairly with you, and want you to deal fairly with me. Tell me the substance of anything that was said or what it was—not your argument about it, but your recollection.—A. I don't propose to enter into an argument, but my recollection is that we had some talk about suits; that it was in relation to a suit pending, and the only suit that I knew anything about pending or to be brought had been brought. I am sure of that, for it was a conversation that did not affect my mind particularly except in one point. I had in mind simply the suit of the Pan-Electric Telephone Company against the American Bell Telephone Company in Memphis.

Q. Will you swear positively it was not after the time you copied the contract?—A. I cannot fix the time, as I said before.

Q. Well, that is all I want of you on that subject. Do you say there was no capital stock in this Washington Telephone Company paid in in money?—A. No, I did not say that. I said that each director paid—

Q. There was a capital stock of \$5,000,000 ostensibly. Was there subscription by money for that?—A. No, sir.

Q. Have you the certificate book of stock of that company?—A. Yes, sir.

Q. Have you a stock ledger?—A. Yes, we have a ledger containing the names of the stockholders.

Q. Here is your stock book. I understood you to say that the stock was all assessable?—A. It was non-assessable and fully paid.

Q. I thought you said that the stockholders were liable to be assessed?—A. That was the provision made at the last meeting of the board.

The CHAIRMAN. That was the stock allotted to the directors.

Q. The stock you issued was full-paid stock and non-assessable.—A. Non-assessable so far as money was concerned, but the stock itself could be taken.

Q. Do you mean that you could make every man give his stock back?—A. Yes, sir; a portion of it; they agreed to do that.

Q. Your only resources were stock, then?—A. Yes, sir.

Q. How much money did this company ever earn? Have you the cash book here, and can you tell me how much money this company ever received or earned in its business?—A. I could answer that question, but it strikes me it is not pertinent to the issue at all. I do not think you have any right to know about our private business.

Q. We want to know whether this is a bogus thing or a real one?—A. You can find that out from the books themselves; you can take the books themselves. What was your question?

Q. If you are willing to tell, I would like to know how much money this company ever received or earned in its business.—A. I have nothing to conceal at all, but I do not think the money we received and paid out is a proper subject of inquiry.

Mr. HALL. You are the secretary of this company?

The WITNESS. I am the secretary and bookkeeper of the company, but that subject is not within the scope of the inquiry, it strikes me.

Mr. HALL. So far as I am concerned, I do not care about your further examination but I do not want to be a party to an improper inquiry.

The CHAIRMAN. Mr. Ranney has said that the witness need not answer unless he wishes to.

Mr. RANNEY. I do not propose to pry into what is outside—into a man's private business—but can you tell us how much cash you ever had?

A. I stated generally, in reply to a question by the chairman, that about \$10,000 has been collected from the Baltimore subscribers, which was devoted to the organization of exchanges and the building of private lines in Baltimore City.

Q. I see it will take too much time to examine these books and trace out all the stockholders.—A. I will state that there is not a stockholder of this company who holds any Government office or is in any way connected with any of the legislative, judicial, or executive branches of the Government.

Q. Did you ever try to sell any stock to any member of Congress?—A. No, sir; never a share. I do not think members of Congress generally are buyers of that sort of thing with cash.

Q. Do you know Mr. McComas, a Representative from Maryland?—A. Yes, sir; I know him; but his name does not appear among our list of stockholders.

Q. I know it don't. Did you ever have any dealings with him, or try to have, in regard to this stock?—A. Never at this office.

Q. Did you ever personally?—A. Never.

Q. See him or talk with him about this stock?—A. Louis McComas? No, sir; never. I know him very well, but I never had any conversation with him on the subject.

Q. You knew that he was a member of the District Committee?—A. I know that he is now.

Q. A member of the Committee on the District of Columbia?—A. Yes, sir.

Mr. MILLARD. He was a member of that committee in the last Congress; he is not now.

Q. Have you been acquainted with him some years?—A. About ten years; probably more.

Q. You are sure that you did not ask him, in substance, to take some of the stock of this company?—A. Never; never in my life. I am sure that I never spoke to Mr. McComas on the subject.

Q. Did you tell him that Senator Gorman was in it?—A. Senator Gorman is not in it.

Q. Did you tell him so?—A. No, sir; I never had any conversation with Mr. McComas on the subject.

Q. Are you secretary of that company in Baltimore?—A. No, sir; I have no connection with it.

Q. And have not their books—the books of the subordinate company—and do not know who their stockholders are?—A. No, sir; I do not know. He may be a stockholder in that company for aught I know; perhaps he is.

Q. I am going to examine that subject.—A. Well, there is not a member of Congress or any one connected with the executive, legislative, or judicial branches of the Government who is interested in our company as a stockholder.

Q. You spoke about putting up your lines in Washington. Do you remember a time when the Commissioners had forbidden that to be done?—A. Yes; I understand that has been the case for a year or two.

Q. Did you, after that date, go and see Senator Harris about it?—A. No, sir.

Q. Do you know that, after they had forbidden that, Senator Harris went to ask the Commissioners about it? You were not here when he testified, were you?—A. Yes, sir; I heard his testimony; but he did not say that I ever conferred with him. I never spoke to him on the subject. In fact, I have very little acquaintance with him.

The CHAIRMAN. Mr. Millard, do you desire to examine the witness?

By Mr. MILLARD:

Q. Were these three copies you made of this agreement compared before they were delivered to Colonel Young?—A. I compared them myself with the original as I made them, and satisfied myself that they were correct, put them in an envelope, as I stated before, and addressed the envelope to Hon. Casey Young, and sealed it.

Q. Did anyone see you doing that, so far as you recollect?—A. No, sir; my recollection is that no one was in the office during the time I was making the copies.

Q. Do you recollect whether Mr. Van Benthuyzen was in town at that time?—A. I do not. I know him only by sight; I have no personal acquaintance with him, and never exchanged a word with him in my life.

Q. Do you recollect whether Colonel Gantt was in town at that time?—A. I met Colonel Gantt after the September suit, and was introduced to him when he came on here and appeared before the Interior Department, but I never had a five minutes' conversation with him in my life, except perhaps to say something about the weather.

Q. Did you see them when they were at the Ebbitt House?—A. After the 10th of September?

Q. No, at the conference in July.—A. No, sir; I did not. I have no recollection of seeing either of them there.

Q. Did you see Colonel Gantt when he was here before the Interior Department?—A. I saw him occasionally, but had not any talk with him.

Q. Where did you meet him?—A. I think at the Ebbitt House once, and was introduced to him by Dr. Beckwith in the lobby of the Ebbitt House. I knew Dr. Beckwith as one of the parties connected with the Globe Company, and had had some conversation with him about another enterprise outside of the telephone.

Q. Now I call your attention to the proceedings of the board of September 10, 1885. The proceedings are in your handwriting?—A. Yes, sir; that was the meeting at which that report was read by General Johnson.

Q. Were you present at that meeting yourself?—A. Yes, I was; it is so stated in the minutes.

Q. At the close of the minutes I see you make this memorandum: "General Johnson read a report, on which no action was taken because of satisfactory provision already made for the defense of the suit of the American Bell Telephone Company."—A. Yes, sir.

Q. What provision had been made?—A. Now again there comes a question as to whether or not it is right to disclose the arrangements made with private counsel on a matter not relating to this subject of inquiry. It is there in the books and you can see it, but I do not think it is a matter which should be made public. It was a matter between the counsel and attorneys of the company and the directors, and communications between counsel and client are usually deemed to be confidential.

Q. Let me see about that: "General Johnson read a report upon which no action was taken, because of satisfactory provision already made for the defense of the suit." Did you know of any provision having been made other than the bringing of the Government suit or the getting of the Government suit to be brought, of your own knowledge?—A. There was provision made to pay counsel.

Q. That you have stated.—A. I supposed that was the question you asked me. That is the only provision referring to the payment of counsel. This report relates to the payment of counsel, and he asked more than we were willing to give and we reduced the amount considerably, and voted the amount.

Q. On the back of the report is a memorandum that the Government suit has been brought.—A. A memorandum that he had received a telegram on that day; yes, sir.

Q. That is the date of this meeting?—A. Yes, sir; that is the date of the meeting, precisely.

Q. Who were the counsel employed?—A. As I stated awhile ago, my recollection is that they consisted of the two Johnsons, John P. Poe, and Archibald Sterling, jr.

By Mr. HALL:

Q. Was General Johnson the president of one of the companies?—A. Yes, sir; General Johnson and his son are the attorneys of the company, and they asked permission to have additional counsel employed and payment for that additional counsel, and that we did by appropriating an additional amount of stock for that purpose.

By the CHAIRMAN:

Q. Can you give the date of their employment?—A. No, sir; that is a matter of which I have no personal knowledge. General Johnson could tell about that.

Q. Do you know whether it was before or after this 10th of September?—A. I do not.

By Mr. MILLARD:

Q. Is there anything in your minutes here showing that counsel have been employed—A. No, sir; I do not think there is anything given in the minutes at all. There was authority given to General Johnson (and I think that appears somewhere in the

minutes) to employ additional counsel, but there is no name of the counsel employed; the whole matter was left in his charge.

Q. Will you swear this does not refer to the Government suit?—A. Yes, sir; I will most positively—which do you mean?

Q. The clause I have read.—A. I will. It relates directly to this paper, and to the provision made in this paper. General Johnson asked for so much stock to be appropriated to pay counsel.

Q. It relates to the report that General Johnson had made?—A. Yes, sir.

Q. This clause here refers to the report which General Johnson had made, which you hold in your hand?—A. Yes, sir.

By the CHAIRMAN:

Q. Has that clause read by Mr. Millard any relation to the Government suit?—A. None whatever; it referred to the stock to be given General Johnson to pay for counsel. The proceedings of the meeting will show exactly what it related to. You will see that a certain provision was made to pay counsel.

Q. When was this paper that you hold in your hand handed to you?—A. It has been in my possession all the time since September 10, 1885, among the files of the office.

Q. When it was handed to you, was the memorandum on the back of it that is on there now?—A. I made it then, and I think I made it after writing up the minutes, because I did not wish to incorporate the paper in full in the minutes, and I referred to it and put it on file so that it could be seen.

Q. But the statement was made by General Johnson before the minutes were made up?—A. Yes; this report was read to the board of directors and came to me as secretary of the company to file, which I did.

Mr. MILLARD. I do not think of anything else that I wish to inquire about.

Mr. RANNEY. I made a remark a little while ago which may have been misunderstood when I said that Harry Rogers personally told me that he had information about that written contract. I think perhaps it came through another; I cannot say.

Mr. MILLARD. He told me that—that the witness made three copies. I will call your attention to it now. This is what he told me; he either told me that he heard Casey Young make the statement to you that you should make for him three copies and say nothing about it, or that he saw you after Casey Young had been to you and ordered three copies, and you told him that he had made such a request.

The WITNESS. I never did.

By Mr. MILLARD:

Q. I will ask you the question whether Mr. Rogers was present when Casey Young brought the paper to you?—A. No, sir; no one at all was present; there was not a soul in the office. I made the copies without a soul coming into the office, and proceeded as I have stated.

Q. How do you think it could have gotten out that you made the three copies?—A. That is the mysterious part of it, as I have said.

Mr. CASEY YOUNG. Can I be allowed to ask a question or two?

The CHAIRMAN. If there is no objection.

Mr. CASEY YOUNG. Is it true or not that you had occasionally done writing before for me?

The WITNESS. Yes.

Mr. CASEY YOUNG. Was Harry Rogers aware of that fact, that you did writing for me?

The WITNESS. I think it is likely that he was; I never told him.

Mr. CASEY YOUNG. Was it or not known that you did writing for me when my arm was disabled?

The WITNESS. I do not know. In that connection I would like to present the only correspondence I had with Colonel Young. There are two letters here. I thought possibly you would call for this correspondence.

Mr. MILLARD. I would like to ask you a question. What did you do with the three copies?

Mr. HALL. Before the witness concludes, I desire to ask him this: Do I understand you to say there were three copies, or more or less than three?

The WITNESS. I am not sure which.

Mr. MILLARD. He testified there were two or three; he thought three.

Mr. HALL. He did not say that. He said he was not certain, and we are all proceeding on the theory that there were three copies when he has not said positively that there were.

Mr. MILLARD (to the witness). What do you say now about it?

The WITNESS. My impression is that two or three were made, and those copies were placed in an envelope, sealed, and placed on the desk. You were asking the other day about correspondence with Colonel Young. The only correspondence I had with Colonel Young was those two letters.

Mr. RANNEY. We might look at them and see if they relate to anything material.
The CHAIRMAN. The witness produced a letter dated July 21, 1885.

Mr. RANNEY. You have said that there is one of June 23, 1885, which I should like to have put in.

Mr. MOFFATT. Let us have them read.

By Mr. MILLARD

Q. Did Colonel Young state at the time why three copies were wanted?—A. No, sir; he handed the paper to me and asked me to make the copies he wanted. I said certainly, and I do not think there was any talk between us. There was no clerk to hand it to, and he felt a delicacy in asking me to do it, but I volunteered to do it for him. I did not have anything to do at the time. I did it, and put them in an envelope, as I have stated.

By Mr. RANNEY:

Q. You have not any more letters of Colonel Young's?—A. No, sir; that is all the correspondence I ever had with him of any character whatever.

Q. Have you a copy of your correspondence to which these were replies?—A. I do not think these were replies. I simply sent him copies of the proceedings of the meeting.

Q. These are his replies to the notice of the meeting which I read?—A. Yes, sir.

By Mr. MILLARD:

Q. Have you the telegram which General Johnson received from Colonel Gantt?—A. It may be among the telegrams, but as it was addressed to General Johnson I think it likely he took it away with him.

Q. Have you any telegrams here?—A. Yes, sir; I have all ever received by the company, but they were all telegrams between the Baltimore office and myself in relation to the calling of meetings; nothing else outside of that. They were either telegrams from Dr. Henkle or General Johnson in reference to calling the meetings of the board. I have not a telegram here that has any connection with the matter under investigation.

Q. You have not the one from Colonel Gantt to General Bradley Johnson?—A. No, sir; he kept that himself. That was addressed to him. He read it, and I made a minute on the back of that paper I have read. He kept that, I take it, himself.

By the CHAIRMAN:

Q. You produce two letters, one dated June 23, 1885, and the other dated July 21, 1885?—A. Yes, sir.

Q. You say those were received by you from Colonel Young?—A. Yes, sir.

Q. Did you ever receive any other letters from him?—A. No, sir.

Q. The first letter seems to be in response to a letter of yours of June 18. Have you a copy of that letter?—A. I have not. I think it was simply a copy of the proceedings of the meeting. I do not think I accompanied it with anything at all.

Mr. RANNEY. I think if you will look at those proceedings you will find the vote is subsequent to the date of that letter. July 13 was the date of that vote.

The WITNESS. What is the date of the letter?

The CHAIRMAN. The 18th of June. The letter of July 21 is stated to be in reply to one of the 18th of July.

The WITNESS. Yes; that is the one related to the copy of those proceedings on the 15th.

Mr. HALL. Read the letter.

The Chairman read as follows:

Letter of Casey Young to Thomas H. Gardner.

[Law office of Young & Martin, 250 Second street, over Water Company.]

MEMPHIS, TENN., June 23, 1885.

MY DEAR SIR: I am just in receipt of your favor of 18th instant, inclosing copy of contract between the Washington Telephone Company and the Baltimore Telephone Company, for which I return you my thanks. I have examined the contract casually, and while I think it probably less advantageous to us than to the other parties, yet, under the circumstances, I presume it was proper for the Washington Company to assent to it; and should the Baltimore Company go ahead with energy and put up an extensive exchange, the contract will, I have no doubt, result largely to the advantage of both parties. I have been hard at work since I left Washington, endeavoring to get ready for suit with the Bell Company, but in spite of every effort I have not yet

got things in condition to bring it. Everything, however, is now nearly complete, and I expect to institute suit within the next eight or ten days, with every confidence of success.

Yours, very truly,

CASEY YOUNG.

Col. THOS. H. GARDNER,

Secretary of Washington Telephone Company, Washington, D. C.

The WITNESS. The Memphis suit was brought July 11, so this Baltimore Sun says.

The CHAIRMAN. Now I will read the letter of July 21, 1885.

Letter of Casey Young to Thomas H. Gardner.

[Law office of Young & Martin, 250 Second street, over Water Company.]

MEMPHIS, TENN., July 21, 1885.

MY DEAR SIR: I am just in receipt of your favor of 18th July, in reference to the suit brought against us by the Bell Company in Baltimore. I would come or send our leading counsel, Colonel Gantt, to Washington at once, but I must wait until I can arrange for other persons with whom we have recently become associated to meet me there. I will write to these parties to-day and ask them to let me know by telegraph when they can meet me in Washington, when Colonel Gantt or myself will come on and make arrangements for defending the suit. I think we have such combination now made as will assure our success. I will write to General Bradley Johnston this evening.

Yours, very truly,

CASEY YOUNG.

Mr. CASEY YOUNG. I would like to ask another question about a matter concerning which there is a wrong impression.

The CHAIRMAN. You may do so.

Mr. CASEY YOUNG. Extracts have been read from the minutes of your meetings by which I am represented as being present a number of times. Do you remember whether I appeared at those meetings in person or by proxy?

The WITNESS. On one occasion when you are noted as having appeared, General Johnson appeared.

Mr. RANNEY. General Johnson appeared by proxy for Colonel Young in one case?

The WITNESS. Yes, sir.

Mr. CASEY YOUNG. On the 25th of April, 1885, I see I am made to be there. Do you know what my condition was then?

The WITNESS. You were very sick, as I remember.

Mr. CASEY YOUNG. And not able to walk.

The WITNESS. You had just been stricken with paralysis, and were confined to your room, I think, at that time.

Mr. CASEY YOUNG. You read a contract or agreement that seemed to be signed by me about pooling the stock. Have you the original of that? I do not think I signed it. I think somebody must have signed it for me.

The WITNESS. I do not think the original is here, and I do not think you signed it. I think the majority signed it. I think Dr. Henkle and General Johnson, the other two members of that committee, signed it.

Mr. RANNEY. I wish you would find the record, because it is recorded with your signature.

Mr. CASEY YOUNG. I do not remember anything about it. I think I authorized General Johnson and Colonel Manning to act for me several times. I have no recollection in the world of being present.

Mr. RANNEY. It was referred to you as a committee, and then there is a report purporting to be signed by you three men.

Mr. CASEY YOUNG. I would like to ask another question. Did I at any time ever say anything to you about a Government suit?

The WITNESS. Never in your life prior to your appearance before the Interior Department, and I do not think you did even then. We may have had some talk about it, because it was a matter of common talk, but I had very little conversation with Colonel Young at any time upon any subject; I have seen him very rarely.

By Mr. MILLARD:

Q. What did he say to you then?—A. I don't remember any conversation with him at any time about a Government suit.

Q. Why did you say "prior to the time of his appearance at the Interior Department"?—A. Because I knew I did not before that time. But I was there every day before the Secretary of the Interior attending that examination there, saw him very

frequently and had opportunity, and it may have been that I said something about the matter then. I have no recollection about it, but I know I never had any conversation with him prior to the 10th of September, because I knew nothing about any Government suit.

Q. I thought from what you said that you had no conversation prior to the time that he appeared before the Interior Department in regard to the Government suit?

A. Yes, I am positive that I did not have any before that, and I will not say that I had any then. But it is likely that seeing him there every day I said something to him about it. I would not swear that I did or did not.

Q. Did he tell you what he was there for?—A. No, sir; I never had any conversation with him on that subject.

Q. Did you see Colonel Gantt there?—A. Yes, sir; but I never had any conversation with him; not a word of conversation with him in my life. I was introduced to him by Dr. Beckwith, merely passed the compliments, and that was the last I saw of him.

Q. You have been present here every day, I believe, since the investigation opened?

A. Yes, sir; very nearly every day, particularly since my name was alluded to by Mr. Rogers. I saw that in the paper, and I have been in attendance ever since. I was told shortly afterwards by Mr. Oates who was acting as chairman, that he wanted me as a witness. I had told him all about the matter that had happened; that Mr. Rogers had said that Mr. Hine had told him that Colonel Oates was acting as an attorney for Casey Young—

The CHAIRMAN. You had better not introduce that now.

The WITNESS. I was simply going on to say that this party met on the street and said that he never told Mr. Rogers anything of the sort; that it was a lie.

Q. Did Casey Young tell you why they were before the Interior Department?—A. I never had any conversation with him on the subject; I never had any occasion to, because I was not of counsel, except I felt an interest in it as an office of a telephone company, and was anxious to see the monopoly broken up. There is one branch of the inquiry that seems to have been overlooked, and that is in reference to the subsidizing of the press.

The CHAIRMAN. Give yourself no concern about that.

Q. Are you interested in that?—A. No, sir; not at all.

Q. Why did you speak about it?—A. Because I saw two members of the press standing over there [indicating Mr. Crawford and Mr. Clark], and it just happened to remind me of it.

The CHAIRMAN. Do not be alarmed; we have not forgotten them. But do you know anything about the subsidization of the press? If you do I will be obliged to you to give the committee all the information you have.

The WITNESS. I don't know anything about it. We are too poor to attempt it; I know that.

Q. You have not subsidized them?—A. No, sir; we have not.

The CHAIRMAN. The gentleman from Missouri a few minutes ago made a motion to adjourn, which I do not think was observed.

Mr. HALL. I will renew it.

The committee thereupon adjourned until 12 o'clock to-morrow, Friday, April 9, 1886.

WASHINGTON, D. C., *Friday, April 9, 1886.*

The committee was called to order at 12.30 p. m.

The CHAIRMAN (Mr. BOYLE). The committee will now proceed to examine Mr. Stilson Hutchins.

Mr. JOHN GOODE. Will the committee hear me for a moment? I have the permission of Mr. Hutchins to occupy a few moments before he is called.

The CHAIRMAN. You may proceed.

Mr. GOODE. When I was here the other day the committee asked me to produce certain papers which accompanied the letter of District Attorney McCorry, making application for permission to use the name of the Government to bring this suit. I have had search made in the Department of Justice and now produce these papers [producing papers] in answer to that request. I have here the affidavit of Zenas F. Wilbur, which appears to be the original affidavit. The affidavit that I produced the other day was a copy. I have also the affidavit of Francis E. Neipher, the caveat filed by Elisha Gray, the affidavits of Watson Van Benthuyzen, George Gantt, and Charles P. Huntington, the affidavit of P. H. Van der Weyde, and the affidavit of Watson Van Benthuyzen.

I was also requested, I think by Mr. Ranney, to furnish a list of cases in which suit had been ordered by the Department of Justice to set aside or cancel the patents. I have had the records examined, and the list I now present was furnished me by the clerk. I will add that with the exception of the list which I have furnished for Mr. Ranney, the papers are original papers that should be returned to the Department. I will leave them with the committee for the present.

The CHAIRMAN. Have we not copies of the papers?

The WITNESS. I think you have copies of each one; but I was asked to produce the papers which came to me.

The CHAIRMAN. Is it the desire of any member of the committee to retain these original papers?

Mr. RANNEY. We will see when we get through examining them. I want to ask some questions about them.

The CHAIRMAN. Proceed.

By Mr. RANNEY:

Q. I do not see that these original papers which you produce have any mark on them indicating that they were received by the Department of Justice.—A. No, sir, no mark to indicate that they were received by the Department of Justice. My letter to the Interior Department, inclosing them, was written on October 17, and you will notice that these papers have marks on them showing they were received by the Interior Department on October 19. I am sure those are the papers, because the papers in connection with the other applications for permission to bring suit were sent subsequently. My general recollection is that those are the papers I read at the time.

Q. There are no marks on them showing they were ever received by the Department of Justice?—A. No, sir; there are no marks on them to show they were received by the Department of Justice. There are marks showing they were received by the Interior Department. The record shows that my letter to the Interior Department, inclosing Mr. McCorry's application and accompanying papers, bears date October 17, and those marks show that they were received at the Interior Department October 19.

Q. The hearing at the Interior Department proceeded under a renewal of the same application?—A. Yes, sir; and when he renewed his application the letter making the renewed application and the accompanying papers were sent by me to the Interior Department. We did not retain copies, but requested in the letter, as the letter will show, that after examination the papers might be returned. It is not the habit to copy all such papers, but we request that the inclosures be returned after examination. This is the common practice between the Departments.

Q. Have you a memory of examining these papers before you gave the order to McCorry?—A. Yes, sir; I do not remember the Neipher affidavit. I remember the affidavit of Wilbur and the affidavit of Mr. Van Benthuisen. As I said the other day, I do not recall now particularly the examination of any papers except the letter, the memorial, the affidavit of Mr. Wilbur and the affidavit of Mr. Van Benthuisen. It seems there are other affidavits among the papers.

Q. Those are all you remember?—A. Those are all I remember, but I know I read the papers contained in the letter of Mr. McCorry, whatever they were. At this late day it is impossible for me to say particularly as to each paper. I do not remember the Neipher affidavit.

Q. Who made out this list of cases authorized in the name of the United States?—A. I directed the chief clerk to make it out, and he either made it himself or had some one of his assistants make it.

Q. Is this the same as was handed to the Secretary of the Interior?—A. I have not compared them. I take it for granted it is the same. He was directed to furnish the list.

Q. Have you ever looked to see how many of these suits were actually brought?—A. No. I understand it is a list of cases in which application was made and suits ordered. How many of them have been brought I do not know.

Q. Is this a list from the beginning of the Government?—A. Since the organization of the Department of Justice, in 1870. That is what I was asked for, and that has been furnished me in answer to my request. Of course, I have not had the opportunity to search personally all through the record there.

Q. I see here a case where the United States attorney for Rhode Island was instructed to bring an information in the name of the Attorney-General against the Rumford Chemical Works, April 17, 1885. That is the case that was heard before Judges Shepley and Clifford, and reported in the books, in which they decided that no such suit could be maintained; is it not?—A. I do not know. I have only furnished the list as asked for. I have not pursued these cases to trace their history and see what has been done with them. It would be utterly impossible for me to do so and perform the other duties that are incumbent upon me.

Q. Is there any one of these cases that you know that was ever brought?—A. No;

I have not examined to see that they were brought. I have caused the records of the Department to be examined to see what suits have been ordered, and that list was handed to me by the clerk as a correct list of the suits ordered by the Department.

Q. Were not several of them, or many of them, first ordered, then a hearing had, and the order revoked?—A. I do not know about that, sir.

Q. Have you looked to see?—A. I have not, sir; I have done what you requested me to do, but I have not had the time to pursue that investigation. The Attorney-General is confined to his house by sickness, and my duties are such that it would be utterly impossible for me to make a personal examination of all those matters, and I did not deem it called for by the committee. You asked me to furnish that list.

Q. Have you looked over the list to see whether there are any cases analogous to the present one there?—A. I have not. I took it for granted that they were called for only upon the point raised, that is, as to the power of the Department to order a suit to vacate or annul a patent.

Q. You have not looked at this list to see that there are several cases here not of that kind at all?—A. No, sir; I have not. I called upon the clerk to furnish a list of papers in which suits had been ordered by the Department of Justice. Beyond that I have not gone.

Mr. RANNEY. I am sorry you did not verify it yourself.

The WITNESS. My dear sir, I have not the time and it is not my duty. I am not the custodian of the papers in the Department of Justice.

Mr. RANNEY. I only want to get at the facts.

The WITNESS. I am perfectly willing that you should come there and make the examination with the clerk. I will put him at your service.

Q. I want to call your attention to this list, so that you may know what some of the entries are. "May 26, 1876. Secretary of Interior informed that United States district attorney has been instructed to enter an appearance for the Government in the case of Thomas A. Edison and others against the Western Union Telegraph Company." That is not a case where a suit was ordered to be brought by the United States?—A. As I told you I furnished the list as furnished to me by the chief clerk in answer to a request to produce a list of cases in which suits were ordered by that Department to test the validity of patents.

Q. I wish you would make a minute to the effect that I would like to know how many of these cases, and which ones, were revoked on hearing.—A. I do not know that the files of the Department would show that. I think the records of the Department only show such as were ordered to be brought. I presume the records of the courts would show what you wish to know; the records of the courts where they were brought.

Q. Have you looked to see how many applications were made and how many refused?—A. I have not.

Q. Are you aware of a case, within a short time before this order was given for the Memphis suit, coming from Rochester, N. Y., where an application was made for such leave?

The WITNESS. To the Department?

Mr. RANNEY. Yes.

The WITNESS. During the administration of Mr. Garland?

Mr. RANNEY. Yes.

A. No, sir.

Q. Were you not aware that an application came from the district attorney at Rochester, N. Y., during the administration of Mr. Garland, before this action of yours, to have just such a suit as this brought in the name of the United States to annul a patent, and that the Attorney-General declined to act on it?—A. No; I never heard anything of that kind.

Q. And that then the man went to the President and he wrote a letter to Mr. Garland?—A. That may all be so, but I never heard of it.

Q. That Mr. Garland declined to grant any such order for want of power or supposed want of power?—A. Oh, I think that must be a mistake, sir.

Mr. OATES. To annul what patent?

Mr. RANNEY. A patent of a party in Rochester.

The WITNESS. I do not think that is the view of the Attorney-General.

Mr. RANNEY. It was in the northern district of New York. I wish you would look up that case.

The WITNESS. If you will give me a memorandum I will direct the clerk to look it up. It is impossible for me to do so in person.

Mr. RANNEY. I will give you a memorandum. I do not know that I have the data here at present.

The WITNESS. If you will send it to me by mail I will give it attention.

Mr. RANNEY. It was a case coming from the northern district of New York since Mr. Garland went into office; within six weeks or two months of the time you acted.

The WITNESS. I will have an examination made.

Mr. RANNEY. Look at the application from the district attorney and also for any communication from the President about it, as well as the action of the Attorney-General on it.

The WITNESS. I will do so. I never heard of it before.

Mr. OATES. I did not understand what patent it was proposed to annul.

Mr. RANNEY. I do not know now myself. I have a paper that states the fact.

Mr. OATES. Was it a telephone patent?

Mr. RANNEY. No; not a telephone patent. I cannot tell you what it is at present; I cannot give you the name.

Q. I see on this list an entry under date of October 21, 1885, since this affair.—A. I directed the clerk to furnish me a list of the cases in which suits had been ordered by the Department of Justice since its organization, in 1870, and he furnished me that this morning. I have made no examination.

Q. The last but one is dated July 30, 1884, the United States against Frasier. That is the one that was decided by Judge Blodgett and dismissed on the ground he stated in his opinion, is it?—A. Yes; but we do not take the law from Judge Blodgett.

Q. You do not seem to take it from anybody but yourself. You did not consult anybody.—A. You do not do me justice in that matter. I stated distinctly that I examined the authorities bearing upon the subject, and I satisfied my mind that the Department of Justice had the power to order such a suit, and that was the only way it could be done; and I am willing to stake my reputation, whatever it may be, upon that proposition. Let me say, also, that in that view I am sustained by the Judiciary Committee of the House, of which you are a member.

Mr. RANNEY. You had better wait until the reports are all in, and then you will find out what the Judiciary Committee decides.

The WITNESS. I have seen the report made by the Judiciary Committee.

Mr. RANNEY. I do not want to argue the matter with you, Mr. Goode.

The WITNESS. But I do not want to be put in a wrong position.

Mr. RANNEY. I do not mean to put you there, unless the facts put you there. I only want the facts.

The WITNESS. You were making a comment upon what I had done. I did not go to Judge Blodgett; I went to the decisions of the Supreme Court.

By Mr. EDEN:

Q. Judge Blodgett is a district judge, is he not?—A. He is a district judge in Illinois.

By Mr. RANNEY:

Q. Is it not true that it is reported in the 22d Federal Reporter that in two of these cases the circuit-court judges decided that the power did not exist?—A. I believe that is true.

Q. And that those cases were never carried to the Supreme Court?—A. I believe that is true; but if the opinion of the court in the case of Mowry against Whitney does not establish the proposition that a suit to test the validity of a patent can only be brought by order of the Attorney-General, then I am not capable of understanding anything.

Q. You rested your action upon that case of Mowry and Whitney, did you?—A. In the main.

Q. Was not the case of Mowry and Whitney a case to set aside an original patent?—A. That was a case brought by one individual against another, in which a demurrer was sustained, and in giving the reason for sustaining the demurrer the court discusses the matter fully and states how such a suit can only be brought.

The CHAIRMAN. I suggest to the gentleman from Massachusetts (Mr. Ranney) that we have gone over this ground very fully in the previous examination of the witness.

Mr. RANNEY. Not on that point.

The CHAIRMAN. I have a distinct recollection of the case of Mowry and Whitney and the dicta on the subject.

The WITNESS. I expect to have to argue this question, Mr. Ranney, and if you are here when the Columbus bill is demurred to, and take the opposite view, I will endeavor to put you fully in possession of my views on that proposition.

Q. I simply ask you if it is not true that the case of Mowry and Whitney was a case where an original patent had been extended, simply?—A. Yes; but I did not base my action upon the facts of that case, but upon the broad declaration of the court.

Q. Was not that simply a case where the validity of granting an extension was involved?—A. I think so; but I say I did not look to the facts of the case, but to the law as laid down by the court.

Q. It was simply this: Whether the extension was not void because the party had

misrepresented the amounts of profits he had made on a patent during its life, was it not?—A. I believe so.

Q. And it did not involve at all the question whether the Government could bring a bill to set aside a patent, where the question involved was simply which was the prior inventor?—A. That was not the only case I read. I read the case of Stone against the United States and the United States against Gunning and others, and upon principle I thought it must be so. It would be very strange if a patent was obtained by fraud or improvidently issued and the power that granted the patent could not recall it upon a proper case being made.

By the CHAIRMAN:

Q. Did it occur to you that the time had come when the question might be settled?—A. I did not feel that I was settling any question. I was merely sitting there to act upon a *prima facie* case; and it would have been a grave responsibility on my part to say that such a suit should not be instituted in the face of these precedents and authorities. If any wrong has been done, it will be corrected in the courts.

Q. May not the question of the power or the right of the United States to intervene in a case like this be settled in this case?—A. Unquestionably; and no doubt it will be. I suppose they will demur on that ground, and both parties can go to the Supreme Court with it.

Mr. RANNEY. I am only trying to confine myself to these questions here.

The WITNESS. I did not furnish the list to show anything at all, but only in answer to your request.

Mr. RANNEY. I do not want anything but what is proper, Mr. Solicitor-General. I would like to know just how many of these cases that you have furnished me a list of were ever brought to suit?

The WITNESS. If the records of the Department of Justice will show it, you shall have the information, sir. I suppose the records there only show the action of the Department. Whether they were brought by the district attorneys, to whom the orders were given, or whether they were recalled for any purpose, I cannot say.

By Mr. RANNEY:

Q. Have you looked at the case in October, 1885, where an application was made to the Department, and Attorney-General Brewster refused it?—A. No, sir; I have not.

Q. Have you looked to see in how many of these cases where the order was granted there was at first a reference to the Department of the Interior?—A. I have not looked myself, but I asked the clerk to bear that in mind in making this examination, and he says as a general thing there was a reference to the Department of the Interior.

Q. If there is any exception I would like to know in what case.—A. I do not know. I was not asked to produce that information; but I understand that to be the general practice, and I would have conformed to it in this case had I not supposed I possessed all the information the Patent Office would afford. I believe, myself, it is the general practice.

Q. I do not care to go over that. Please note my question. If there is any exception in this whole list, I would like to have it pointed out.—A. I will direct that examination to be made, sir.

Q. Also what cases, if any, on that list were ever brought; in how many cases the orders were revoked after you first gave them and the parties so informed?—A. I will have the information looked up.

Q. Have you found the envelope in which these papers came to you?—A. I asked the clerk about that, and he says it is not usual to preserve the envelopes; I asked him about the manner in which the mail was opened, and he tells me it is opened by himself and one of his assistants and the envelopes are cast aside; he is perfectly confident that that package came by mail that morning.

Q. Have you ascertained whether you or he opened it?—A. He opened it; that was my recollection the other day.

Q. You have never seen the envelope?—A. I have never seen the envelope; when it came up to me it had a "jacket" on it, inclosing the letter of Mr. McCorry, and that was strapped on top of the other papers.

Q. Have you found that "jacket"?—A. It was brought here the other day; you have seen it.

Mr. RANNEY. I do not remember looking at it.

The WITNESS. It was here.

Q. You have got the original jacket?—A. Yes, sir; the original jacket, containing the letter.

Mr. EDEN. I suppose you took the original papers back the other day?

The WITNESS. Yes, sir; I brought the original jacket up here and took it back. I didn't bring the envelope, because it had not been preserved.

Q. You have no personal knowledge so that you can tell the committee to whom

that envelope was directed?—A. No, sir; the chief clerk, Mr. Clay, says it was directed to the Attorney-General.

Q. You have no personal knowledge?—A. No, sir; the first I saw of it——

Q. Who was the messenger at that time in your Department?—A. There were two, a man named Cherry and a man named Davidson. I do not know the first names.

Q. Are they still there?—A. They are still there. There is a man named Berry that acts as a messenger sometimes, and he may have been acting at that time; Cherry, Berry, and Davidson.

Mr. MILLARD. You do not know their given names?

The WITNESS. I do not know their given names; I can furnish them, if necessary. They have been there a long time.

[To Mr. Ranney.] If you will make a memorandum of what you wish, I will get the information.

Mr. RANNEY. I will send it to you during the day.

The WITNESS. May I take those original papers with me?

Mr. RANNEY. Certainly.

The WITNESS. You have copies of the papers. Sometimes two of the messengers are there, sometimes three, and sometimes one. I do not know which one brought up this package.

Q. Mr. Millard reminds me that in the record of the Interior Department is a communication which I wish to read to you and about which I wish to ask you a question.

OFFICE OF THE UNITED STATES ATTORNEY,
Jackson, Tenn., October, 14, 1885.

SIR: William Van Benthuyzen, of New Orleans, La., Charles P. Huntington, of Mississippi, George Gantt, of Memphis, and J. R. Beckwith, of New Orleans, La., the same parties who preferred the former petition asking the institution of the suit in the name of the United States to have the patent of March 7, 1876, No. 174455, issued to A. G. Bell, vacated, recalled, and annulled, have again applied to me to renew the application, and, in addition to the papers formerly submitted, they have presented to me a copy of an application made by the Globe Telephone Company directly to the Department of Justice, seeking somewhat similar relief, which paper I inclose herewith, together with the same papers forwarded to you on the first application.

I now again ask permission to institute such suit, or that you permit a continuance of the same already begun and which is now in abeyance awaiting the next session of our court at Memphis, to have an order of dismissal entered as heretofore directed by you.

I have examined this matter very fully, and am now more confident than at first that the suit was within the jurisdiction of the court, and that the patent referred to was improvidently issued to Mr. Bell, and I would like to demonstrate the propriety of the original proceedings by carrying a suit with the same object in view to a successful termination.

Very respectfully,

H. W. McCORRY,
United States Attorney.

Hon. JOHN GOODE,
Acting Attorney-General, Washington, D. C.

It was upon that application or letter of McCorry, a I understand you, that the same case was renewed with the addition of the paper from the Globe Company, and the matter referred to the Interior Department.—A. I referred that letter with the accompanying papers to the Interior Department in a letter dated October 17.

Mr. RANNEY. I have not got your letter of October 17 here.

The WITNESS. I think it is among the papers I furnished the other day.

Q. That is not material. I only want the fact that on that renewed application you made the reference to the Interior Department which has been put in?—A. Yes, sir.

Q. There is one paper that I would like to get, the Wellington Adams' pamphlet. Have you that?—A. I cannot find it; I have no recollection of it at all; I told the clerk to examine particularly for it. You asked the other day for it and called it the Adams compilation. Is it in book form?

Mr. RANNEY. Yes; in pamphlet form.

The WITNESS. I have no recollection of ever seeing it. I do not think it was in that package that came to me.

Q. Perhaps you might recall it by a fact that I will now call to your attention. In that compilation of Adams's he stated that figure 7 in the application of Mr. Bell and in the description of his invention, would not talk.—A. I have no recollection of it whatever. I am sure I did not read any printed matter in connection with his application.

Q. Perhaps you may recall it by another fact: That in the Neipher affidavit he stated that he and the same Wellington Adams had constructed an instrument, or had one constructed in accordance with figure 7, and it did talk.—A. I do not recall that at all.

Q. You cannot furnish that pamphlet?—A. No, sir. If it was ever at the Department it is not there now.

Q. If I recollect aright, you said the other day you had never read the record of the proceedings before the Interior Department?—A. No, sir; the truth is I have not had the time. It is very voluminous.

Mr. RANNEY. Therefore I will not pursue that branch of the inquiry any further with you.

The WITNESS. I based my action upon the letter of Secretary Lamar when the papers came back.

Q. Mr. Millard suggests an inquiry to me in continuation of what I have said, that there is nothing on these original documents to indicate that they have ever been to the Department of Justice. Is it not customary when you receive papers there to have them marked, or was it not the custom?—A. No; not inclosures like those. They marked the jacket which contained Mr. McCorry's letter.

Q. Only the jacket?—A. Only the jacket. These were the inclosures that came along in the letter. They were all sent with his letter. It seems that at the Interior Department they mark each paper. Our Department requested them to return the papers after examination, and those are the papers they returned.

Q. I asked you the other day whether you did not keep a docket of your action on these matters?—A. I have made inquiry since. The clerk keeps an entry book showing, in short, what letters are received, and from whom, and what disposition is made of them, and a brief synopsis of the matter referred to. He has the book.

Q. Do you find any entry to show what you did on the 2d of September, 1885?—A. The records will show what I did.

Q. You have not looked at them?—A. I directed the clerk to look.

Q. Have you the result of the examination?—A. Yes, sir; he says he finds only two matters that I acted on on the 2d of September.

Q. What were those?—A. One was a telegram received from Port Townsend, stating that certain Chinese who had been sent there—

Q. I do not care for that, unless you want to state it.—A. I want the committee to understand it was a telegram which did not take a great while for me to dispose of. The marshal wished to know what he was to do with these Chinamen. They had been sent out by the United States judge in Washington Territory, and upon reaching British Columbia they would not allow them to be landed there. The marshal was in a quandary and did not know what to do with them, so he telegraphed to the Attorney-General for instructions. I telegraphed to the marshal to apply to the judge under whose order he was acting for further instructions. The only other matter that day was an application of some judge for an extension of leave of absence.

Q. Besides the routine?—A. You understand in these Departments the letters are prepared usually by the subordinates, and all we do is to look them over and sign the mail at 4 o'clock in the afternoon. We cannot write every letter ourselves.

Mr. RANNEY. Oh, no; that would take some little time, I suppose.

The WITNESS. At that season of the year there is very little doing in the Departments.

Mr. RANNEY. It is pretty hot, I suppose.

The WITNESS. It was pretty hot then, and everybody had gone who could get away. I know I sweltered here myself.

Mr. RANNEY. That is all.

The CHAIRMAN. Is it desired to retain the original papers?

Mr. RANNEY. I do not desire to retain them.

The CHAIRMAN. Then Mr. Goode may take them with him.

The WITNESS. Mr. Ranney wants the list of cases, I suppose.

Mr. RANNEY. Yes; but before we put that in I would like to have it completed.

The WITNESS. I will endeavor to do that, if you will send me the memorandum.

Mr. RANNEY. I will do it to-day or early in the morning.

Mr. STILLSON HUTCHINS then came before the committee and was duly sworn.

By the CHAIRMAN (Mr. BOYLE):

Question. What is your relation to the Washington Post?—Answer. I am the proprietor of it.

Q. I wish to inquire of you about a single matter. Are you or have you been in any way connected with the Pan-Electric Company or with the Pan-Electric Telephone Company?—A. In no way that I know of.

Q. Or the Washington Telephone Company under the Pan Electric Company?—A. No, sir.

Q. It appears by the testimony of Senator Vest that he became the purchaser of 100 shares, or became entitled to 100 shares of the stock of the Pan-Electric Telephone Company, for which he paid \$1,000, and that subsequently you offered to take it off of his hands at the same price. Have you any recollection of that fact?—A. Yes, sir; I have a distinct recollection of all that transpired in connection with that matter. It seems that there was an advertisement in the columns of our paper offering to purchase Pan-Electric stock—I think it specified parent stock—and Senator Vest, who was ill at the time, sent me a note asking if I would not call up and see him. I did so and found him in the lobby of the Senate Chamber. His inquiry was to know if I knew who was the author of the advertisement. I told him I did not, and I made inquiry subsequently at the office and did not find out, as the answers were to be addressed to some anonymous character, some borrowed name. When I returned to him with that information I inquired why he wanted to know, and he said he had 100 shares, or, at least a certificate for 100 shares when the shares would be issued, and they were making so much clamor about it in the newspapers, he did not know but that if he could find a bona fide purchaser in a regular business way he would sell it. In a spasm of generosity, I suppose, I told him if that embarrassed him at all I would take it from him at the price he paid for it.

Q. Did you make that offer at the instance of any other person?—A. No, sir. I had never had any conversation about it up to that time with any other person. Senator Vest is an old friend of mine. I lived in Missouri with him and have known him for a long time, and I thought it might relieve him of some little embarrassment. I supposed that if the stock was worth anything it was worth what he originally paid for it.

Q. What response did the Senator make to your offer?—A. He made no conclusive response at the time. I don't remember what the conversation was, but afterwards he wrote me a note, thanking me for the offer, and stating that he considered the clamor and the strictures upon him entirely unjust and that he had come to the conclusion he would retain the stock. I think I have that note, if you want to embellish your proceedings with it.

Q. I will read you the testimony of the Senator:

"Since this matter has been agitated in the newspapers an offer has been made to me for the purchase of my stock upon terms which would prevent any loss on my part; but I declined to sell at any price, for two reasons: first, because I did not choose to even appear in the attitude of apologizing for what I had done, or attempting to evade the issue as presented by certain newspapers; and second, because I do not propose to be coerced by any sort of clamor from any source into disposing of property which I had bought and honestly paid for until I thought proper, on my own judgment and for my own interest, to do so."

You say the Senator made a reply to you by note?—A. Yes, sir; very much to the purport of his remarks in his testimony. I will say that he afterwards saw me, after he had given this evidence, and in a measure excused himself for having brought my name into the transaction. He said he did not state the name originally, and did not care to make me at all conspicuous in it, but somebody put the question to him and asked him to give the name, and he did give my name. That is all I remember about it. I never had a share of this stock and knew nothing about its value at the time I made that proposition.

Q. I do not recall that the Post has taken much part in the agitation of this question?—A. I have been away so much, sir, during the time that it has been agitated that I am probably more ignorant than almost anybody else as to what the paper has said about it.

The CHAIRMAN. That is all I care to ask you.

By Mr. RANNEY:

Q. Did you say you had the letter from Senator Vest?—A. I haven't it here. I did not know what I was being called here for.

Mr. RANNEY. I would like to see it.

The WITNESS. Would it serve the purpose equally well if I inclosed it to the chairman of the committee?

The CHAIRMAN. Yes.

Q. Do you say you went to see Senator Vest at his request, or at your own instance?—A. At his request. He was quite ill at the time. It was just after he had been taken ill. He was reclining on a sofa in the lobby of the Senate at the time. He had noticed this advertisement in the want column of the paper—somebody wanted to buy Pan-Electric stock—and he sent for me to inquire if I knew who was the author of the advertisement.

Q. And then you tried to ascertain?—A. Yes, sir; I went to the cashier of the establishment and asked him, and he said he did not know. I think the name signed to the advertisement was "Banker."

Q. All you knew was it was some anonymous person?—A. We knew it was an anonymous advertisement as the answers were to be addressed to "Banker." Anybody having a card authorizing him to take out the letters addressed to that name could come and get them. It is very easy for a person to put an advertisement in the paper and we not know who he may be.

Q. Somebody paid for it I suppose?—A. Somebody paid for it at the time it was put in.

Q. Who paid for it?—A. "Banker;" whoever put it in.

Q. Didn't he leave his address?—A. Oh, no, sir. We give them a card and on presentation of the card they can receive any communication addressed to the name given. We do not seek to know who they are.

Q. Did anybody ever call for the answers to that advertisement?—A. Oh, yes, sir; I suppose so.

Q. Did anybody ever call for the stock?—A. They called for the answers received to the advertisement, if there were any, probably. I don't know whether there were any answers.

Q. Did you go to Senator Vest for the purpose of buying his stock for that man?—A. Oh, no, sir. It seems I have not made myself understood. There was an advertisement in the paper stating that anybody having Pan-Electric stock to sell—I think the advertisement said the original stock—could find a purchaser by addressing "Banker," care of the Post newspaper. Senator Vest saw that advertisement and sent a note to me asking if I would not come up to the Senate chamber and see him, as he was too unwell to come to see me. I went, and found his object was to inquire if I knew who was the person who put that advertisement in the paper. I told him I did not, but I would inquire; and I went back to the cashier and inquired, and he did not know. I then returned to Senator Vest and told him it was not possible to ascertain who it was; and from that sprang the conversation in regard to it. He said he would like to dispose of his stock if he could get a bona fide purchaser for it in a legitimate business way, as he did not value it very highly; and then I proceeded to make my offer to take it off his hands at the price he paid for it.

Q. I think your remark was that you thought you might relieve him?—A. Yes, sir.

Q. From what?—A. From the embarrassment and the stock, both at the same time.

Q. What embarrassment?—A. If he was embarrassed at all by the newspaper clamor which had been raised about a Senator of the United States owning stock in the Pan-Electric Telephone Company.

Q. That was the embarrassment you wanted to relieve him from?—A. Yes, sir; a sort of technical embarrassment. I do not know that it was a real embarrassment.

Q. What was the price you were going to pay?—A. I told him I would pay him whatever it cost him; that I would take it off his hands at the price it cost him, which I think was \$1,000.

Q. Did you know what it cost him?—A. He told me he had paid \$1,000, I think, for 100 shares, \$10 a share.

Q. You did not think it was worth that, did you?—A. Oh, no; I did not; and do not now.

Q. It was a pure act of kindness?—A. Yes, sir; as I said, a sort of spasm of generosity.

Q. You were willing to suffer a loss of \$1,000 to relieve him from embarrassment?—A. Well, I might.

Q. That was the motive, was it?—A. I could not say it was the motive.

Q. Did you offer to relieve Senator Harris in that way, too?—A. No, sir; I did not. I was not bound to Senator Harris by so many ties of long acquaintance.

Q. You wanted to relieve Senator Vest because of your personal relations. Did you inquire then to ascertain whether Pan-Electric stock was worth anything?—A. I did not. I was quite confident it was not.

Q. Had the Pan-Electric Company advertised much in your newspaper?—A. I am not aware that they ever had; possibly to the extent of \$10 or \$15 in the society or corporation notices; no more than that. Perhaps it may not be out of place to say that I was offered a considerable amount of the Pan-Electric stock for publishing some of Dr. Rogers's poetry, but that I declined. I regret that I did not write a letter, as Mr. Cox did, and tell him he was too fluent with it. I let that opportunity pass.

By Mr. MILLARD:

Q. Did you decline the poetry or the stock?—A. I thought they were both very bad.

By Mr. RANNEY:

Q. I see by one letter of Senator Harris's that I am going to put in, that some poetry had been sent to him, and he wrote back that he did not need any bribe to read the poetry; that it was good.—A. I suppose he meant it was so bad it was good; I don't see any other way.

Q. Did you ever the poetry at all?—A. I never did; I have got that yet before me.

Q. You do not know whether it is good or not, then, do you?—A. I think I once read an invocation of Dr. Rogers's to Jeff. Davis, or something of that kind, and I resolved mentally never to read anything more that had his name attached to it.

Q. Do I understand you to say that the stock was sent to you as an inducement to read his poetry?—A. No, sir; a promise of stock, I think it was; I don't know which Rogers it was, but it was the poet Rogers; I do not want to do him any injustice, but I think his letter stated that the stock was coming up in the market, and that he had written this poetry and would like to have it published, and if I would publish it he would give me \$10,000 worth of Pan-Electric stock.

Q. Have you got that letter?—A. No, I don't think I have. We receive so many letters from cranks that I don't keep them all.

Q. Can you give us about the date of it?—A. I should say it was about a year ago. It was contemporaneous with Jeff. Davis's birthday; I don't remember when it was.

Q. Was there any allusion to his birthday in it?—A. Oh, I think it was an invocation to Davis on the approach of the anniversary of his birth. That was what made him boil over into poetry.

Q. And grow liberal toward you in stock?—A. Yes, sir; all his emotions seemed to be aroused by that event.

Q. Just before this Government suit, somewhere in April or May, 1885, was there not an article published in your paper on the power of the Attorney-General to order a suit in the name of the United States?—A. Very likely. We give the Attorney-General a great deal of advice. We are in the habit of giving the Attorney-General advice from time to time, and it is quite likely there may have been such an article.

Q. There was a pretty elaborate article upon his legal power, was there not?—A. I do not remember; I haven't the slightest knowledge of it.

Q. Were you, as early as that, advising him as to his power of bringing suit in the name of the Government?—A. I was not, personally, but I should not wonder if our editorial staff were.

Q. Do you know how it happened it was done just about the time the Pan-Electric Company wanted a suit of that kind brought?—A. I do not, sir. It is, probably, one of those coincidences that sometimes appear. I cannot account for it.

Q. Perhaps you can bring us that article and tell us who wrote it.—A. If you will give me the date, I will bring the paper.

Mr. RANNEY. It was during the month of April or May, 1885. I would like to see the article, and I would like to know, if you can tell us, who wrote it.

The CHAIRMAN. It was the 24th of May.

Mr. RANNEY. It was prior to the 24th of May, because Dr. Rogers said he had seen it then.

The CHAIRMAN. My recollection is that he went out at once and bought copies and sent them off the same day.

Mr. RANNEY. It must have been prior to that.

Mr. CHAIRMAN. Possibly it may have been on that same day.

Mr. RANNEY. I think he said the Post and some other paper, the Capital, or the Chronicle, perhaps.

The CHAIRMAN. You stated it was about the time the Pan-Electric Company was desirous to have the suit brought. That cannot be entirely correct, because, as I recollect it, the article itself suggested to Dr. Rogers the bringing of a suit in the name of the Government. That was the first suggestion.

Mr. RANNEY. That is true so far as Dr. Rogers's evidence is concerned; but there is some other evidence that will come out in time that it had been contemplated by others.

The CHAIRMAN. No evidence of that sort has been received yet.

Mr. RANNEY. I know it is not in, but something I have seen indicates that. I want to know what is the fact as to that article, and where it emanated from.

The WITNESS. I will try to ascertain. Did Dr. Rogers allude to the article in his testimony?

Mr. RANNEY. Yes; I think the Washington Post was one of the papers. There were two. They were said to be very able articles. I presume you have an able corps of men there?—A. Oh, very able; yes, sir.

Q. Any lawyers?—A. Well, sort of decayed lawyers occasionally get on the paper; no lawyers in active practice.

The CHAIRMAN. Competent to advise the Attorney-General, however?

The WITNESS. Yes, sir.

Mr. EDEN. You don't know whether the Attorney-General acted on the newspaper article or not?

The WITNESS. I haven't the slightest idea that he did; but of course I don't know.

Q. You are not aware that the article appeared simultaneously in two papers in Washington?—A. No, sir.

Q. Do you know whether General Butler wrote it?

The WITNESS. Ben. Butler?

Mr. RANNEY. Yes.

A. I think I am safe in saying he did not. He writes very little for us.

Mr. HALL. You wouldn't have taken it if he had?

The WITNESS. Oh, yes; I would have taken it; but he writes very little for the Post.

Q. Can you ascertain whether the article originated with any person connected with the Pan-Electric Company?—A. I can, I think. My son, who is managing the paper, is not here at this time.

Q. You do not know whether the article came from the Department of Justice itself. They are said to be very able there, and may aid the committee in coming to a conclusion on the law.—A. I should not have much hope of that, but still I will try and find out.

Mr. RANNEY. We get a good deal of advice and a good deal of useful information from the papers.

The WITNESS. No doubt; but do you act on it?

Mr. RANNEY. Sometimes we investigate it.

The WITNESS. I will say further about Dr. Rogers that he was in the habit of writing me a good many letters about this Pan-Electric matter and I never read one of them.

Q. Have you kept them?—A. No; of course not.

Mr. RANNEY. His letters might be of use.

The WITNESS. I think too many of them have been kept.

Q. You have rather slurred his poetry. Did you ever read any of it?—A. Nothing but the invocation to Jeff. Davis. I graduated on that.

Q. Was that published in your paper?—A. No, sir; it was not.

Q. That was what he sent you on the birthday of Jeff. Davis?—A. I think so.

Q. And that was the only poetry of his you ever heard?—A. The only piece.

Q. You would not consider yourself competent to judge of a man's poetry, would you, without reading more of it than that?—A. I think the less I read of it the more impartial I would be.

Q. It would be like criticising a book you never read?—A. Certainly.

Q. Which you often do?—A. Frequently.

Mr. MILLARD. I want to ask Mr. Hutchins a question on another branch, which I think it is my duty to put.

The CHAIRMAN. Not on poetry, I suppose?

Mr. MILLARD. No.

By Mr. MILLARD:

Q. You being a newspaper man, I want to know if you know of any official or member of Congress who has been improperly influenced through the press?

The WITNESS. On any subject?

Mr. MILLARD. By the Pan-Electric Company.

A. No, sir; I do not. I do not know anything about it at all. I haven't paid a particle of attention to it.

Mr. MILLARD. I supposed so; but we are required to investigate, and I thought it was very proper to put the question to you, as you are the first newspaper man who has been on the stand.

Mr. EDEN. You omitted to ask about the influence of the Bell Company.

Mr. MILLARD. I will ask about that, as I want to cover the whole ground.

Q. Do you know of any influence, proper or improper, that the Bell Telephone Company has exercised on members of Congress, or any officials?—A. No, sir; I know nothing about them at all, either the Pan-Electric or the Bell Telephone Company.

Mr. OATES. You ought to refer to the resolution, perhaps.

Mr. MILLARD. I think I had better read the resolution.

Mr. OATES. It refers to the newspaper press.

Mr. MILLARD. That is the question I put. [To the witness:] Let me read you this, so that we shall not neglect our duty in this respect:

"And the said committee is further authorized and directed to ascertain and report whether either of the telephone companies herein mentioned, or their officers, agents, or employes, have in any manner improperly influenced or attempted to influence officials or official action by or through the public press, and, if so, when, by whom, and in what manner such influence was exercised or attempted to be exercised, and what newspaper or newspapers."

Q. You know nothing of that kind?—A. Nothing of that kind. There has been no approach to me in any way by either of the companies, except, as I say, these letters of Dr. Rogers's, in which he seemed to be quite copious with his stock, a long while ago. I paid no attention to them. I don't think I ever answered them. I just tore them up and let them pass out of my mind until this investigation.

By Mr. RANNEY:

Q. I suppose you would not consider it being improperly influenced to receive money for inserting articles in the paper?

The WITNESS. What do you mean? In the shape of advertisements or news?

Mr. RANNEY. Either, if they are articles you do not object to of themselves.

A. That opens up a subject on which a good deal might be said, and ought to be said very carefully. We never consider it good form to receive money for the publication of any article which purports to be the editorial expression of opinion of the paper. We very frequently allow persons to insert communications for which, if they are not of sufficient interest to the public, compensation is taken at so much a line, as advertising matter. I suppose all the newspapers do that. Of course we are paid for advertising. But we never allow anybody to write an editorial or to procure an editorial opinion of the paper and pay money for it. That is considered a sale of the influence of the paper.

Q. Had not Dr. Rogers been in the habit for some time past of advertising considerably in your paper?—A. Very little. I remember once receiving a letter from him inclosing an advertisement, and also inclosing a check for \$20, but that was long before these gentlemen who are now associated with him had anything to do with the enterprise; Mr. Young and others.

Q. Had not the Washington Telephone Company been in the habit of advertising?—A. I will say that I never heard of that company until this investigation came up, and I don't know what it is; I remember that check of Dr. Rogers for \$20, because it was quite a surprise to me to have anything from him that didn't have feet to it.

By the CHAIRMAN:

Q. Do you recall the fact of Dr. Rogers offering something to you for publication in your paper?—A. I don't know Dr. Rogers; I would not know him if he was in the room.

Q. He has stated the fact somewhere, either in his testimony or otherwise.—A. I saw that he had, and that he said I rebuffed him very haughtily, or something of that sort. I am not in the habit of doing it.

Mr. RANNEY. In order to aid you in looking for the article in the Post I will read you what Dr. Rogers said about it in his testimony. I read from page 52:

"The Washington Post did not refer to the Reis or Bell patents, or anything of that kind. It was just simply an item of news to the effect that pursuant to an order of Attorney-General Brewster suit had been brought in New York by the United States authorities to vacate a patent for some sort of painting on glass, which patent had been made so broad, or had been obtained through fraud, that Brewster's agents in the Department of Justice had cancelled it absolutely. Seeing that, I thought ours was a much stronger case than that presented in the article."

I wish you would find that article and let us have it.

The WITNESS. I will obtain it.

Mr. HENRY H. SMITH then came before the committee and was duly sworn.

The CHAIRMAN. I ask the gentleman from Massachusetts (Mr. Ranney) to examine Mr. Smith, as he has been subpoenaed at his request.

By Mr. RANNEY:

Question. What is your relation to the House?—Answer. I am the journal clerk of the House.

Q. How long have you been such?—A. Twelve years.

Q. As journal clerk, you have charge of what?—A. Of the journal of the House. I keep the minutes of its proceedings.

Q. And you have an office as such in the House?—A. Yes, sir.

Q. Do you know Casey Young?—A. Yes, sir.

Q. Do you remember of his coming to your office last year to see about a bill relating to the bringing of suits in the name of the United States to cancel patents?—A. Yes, sir; I remember it.

Q. What do you remember about it?—A. I remember that Mr. Young came into the office one day to inquire for a copy of a bill that had passed in the previous Congress. He said he had not been able to put his hands on it, and asked me if I could get it for him. I looked it up and said that the bill had not become a law according to our index. He insisted rather strenuously that it had become a law; that he was pretty well satisfied about it; in fact, I think he said he knew it was so. He said he would return, and went out. In the meantime I traced it, looked up the Senate Journal, and found the bill had never been reported from the Senate Committee on Patents, to which it was referred early in January. The bill passed the House in January at the first session of the last Congress.

Q. Was that all that was said about it?—A. Yes, sir; that was about all.

Q. Was anybody else with him, or had anybody been there about that time or before?—A. I think a reporter of the Star had been there to look it up. There was a story a short time before that that the bill had been stolen from the Senate files, and I looked it up for a reporter and showed him the impossibility of that, because it was nothing but the engrossed bill, which could easily be replaced. It was different from an original paper. We retain the originals on the files of the House always. There is no trouble about duplicating anything of that sort.

Q. What is the bill that goes to the Senate after it passes the House?—A. It is an engrossed bill.

Q. It is not a printed bill?—A. No, sir.

Q. Did you learn that the bill had been stolen?—A. No, sir; the bill is still on our files.

Q. You know Mr. Van Benthuyzen?—A. No, sir; I do not.

Q. When was it that Mr. Young came to you?—A. My impression was it was a very short time before I left Washington for California. It was the latter part of June, to the best of my recollection, or the early part of July. I left Washington on the 10th of July.

Q. That would fix it. You left Washington on the 10th of July. Where did you go?—A. To California.

Q. The 10th of July, 1885?—A. Yes, sir.

Q. Can you fix that date so that there will be no mistake about it?—A. Yes, sir; I referred to a diary of my trip that I kept.

Q. How long were you gone?—A. I returned to Washington on the 23d of September.

Q. Could it have been after the 10th of July?—A. I don't remember distinctly as to that, but that is my impression. I don't remember anything about it after I returned, except that somebody came in there, I don't know who he was, a stranger to me, and I think it is quite likely some newspaper reporter, or somebody else, came in with him and pointed me out as the gentleman who could give him the information, and he asked me for some information about this bill.

Q. That was after your return?—A. After my return; yes, sir.

Q. You returned the 23d of September?—A. Yes, sir.

Q. Do you think you would know the man who came in after your return, if you should see him?—A. No, sir; he was a stranger. I had never seen him before or since, to my knowledge.

Q. Of course you could not have told Mr. Young about it in July, or August, or September before the 23d, if you were away?—A. I might have told him early in July or late in September; I don't know exactly when. I know I was asked in San Francisco by a reporter on the Alta-Californian, I think, about the bill having been stolen from the files of Congress, as has been charged.

Q. When was that?—A. That was in the latter part of August. He asked me specifically as to this patent bill, and I said there was nothing in it at all, because I had looked it up for a Washington newspaper man; I think it was Mr. Miller, of the Star, though I am not sure.

Q. You are confident Casey Young came in also?—A. Yes, sir; that is my remembrance.

Q. Can there be any mistake about it?—A. I remember distinctly his coming in, but I don't remember distinctly about the date. That is my impression, and I feel reasonably sure about it.

Q. You don't know whether it was before you went away or after you came back?—A. I would not say positively that it was before or after. It was not a thing that made any impression upon me at all, but it may have been the latter part of September or early in October. I recollect the fact of his coming in and the conversation. He was very positive; in fact he rather questioned the accuracy of the books when he first came in. He said he was confident the bill was a law; he was very sure of it. I was equally sure it was not, because I had looked it up a short time before.

Q. That was the first visit of Young?—A. Yes, sir.

Q. And your best recollection is it was before you left?—A. That is my impression. I thought it over, and in connection with the circumstances about looking up the matter for the Star reporter, I fix it early in July or very late in June.

Q. Did you ever know of anybody having any Pan-Electric stock in the House?—A. No, sir.

Q. You never got any?—A. No, sir.

Mr. MOFFATT. The journal does not show it.

The WITNESS. The Journal does not show it; nor anything else.

By Mr. YOUNG:

Q. Do you remember distinctly whether it was in September, or in July or June, that I asked you about this bill?—A. No, sir; I do not. I cannot remember the date distinctly. It is only a vague impression.

Q. Do you remember having a conversation with me about it a short time ago?
A. Yes, sir.

Q. Do you remember what occurred?—A. You asked me if I could fix the date and I said I could not; my impression was it was in the latter part of June or early in July. You thought it must have been late in September, and I said it possibly might have been; that I could not remember; I couldn't be positive about it; that it was a mere impression on my mind at the time.

Q. Have you any recollection of seeing me in June at all?—A. Nothing beyond that visit to the room. I have no special remembrance upon the point beyond the inquiry you made when you came in, at whatever time it was, to make the inquiry. There was nothing about it particularly that would impress the matter upon my memory. I just remembered it in a vague way, and then I remembered it in connection with the fact that I was asked about it in San Francisco, and that I had this knowledge about it. That fixed it upon my mind that the interview occurred early in July.

Q. That was in reference to the stealing of the bill, was it not?—A. Yes, sir, and it brought up the fact that I had been inquired of about it.

Q. Did I say anything about it being stolen?—A. No, sir; the other gentleman who made the inquiry was the one who asked about its being stolen.

Q. Who was he?—A. He was a stranger. I don't know who he was.

By Mr. MOFFATT:

Q. This conversation could not have been on the 31st of July or the 1st of August?—A. Not the conversation with me, because I was in the Yellowstone Park on the 3d of August.

Mr. MOFFATT. That was Colonel Young's testimony, as I understood it.

The WITNESS. There were other gentlemen in the room. Some one is there on duty all summer.

By Mr. RANNEY:

Q. Who was there?—A. I think my assistant, Mr. Cochran, was there, engaged in some work, and Mr. Wiggins, who is an assistant to the printing clerk, was also there.

By Mr. HALL:

Q. How did you happen to look at your diary?—A. I was asked to refer to it.

Q. By whom?—A. Mr. Young first came to me and asked me about it. He asked me if I was sure about it, and I stated my impression, as I said. I said that was my impression, but I would look it up. As to the dates, I remembered generally that I left Washington shortly after the 4th. I did not know just what date, but I have examined my diary.

Q. Has any other person besides Mr. Young called your attention to it?—A. I think Mr. Moffatt came to me on the floor and asked me where I was, or about my movements.

Q. And then you examined your diary, to be precise about the dates?—A. Yes, sir.

By Mr. RANNEY:

Q. Do you know how early in the year the laws of the last Congress were published?—A. They are published in pamphlet form within a few days after the adjournment of Congress, but they are not indexed and furnished to members for some months. I think it takes some weeks or months to print them as indexed.

Q. Would it take from the 4th of March until August?—A. It frequently happens that delays in the printing follow from the failure to furnish indexes. They are sometimes not printed until late in the summer or fall.

By the CHAIRMAN:

Q. You say there are some copies printed shortly after the adjournment?—A. Yes, sir; those are furnished to the document rooms in slip or pamphlet form.

Q. Not sent out to members?—A. No, sir; not sent out to the members until along in the fall, or sometimes the winter following.

Q. Do you recall at what time the laws of the Forty-eighth Congress were sent out?—A. No, sir; that would not come under my notice at all.

Mr. RANNEY. If there is no other witness present I would like to recall Mr. Young.

The CHAIRMAN. There is no other witness present.

Hon. CASEY YOUNG was then recalled and further examined.

Mr. RANNEY. There are certain matters that Mr. Millard desires to examine you upon. I find in these letters reported as irrelevant by the subcommittee some I consider important, several of them from Colonel Young, and I want to put them into the record. But I will first examine them and see what they are, while Mr. Millard is putting his questions.

By Mr. MILLARD:

Q. When was your appearance before the Secretary of the Interior?

The WITNESS. Do you mean when I appeared before him the first time?

Mr. MILLARD. I mean upon the reference of the second application.

A. I don't remember the date; the record there will show. I have no memorandum at hand by which I can fix the date, but I think it was some time in November; I do not remember distinctly.

Q. Do you recollect the number of days that you and Colonel Gantt were before the Secretary of the Interior?—A. Oh, we were there a good many days. I think the hearing lasted for two weeks, perhaps, or more; I don't remember exactly, but for a considerable length of time. I could, by looking at the hotel register, tell you about the time I came here and about the time the hearing was concluded.

Q. It was some time in November?—A. Yes, sir; and it possibly may have lasted into December; I don't remember what time in November it commenced; I have no memorandum.

Q. Did Colonel Gantt make an oral argument upon that occasion?—A. Yes, sir.

Q. And you also?—A. Yes, sir.

Mr. EDEN. I would like to inquire if there is any new matter to be developed by pursuing this inquiry. I cannot see the use of going over ground which has been gone over before.

The CHAIRMAN. I suppose Mr. Millard is approaching the matter he desires to inquire about.

Mr. MILLARD. I am not going to ask about anything I have inquired about before.

The CHAIRMAN. You may proceed with your questions.

Q. Did you also submit written briefs?—A. Yes, sir; they were submitted some days after. We were given ten days, I believe, within which to prepare briefs, and they were submitted at some time within that period; I do not remember the exact date.

Q. Under date of December 7 I find this entry in the cash book of your company: "Expressage on records and briefs sent to Colonel Gantt;" what briefs were those?—

A. That was his own brief.

Q. The brief that he used before the Department of the Interior?—A. Yes, sir; it was printed after he left. He prepared the brief after the argument was made, and I expressed it to him.

Q. That was the brief that he used before the Secretary of the Interior?—A. I do not know that he used the brief in his argument; he probably may have had the manuscript of it, but I think he prepared it after the argument was made, and I had it printed after he went home.

Q. But it contained the same matter?—A. Yes, sir.

By the CHAIRMAN:

Q. It was submitted to the Secretary of the Interior, was it?—A. I handed it in print to the Secretary after he had gone home; I handed it to him with my brief.

By Mr. MILLARD:

Q. This charge for expressage, \$1.20, was paid by the Pan-Electric Company?—A. I don't remember the fact, but the charge is there, and I take it for granted that is correct. I sent him some of the records also.

Q. Under date of November 20, 1885, there is this entry: "Paid for copying record of proceedings before the Secretary of the Interior, \$60.60."—A. Well, the various papers that had been filed, the applications and petitions and various original papers, had got scattered about everywhere, and we could not get them together and so I had them collected and had them copied and put together.

Q. The Pan-Electric Company paid this item of \$60.60, did it?—A. Yes, whatever the sum is there—that is, we paid one-third of it. I charged it all there, but the other companies paid me afterwards a portion of it.

Q. Do I understand that your company paid but one-half of it?—A. No, sir; we paid one-third of it, the Globe Telephone Company paid one-third, and Mr. Van Benthuyzen paid one-third.

Q. You charged the full amount, and they compensated you in proportion?—A. Yes, sir; I charged the full amount, because I paid the whole of it myself.

Q. I will pass that for the present. Under date of December 16, I find, "Paid J. J. Linney for stenographic report of proceedings before the Secretary of the Interior, \$100."—A. Yes, sir.

Q. Was that these same proceedings before the Secretary of the Interior?—A. Yes, sir; and he did some other work for me besides that.

Q. Some other work for the company?—A. Well, yes; for the company. He helped to write my brief. I had been disabled in my arm, and employed him.

Q. Here is another item: "Paid R. O. Polkinhorn, for printing record of proceedings before the Secretary of the Interior, \$524.10."—A. Yes, sir; we had the record printed.

Q. That is these same proceedings?—A. Yes, sir; the big book you have got there before you. I paid the whole of it, and I was paid back a portion afterwards.

Q. Here is another: "December 16, printing Colonel Gantt's brief, \$78.95."—A. That was an amended brief, and a reprint. When I sent Colonel Gantt the first lot of briefs they were so badly printed, had so many mistakes in them, that Colonel Gantt wrote back a letter asking me to have it reprinted, and refusing to send after these briefs at all. He said there were so many mistakes in it he would not send it out, and I had it reprinted.

Q. That was for printing the brief that was submitted?—A. Yes, sir; and that accounts for its being printed twice; because the first print was so badly done that he complained about it and I had it reprinted.

Q. Then here is some charge for work done, assistance in preparing the brief, on the same date, \$23.—A. That is some writing, I think, done for myself, perhaps.

Q. Under date of December 16, "Paid C. M. Boswell, for stenographic work, \$10."—A. That was for writing letters or me or the company. That is a young man in the house here, a reporter. I got him to write some letters for me.

Q. Under date of October 21, "J. E. Johnston, for expenses, \$25." Do you recollect what that was for?—A. It was for office-rent—at least, I think that is what it was for; I do not remember anything else that he could have paid. He paid the office-rent in my absence at some time, and I think I paid it back to him. That was the rent of the office—the amount he paid. He frequently paid the rent when I was away.

Q. What office was that?—A. The office of the company—No. 604 13th street.

Q. That item I find is \$25.80?—A. Well, we paid \$25 a month rent, and I take it that is one month's rent that he paid. I don't recollect the item, but I could tell by looking at my vouchers.

Q. What office do you say it was?—A. The office of the Pan-Electric Company, at No. 604 13th street.

Q. Under date of November 3, I find, "Isham G. Harris, \$51.34." Do you know what that was for?—A. I do not. I could tell by looking at my papers. It may have been for some patents or something of that sort that he frequently paid for when I was away.

Q. Under date of November 7, "George Gantt for expenses, \$30"?—A. Yes; I paid his expenses here. I gave him some amount of money; I don't know what it was.

Q. That was for coming and going, and his expenses here?—A. That was a part of it; that could not be the whole amount.

Q. Under date of November 21, "Bill of Colonel Gantt at Ebbitt House, \$74"?—A. I paid that. I paid his bill, and I paid all his expenses.

Q. That was while he was here in attendance on these proceedings?—A. Yes, sir; I paid his expenses here and while he was here. I did not come with him I think, but I asked him for an account of his expenses, and paid it after I got here.

Q. Here is another item: "December 31, boxes shipped of records and briefs to Memphis and New Orleans, \$0.25."—A. I think that was the second lot of briefs I sent to him, and probably some of my own. I shipped Mr. Van Benthuyzen some of the briefs—some of mine and some of Colonel Gantt's.

Q. Briefs that were used in these proceedings here?—A. Yes, sir; and his own. He prepared a brief, I believe.

Q. These boxes were shipped containing these records and briefs to Memphis and New Orleans?—A. I shipped some to him at the same time, and probably some of my briefs too, both the briefs that I printed and shipped to him.

By Mr. RANNEY:

Q. Right there. Did you ship the original copies of the record of the hearing before the Interior Department to New Orleans when you were shipping them?—A. Oh, no, sir; not the original; I shipped the printed one.

Q. I mean the printed original record.—A. Yes, sir.

By Mr. HALL:

Q. Let me inquire right there, what do you mean by the original record?—A. I take it that this is the same record here that I shipped to him, the printed record. I do not remember very distinctly about it.

Q. Was there more than one?—A. Oh, yes, sir; we had a hundred or two printed.

Q. I mean was there more than one edition of this print?—A. No, sir; not that I know of.

Q. Is this a record that was printed by your authority for which that item of four hundred and odd dollars was paid for printing?—A. Yes, sir; that is one of the copies of it. I believe I had one hundred copies printed, or something like that.

By Mr. MILLARD.

Q. There is another entry: "December 31, board at Ebbitt House, \$195.78." I presume that was for Colonel Gantt's board while he was here?—A. Well, that seems a little large. Isn't there another charge behind that?

Q. I have called your attention to one charge.—A. What was the former charge—\$7.

Q. Yes.—A. Well, I presume that is correct, then. It is on the book, and I have the vouchers for it in my room. I cannot remember; the account I expect is as called out there. I did pay whatever his expenses were, but I don't remember the amount.

Q. Here is another item under the same date: "For printing briefs, \$100."—A. That was for printing my briefs.

Q. Your own briefs?—A. Yes, sir.

Q. Where were they used?—A. They were used here.

Q. Before the Secretary of the Interior?—A. Yes, sir. I prepared it some days after the argument, like the others. They were a little longer printing mine; they had a good deal of work on hand, and it was delayed. They had to be corrected, as the work was rather badly done at first.

Q. Under date of August 28 is this entry: "Hattie W. Miller, for copying bill, 55 pages, at 8 cents per page, and Grace J. Lonergan, copying 27 pages, at 8 cents," one for \$4.40 and the other \$4.18.—A. I don't remember about that, but I think it was the first copy, perhaps, of the bill that was afterwards filed. As I said the other day, I wrote a bill myself, which these gentlemen rejected. I think it is probable that that is the bill. Those ladies were in the habit of writing for me, and I presume that is what it was. I was not in Memphis on the 28th of August. I reckon the date is wrong; or it may have been written when I was gone, and I paid it when I went back.

Q. It was the bill to be used in the suit by Colonel Gantt?—A. I don't know about it. I had a bill which I wrote according to my own idea, and handed to these gentlemen and they rejected it.

Q. Handed it to whom?—A. To Colonel Gantt and Mr. Beckwith.

By Mr. RANNEY:

Q. Did you hand it to them in Memphis or send it to New Orleans?—A. In Memphis; I did not send it to New Orleans.

By Mr. MILLARD:

Q. It was the one used in that proceeding?—A. It was not the bill used. I wrote one myself, as I explained the other day. I had some ideas about the character of the bill that ought to be filed, and I wrote out such a bill as I thought we ought to file, and that may be the one they copied. These ladies were in the habit of doing writing for me; I could not write very well myself.

Q. Have you any doubt whether that was the one?—A. I think it is, but I cannot say positively.

By Mr. RANNEY:

Q. Was there any other bill that you had copied?—A. Well, after I left, that being on the 28th of August, it is possible that those gentlemen may have gone to my office and had it copied, and I paid it when I returned. I could tell by looking at their receipt.

By Mr. MILLARD:

Q. There were fifty-five pages copied by one clerk and twenty-seven pages by another; wouldn't that indicate it was the bill?—A. It must have been divided up, then.

Q. It could not have been any other bill?—A. I don't know of any other except that they might have written one after I left which I did not know anything about. I take it for granted it was the bill I wrote myself.

By Mr. HALL:

Q. You have vouchers that would explain that, have you?—A. I think I can find their receipts giving the date.

By Mr. MILLARD:

Q. It was here in Washington?—A. No, sir; it was at home. I left home on the 27th of August. It is possible that in transcribing it the clerk put it on the book and got the date wrong. It may have been the 28th instead of the 27th, or it may have been the 27th that I paid it. I could not have paid it on the 28th in Memphis, because I was on my way to Washington then.

Q. Here is another item: "My bill at Mrs. Bryan's, four days, \$10."—A. Yes, sir; that is at 1337 G street, I think, where I staid sometimes when I was in Washington. What is the date of that?

Q. August 4.—A. Well, I think I went there from the Ebbitt House. I came to the Ebbitt House, as I remember, on the 30th, and staid there a day or two, and then went over to the rooms I had been in the habit of accupying at Mrs. Bryan's, close by.

Q. You had occupied rooms there?—A. Yes, sir; I had been in the habit of having rooms there occasionally when I was here. I may have gone there about the 3d or 4th, and staid until the 7th, which was about the time I left here. I was in the habit of having rooms there when I came to Washington.

Q. Do you recall any particular business that you transacted there at Mrs. Bryan's?—A. O no, sir; I did not transact any business there; I simply had lodgings there, and took my meals, I believe, at the Ebbitt House. I have been in the habit of staying there for some years when I would come to Washington. I may have written some letters there for the company; probably I did.

Q. Here is an item under date of August 24: "Hufty & Dyer, rent, \$25."—A. That is the rent of the office.

Mr. MILLARD. I think that is all I wanted to call your attention to, but still there may be some other questions.

Senator HARRIS. Mr. Chairman, if it would not interrupt the proceedings, I would be very glad to indicate to the committee the corrections I desire to make in my testimony—my last day's testimony—so that I can go back to my rooms, as I am too ill to remain here.

Mr. RANNEY. I would allow that if it were not that I want to examine the witness a little further upon some letters that I have found.

Senator HARRIS. Then I will come before the committee at the first moment whenever I feel able, and if I am not able I will be glad to have them come to me. I have not been well for two or three days.

The CHAIRMAN. I suppose there is no objection to Senator Harris's making the corrections now?

Mr. RANNEY. If he has written them out I am willing to take them as though he had made them before the committee.

Senator HARRIS. I have made a number of verbal corrections, which I have indicated on this paper.

Mr. RANNEY. I supposed you had made all the necessary corrections yesterday.

Senator HARRIS. No; those related to the first day. I have refreshed my memory in regard to certain dates after consultation with the Sergeant-at-Arms of the Senate and the clerk of the Committee on Inter-State Commerce, and that has enabled me to be a little more specific as to those matters, some matters about which I did not remember.

Mr. RANNEY. Let us see if we cannot shorten this. So far as there are alterations, either a change of a word, or matters of taste without changing the sense, if you will indicate them, we will let that be done as a matter of course. Then we can see what alterations of substance there are.

Senator HARRIS. All that this paper contains is additional answers explanatory of my previous answers, based on information that I have obtained. For instance, I have indicated that on page 354 I desire something to be added to my answer; it is a continuation of my answer. I would like to have the addition come in right there in connection with what I stated. It is done in most instances upon an examination of letters made since I gave my testimony.

Mr. RANNEY. It may be upon a matter that we want to determine about.

Senator HARRIS. In that case I am always accessible and always ready to be examined whenever any member of this committee may desire it.

Mr. RANNEY. We do not doubt that.

The CHAIRMAN. Perhaps you had better indicate how you want the changes to appear.

Senator HARRIS. For instance, on this memorandum I want to refer to page 354; it is No. 1 on this list. To show you how I have proceeded, I will turn to page 354. Now, there it is simply an addition. By looking at this paper you will see where No. 1 is to be inserted. I say here: "And for further answer I say that J. W. Rogers was never vice-president, director, or other officer of the Pan-Electric Telephone or Telegraph Company. I heard him say here on the witness stand that he was vice-president of the American Postal Telegraph Company, of which Mr. Shryock was president." Now, that is the additional answer that I want to give, because I want to get my answer definite, and it would appear from your examination that he was vice-president of the Pan-Electric Telephone Company. That fact was never true. The next addition I desire to make is on page 358, and is marked No. 2. I don't remember what subject that is upon, but the record reads: "Were you here in Washington between the 31st of July and the 7th of August, 1885?—A. That I could not answer without getting the data from the records of the committee to which I referred yesterday." Then I proceed to show: "Since this question was propounded and answered, I have procured a statement from the Sergeant-at-Arms of the Senate, showing that he telegraphed me on the 24th of July, 1885, that I had been appointed by the Vice-President as a member of the Senate committee to attend the funeral of General Grant." Then I go on and explain: "That telegram was sent to Memphis, but as I was on the ranch in Texas at the time"—

Mr. RANNEY. That would unnecessarily incumber the record. If you will say that you were not here at that time, that would be sufficient.

Senator HARRIS. I would be satisfied with that, but I do not know how many questions such a statement would prompt you or some other member of the committee to ask.

Mr. RANNEY. If you would simply say that you find upon reference that you were not here, that would answer it.

Senator HARRIS. It will not amount to much. You will find everything else here of the same character, and I would be glad to see these things come in at their proper place. I have numbered them on these pages. The others you will find are merely verbal, except, perhaps, one single one. Now, I find this: "Do you remember that letter?—A. Oh, yes sir; I remember it very well. Q. That was while the hearing was going on before the Secretary of the Interior, was it not?" I answered that, "I expect it was after the Secretary's opinion, but I am not sure." I say here that "on reflection I am sure that it was some months before the opinion of Secretary Lamar was delivered, but I do not remember whether it was before or after the application was referred to him, but the record will show as to that;" and the record does show it. I hope the clerk will understand how these additions go in.

Mr. RANNEY. Couldn't you spend ten minutes here, and let me call your attention to several letters, so that I can put them in in their order?

Senator HARRIS. I would prefer to appear before the committee at some other time, at any hour it is desired.

Mr. RANNEY. I thought, however, we might put the letters in that bear your signature. They will be shown to you, and if you want to make any explanation about them you can have that opportunity.

Senator HARRIS. I will be glad to be notified if any letters are put in as to what they are. I will then determine whether I desire to make any explanation or not.

Mr. HALL. Let me understand how this matter is left.

Mr. RANNEY. I have said to Senator Harris that if there is no dispute about the handwriting, they will be put in the record, and if he does not wish—

Senator HARRIS. If you will show me the originals, I will determine in half a minute the genuineness of the letters.

Mr. RANNEY. Well, we will leave that matter to be determined.

The examination of the witness, Colonel YOUNG, was then resumed as follows:

By Mr. MILLARD:

Q. Under date of November 25 I find this item, "Paid Duncan S. Walker for legal services, in the matter of the barbed wire and torpedo cases in the Department of Justice, \$100." Explain just what there is about that.—A. That came about in this way. I had heard of the torpedo and barbed-wire cases, and was unable to find the papers in the Department of Justice. I went up there and looked for them, but was unable to find but very few of them. There was a voluminous record. I learned there that Mr. Walker had been employed or appointed by Attorney-General Brewster to conduct those suits and to hear the arguments of Mr. Conkling, Mr. Harding, and Mr. Crowley in opposition to bringing them; I got that information at the Department. I went to see Mr. Walker. I found there was a pile of papers that big [indicating], and I did not have time to go through with them myself, and I consulted Mr. Van Benthuyzen and the other gentleman who was conducting the matter for the Globe Company, and we agreed to give Mr. Walker \$100 to go through those papers and give us a report on them.

Q. Did you get his report?—A. Yes, sir; it is in that book (referring to the printed record of the Department of the Interior.)

Q. Was that report part of the papers presented to Secretary Lamar?—A. Oh, yes, sir; Mr. Walker was there himself. He made an oral argument also.

By the CHAIRMAN:

Q. You say Mr. Walker was employed by Attorney-General Brewster in those cases?—A. Yes, sir; in the torpedo and barbed wire cases. He was employed by him to look into the matter and assist the district attorney.

Q. What was the relation between Mr. Walker and Mr. Brewster?—A. I understand they are brothers-in-law; I do not know; I have heard so.

By Mr. MILLARD:

Q. The Pan-Electric Company employed him to look up that case and paid him \$100 for his services?—A. Yes, sir; as we paid those other expenses.

Q. And his report was made part of the proceedings before the Secretary of the Interior?—A. Yes, sir.

Q. Here is another item: "James O. Clephané, copying record in the barbed wire cases, Department of Justice, \$15."—A. Yes, sir; we had some copies made. We did not copy the whole of them. It was a very voluminous record; it would have been a volume of itself. I had the original papers, however.

Q. All the items of money expended that I called your attention to are read from the cash-book of the Pan-Electric Telephone Company.—A. I take it they are correct. I have not heard all the items called off, but I see they are correct on the book there.

Q. They are from one of your books which you kept as treasurer of the company?—A. Yes, sir. (After examining the book.) I have no doubt this is the book. Yes, this is my clerk's handwriting. He made these entries under my direction from entries I gave him. I had a memorandum-book and took them off, and he put them on that book.

By Mr. RANNEY:

Q. I refer to page 24 E of the record of the Interior Department, at the bottom of the page, where it speaks of Professor Adams's compilation. We have not been able to get that from the Solicitor-General. He does not find it in the Department. Have you that compilation?—A. I have not got it here. There are some copies in town. I haven't got one of them here.

Q. Do you know who has one of them?—A. I think General Bradley T. Johnson has one of them.

Q. Do you know of anybody else who has?—A. I do not recall anybody now. I thought I gave one to Colonel Parke, but he tells me he has not got it. We had two or three hundred printed. I had letters from different parts of the country asking for them, and distributed them around among people. I have a few of them at home in Memphis.

Q. I see in one of the items read by Mr. Millard from your treasurer's book there is a reference to a box containing the records of the Interior Department, and you have identified one of them. How many copies of that did you send to New Orleans?—A. I do not remember now how many.

Q. There were several?—A. I think I sent about one-third of them.

Q. One-third of how many?—A. We had something over one hundred printed; probably I sent about thirty-five.

Q. You sent them to Mr. Van Benthuyzen?—A. Yes, sir.

Q. To be used in the suit pending there between the Bell and the National Improved Companies?—A. I don't know what he wanted with them.

Q. You knew there was a suit pending?—A. Yes, sir; he paid for one-third of them, and he asked me to send them to him when printed, and I did so.

Q. That case has recently been heard before Judge Billings?—A. Yes; I think so; I saw it in the papers—the argument of counsel.

Q. Were the copies that you sent him of the record of the Interior Department used in the hearing there, or did you get any new ones printed?—A. I did not get any new ones printed; Mr. Van Benthuyzen ordered some ten or fifteen copies printed with some of those affidavits left out.

Q. Was that done here or at New Orleans?—A. He ordered them to be printed at Polkinhorn's. I think Mr. Seixas probably attended to that. I heard of it at the time. They may have been issued at the same time these were; I don't remember.

Q. Did you send them in the box that you speak of?—A. I don't remember. Mr. Seixas looked after it, and he may have put them in the same box; very likely they were.

Q. Did you see one of those reprinted copies? You say that he got them printed here, leaving out certain affidavits.—A. I suppose I did, but I don't remember now.

Q. Were you aware of the fact that he got the record of the Interior Department printed, leaving out some of the affidavits?—A. No, sir; there was nothing left out before the Interior Department.

Q. I say when this case was argued before the Secretary of the Interior, this was printed and used as the record?—A. That was printed afterwards, I think.

Q. You had the record when you made your argument?—A. I think we had nothing but the original papers. Perhaps that was printed before the argument, but I understood—

Q. This record before the Interior Department I understand was printed, and you had arguments upon it, and it was the record of the papers actually put in before the Secretary of the Interior?—A. Yes, sir; that is what it is intended to be.

Q. Now, I want to know this: You seem to be aware of the fact that that book was, before you sent it down there, reprinted here.—A. None were reprinted at New Orleans that I know of.

Q. Were they reprinted here?—A. It was not reprinted. Mr. Van Benthuyzen had twelve or fifteen copies printed, leaving out one or two affidavits, I don't remember how many; one I do remember—the affidavit of Neipher. I learned that from a letter which Mr. Seixas had from him.

Q. I don't care about what you learned from a letter.

The CHAIRMAN. I think it is scarcely proper for the witness to state what Mr. Van Benthuyzen did, unless he knows it personally.

The WITNESS. I do not know it of my own personal knowledge.

Mr. RANNEY. Do you know of your personal knowledge that Mr. Van Benthuyssen got a copy of that book printed here with a portion of it left out?—A. I will tell you what I do know about it.

Q. Personally, I mean.—A. I know personally that I saw twelve or fifteen of the records that I was told had a portion left out; I did not examine them.

By Mr. HALL:

Q. When was that?—A. At the time they were printed.

By Mr. RANNEY:

Q. What day was that?—A. I don't remember the date; I think it was some time in December.

Q. Was it before you sent the books?—A. Yes, sir; I think so. I think it was just about the time those were delivered to him.

Q. And you yourself personally sent to New Orleans some of those reprints?—A. I am not certain about it, but I think I did send the whole box.

Q. How many reprinted ones were there?—A. Twelve or fifteen.

Q. How many of the first ones were there?—A. We had printed about 120—something over a hundred; I am not certain as to the number.

Q. Have you a copy of that?—A. I do not think I have; I have not looked.

Q. Did you examine it?—A. No, sir; I did not.

Q. Did you see what had been left out?—A. I don't know that I examined to see; but I understood that the affidavit of Neipher had been left out, and perhaps some others; I do not remember.

Q. You did understand that at the time, did you?—A. Yes, sir; I heard it at the time.

Q. The report was reprinted just as though it was a copy of the papers put in before the Interior Department?—A. I think so. I do not think there is any difference in it.

Q. You simply left out Neipher's affidavit?—A. No, sir; I did not leave it out; it was left out by him, I understand.

Q. And it was printed just as though it was a copy of the records?—A. Yes, sir. It is on just the same paper as the other.

Q. It was made to look just like the original?—A. I think so.

Q. It looked just like the original in all respects?—A. I think it had the same print and cover and everything.

Q. And you preserved the paging, too, in that copy, didn't you?—A. Oh, I do not know anything about it. The printer did all that. I didn't give any direction about the paging.

Q. Why did you have printed—you and Van Benthuyssen—what purported to be a copy of the record of the proceedings before the Interior Department, with part of it left out?—A. I will tell you what he said; that is all I know about it.

The CHAIRMAN. I do not think that is competent.

The WITNESS. I do not know myself that he did do it.

Mr. RANNEY. What he said is enough. You were not at New Orleans during the trial?

The WITNESS. No, sir.

Q. You have seen the journal clerk, Mr. Smith, here to-day. Was he the man you made your inquiries of when you went up to the House of Representatives?—A. Yes, sir.

Q. So, that what you did here at the House, whenever you did come here, was at a time when he was there?—A. Oh, yes, sir; I talked to Mr. Smith about it.

Q. Then, if he was not here between the 10th of July and the 23d of September, you could not have seen him and made your inquiries of him on the 30th of July, 1885, when you said you did come?—A. If you will look at my testimony you will see I do not say that. I said at some time afterwards. I was not sure of the time; it was my impression it was at that very time, and I should have adhered to that belief, but he told me he was not here at the time, and it must have been afterwards, of course, as I was not here in June at all.

Q. Hadn't you talked with Mr. Smith before you gave your testimony?—A. No, sir; I never said a word to him.

Q. Your talk with Mr. Smith is since you have testified?—A. Yes, sir.

Mr. RANNEY. Well, we will leave it there. I don't wish to say anything more about it unless you do.

The WITNESS. I only want to say this: that Mr. Smith must be mistaken about my talking with him in June or July. I could not have done it at that time, I am sure, for in June I was not here; I left here on the 7th of July, and on the 10th of July, or about that time, I had a conversation in reference to this bill, in which I stated that it had become a law, and I know I did not know before that time that it had not.

Q. At the time of the talk with Mr. Smith?—A. No. I had a conversation with

Mr. Van Benthuyzen on the 10th of July, in which I informed him that that was the law. Up to that time I thought it was.

Q. But when now do you say that you first learned it was not the law?—A. My impression still is that I learned it about the first of August or the 30th of July, when I was here.

Q. Of Mr. Smith?—A. That was my impression until he stated that he was not here; that was my best recollection about it, and I was satisfied it was so until I asked him the other day. So that it must have been at a later period than that. If you look at my testimony you will see I am not certain about the time.

Q. I want to call your attention to, and put in, a letter of yours. There are a good many of these letters reported as immaterial, which I deem very material. This letter is dated the 26th of July, 1884 (reading):

OFFICE OF THE PAN-ELECTRIC TELEPHONE COMPANY,
Washington, D. C., July 26, 1884.

DEAR DOCTOR: I inclose you, under direction your uncle, Dr. J. W. Rogers, two certificates of stock for fifty shares each, one in the Pan-Electric Telephone Company and one in the Pan-Electric Telegraph Company, which shares of stock have been put to your credit on the books of the respective companies.

I think the stock valuable, and will within a reasonable period be worth in the neighborhood of par. I know all about the business affairs and financial condition of your uncle, and while the enterprises which he has been promoting will, I think, develop most valuable results, he has saved but little money, nearly all which he has realized having been used in making his instruments still more valuable and in bringing his various enterprises before the public.

The Pan-Electric Association proper, embraces all of Harry Rogers' inventions, but no stock books have yet been prepared for that. When they are you will have fifty shares issued to you.

Yours, truly,

CASEY YOUNG.

Dr. W. B. ROGERS, *Memphis, Tenn.*

The WITNESS. That letter has been published in the papers as addressed to Dr. J. W. Rogers, but that is a mistake; it was addressed to Dr. W. B. Rogers, his nephew. I will give the circumstances under which that letter was written: Some time before this letter was written I was in Memphis and saw Dr. Rogers' brother, the father of this young man that it is directed to, Dr. William B. Rogers, a very intimate friend of mine, and I had a conversation with him. He came to see me to talk about his brother's affairs here in Washington City, telling me that his brother owed him some money, and he thought, perhaps, he was not able to pay it; and, also, they were consulting me generally (I was quite intimate with him) about his brother's business affairs.

After I came on to Washington, Dr. J. W. Rogers came to my room one day, and told me that he was in debt to his brother several thousand dollars, and that his brother had got the impression that he had made a great deal of money, and was rich enough to pay it, while the fact was that he was not, and there was some unpleasant feeling between them in respect to that, and he told me that he wanted to settle that by sending the doctor some of the stock of this company, and asked me to write him a letter giving him my views about it. I was anxious to settle any differences between them (they had always been my friends, especially the one in Memphis), and at his request, and under those circumstances, I wrote this letter, believing what I stated, that the stock would become valuable. It should have been directed to Dr. W. B. Rogers. I made a mistake in his name. That is how I came to write that letter at his request. He never delivered it, I know, because Dr. Rogers would not have given it out for publication if he had received it.

Q. I see in that letter that you sent a reference to the Pan-Electric Telephone Company and the Pan-Electric Telegraph Company—that you inclosed a certificate of each company.—A. Yes, sir; he asked me to do that—to send both.

Q. I thought you said no certificates had ever been issued by the Pan-Electric Telegraph Company.—A. I don't remember that there was ever but one issued. Let me look at the book now. [After an examination.] I did not send him one of these certificates. I sent him one of those little papers that my clerk wrote; that was the sort I sent him. The doctor asked me to make it out for the Pan-Electric Telegraph Company as well as the Pan-Electric Telephone Company, and I directed my clerk to write one of those papers, that he would be entitled to stock when authorized to be issued by the board of directors, just the same as has been put in evidence already. But it appears that that letter was never sent, or it would not have been published. I know that he would not have allowed it to be published. [After an examination of the certificate book.] I see that no certificate of stock in the Pan-Electric Telegraph Company has been taken out of this book; they are all here now.

Q. You had your clerk write the paper?—A. Yes, sir; like those already put in evidence, saying that he would be entitled to so much stock in one of those companies when issued. Perhaps it would be proper for me to state further in connection with the writing of that letter that Dr. Rogers told me that his brother in Memphis had got the impression that he had made a great deal of money out of the instrument that he had sold to the National Secret Telephone Company, and he said that while he did get a good deal of money for that, he had spent the most of it in perfecting and making other inventions, paying his old debts, and other things, and did not have so much money as his brother thought he had.

Mr. RANNEY. I now call your attention to a letter written by you dated April 14, 1883, which I will put into the record:

Casey Young to Dr. Rogers.

LAW OFFICE OF YOUNG & MARTIN, 254 SECOND STREET,
Memphis, Tenn., April 14, 1883.

DEAR DOCTOR: I look at the matter as you do—that to fully develop and present to the best advantage the various inventions, will require, perhaps, more money than we could ourselves advance, and that to raise it we had possibly better sell some one or more of the invention, or a sufficient amount of stock for the purpose. I am still of opinion that we can sell the telephone appliance, as I wrote you before, for enough money to carry our other things along until we can put them upon a firm basis, and I recommend the experiment. I think I could sell the right to use them in Memphis for \$5,000. I had a talk with Henry Montgomery yesterday, who is a practical telegrapher, and more, a man of very large wealth, and he said if the "cylinder" improvement would do what I told him it would, it was worth millions. But he asked me a great many questions about it which I was unable to answer. I have thought it would be a good idea for us to get him to go in with us if we can.

I will see Senator Harris to-day and confer with him about the charter. We can get one under the Tennessee law as broad as we desire it, but I am afraid that chartering here would not give us very high standing in the financial world.

Yours, truly,

CASEY YOUNG.

The WITNESS. I think you asked me about that letter before. I think that the word "telephone" as printed in that letter must be a mistake, that it should be "telegraph," because the cylinder is a telegraphic instrument, and Mr. Montgomery is a gentleman who has made a fortune in telegraphic enterprises. Dr. Rogers had represented it to him in a very favorable light, and if it was as represented, I thought it was very valuable, and so did Mr. Montgomery. I spoke to him about it, and I suppose I wrote this letter after having a talk with Mr. Montgomery at that time. I had not thought so much about selling stock and the hurt that it would do to any business enterprise, until I found out some time afterwards that Dr. Rogers's idea was simply to sell stock, and no part of the proceeds of it ever went into the treasury, and for that reason I thought it improper, that it would ruin any business enterprise. Mr. Montgomery would have been a very proper man to have had in an enterprise of that sort, because he is a man of large wealth and fine business capacity.

Mr. RANNEY. I now call your attention to, and put in, if it is not in already, a letter dated Washington, D. C., February 13, 1884, which is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., February 13, 1884.

My DEAR DOCTOR: General Johnston and myself both thought it proper to call a meeting of our company at once to consider Harry's letter, and he called it for this evening at 7 o'clock at my room, and requested me to notify you.

I still think there is some strange mistake about this matter, and that it ought to be corrected, if possible, before it goes any further. Harry's letter very clearly implies that there has been a demand for the stock alluded to and a refusal to deliver it, but I do not know of any reason whatever for this conclusion. I have in many instances, when you have sent me an order for stock, promptly delivered to the party presenting it exactly the kind of instrument agreed upon by every member of the company as I understand it. If you are in the slightest dissatisfied with existing agreements, I have no doubt but all the gentlemen connected with the matter will readily acquiesce in any new arrangement you may desire to make, or surrender the entire matter back into your hands. For myself, I would not incur the imputation of bad faith towards our friend for all the telephones in the world.

I would like for you to come a little while before the hour of meeting, so we may talk the matter over.

Yours, truly,

CASEY YOUNG.

That is addressed, "My dear doctor," but it does not say at the bottom to whom.

Mr. EDEN. Why do you wish to introduce that letter again?

Mr. RANNEY. If it is in already, I do not.

Mr. EDEN. It was inquired about; I don't know whether the letter was put in or not.

Mr. RANNEY. If it is in already, there need only be a reference to it.

The WITNESS. If it is to go in, I should like to make an explanation about it.

Mr. RANNEY. I will put it in informally now, if it was not put in before.

The WITNESS. I will state about it. Dr. Rogers never made any complaint at the meetings of our board about anything. He would come there when he was in good humor, and whatever was done met his approval; he made no complaint about it; he agreed with us perfectly in all of our suggestions, I understood. But sometimes he would go off, and being a somewhat erratic man, he would write me a note complaining that something was not going on to suit him, and two or three times he wrote me about this \$170,000 that he had provided for in the original articles of agreement, and occasionally would complain that we were not issuing the stock, and that the stock ought to be issued, and I had compromised with him on these little papers I speak of, declining to issue the stock. At the meetings he would not complain about it, but he would go off and write me letters. I was anxious to oblige Dr. Rogers as far as I could with my sense of propriety in the matter, and I wrote him this letter under this feeling, that I had done all that I had agreed to do by giving to all these parties he had sent orders to me by, the paper we had agreed upon, and if I had failed to do it, I did not remember, and if he was not satisfied I would be glad to surrender them and I would have been very glad at any time after the beginning of 1884 to have gotten out of the whole thing (and so the balance of us would), but we had incurred obligations to other people that we felt obliged to fulfill and could not get rid of excepting to carry this thing out in good faith, as we had promised. That is what I meant when I wrote that letter.

Mr. EDEN. What is the date of that letter?

The WITNESS. February 13, 1884. I should be glad to do the same thing yet if I was rid of the obligations I am under.

Mr. RANNEY. You went through all that before; I don't see any occasion to repeat it. Didn't you speak to General Atkins about this thing before the Congress expired when he went out; didn't you have a conversation with General Atkins before the Congress expired?—A. I never had any conversation with General Atkins at all; I do not remember ever to have talked with him about it. Possibly I may have seen him at Dr. Rogers's once or twice, but the first time I have any distinct recollection about is when we started for New York.

Q. I asked you before as to your appearance before the Secretary of the Interior. I find in the record here your letter to Mr. Storrow stating for whom you appeared. You have seen that published in the record?—A. Yes, sir.

Mr. RANNEY. I will put that in if there is no objection.

Letter of Casey Young to J. J. Storrow.

EBBITT HOUSE, Washington, D. C., November 5, 1885.

JAMES J. STORROW, Esq.,

Counsel for American Bell Telephone Company, Boston, Mass.:

DEAR SIR: In the proceedings now pending before the honorable the Secretary of the Interior and other officers of that Department, growing out of various applications to the Department of Justice for the bringing of proper suit in the name of the United States to annul patents numbered 174465 and 186787, granted to Alexander Graham Bell, I represent certain citizens of Tennessee, Louisiana, and Mississippi, who have asked that such suit may be instituted.

In presenting my views of the matter, I desire to have submitted to the Hon. Secretary and his associates for their inspection authentic copies of the originals of certain contracts and agreements in respect to the telephone, which I am informed have heretofore been made by and between different parties, and which are now in the possession and under control of your client, the American Bell Telephone Company. Among them are the following: An agreement between the Western Union Telegraph Company and the Harmonic Telegraph Company, the American Speaking Telephone Company, the Gold and Stock Telegraph Company, T. A. Edison, Elisha Gray, and A. E. Dolbear, and which contract was subsequently transferred to the American Bell Telephone Company, in the settlement of what is known as the Dowd case. In addition to this, I am advised that at subsequent times other contracts or agreements of somewhat similar character were made between the American Bell Telephone Company and the following individuals: E. Berlinger, F. M. Blake, James W. McDonough, Dr. Cushman, and J. H. Irwin. These contracts will, as I am informed, tend to establish the truth of the following propositions:

First. That the alleged discovery or invention claimed by A. G. Bell, in the patents

alluded to, was not original with him, but was known to and had been published by others long prior to the granting of said patents, for which reason the same are invalid.

Second. That the Dowd suit and others of similar character, subsequently brought, were feigned and collusive ones, instituted and conducted by agreement of parties in order to obtain judgments and decrees sustaining the patents in question, while the said Bell and his associates knew them to be invalid.

Third. That in pursuance of their terms and under their operation, the American Bell Telephone Company have been able to suppress all evidence of prior discovery or invention of the art process or method claimed in the patents referred to.

Fourth. That A. G. Bell and his associates knew that the fifth claim set out in his patent numbered 174465 was invalid and ought not to have been allowed by the Commissioner of Patents.

Fifth. That A. G. Bell and his associates have formed and entered into a combination that is unlawful and contrary to public policy, with the intent and for the purpose of controlling the Patent Office of the United States in the granting of patents on the telephone, and for practically closing the whole field of telegraphic research and discovery, against all future inventors and students of science.

The questions involved in the controversy are so important that a controlling public interest requires their definite and satisfactory settlement, and in order that such may be intelligently reached, it is desirable, I think, that the fullest information touching the whole matter should be furnished those charged with its investigation, and to this I have no doubt you will assent.

If the information which I have received concerning the scope and terms of these contracts is correct, I deem it most important that they should be exhibited to the tribunal that is to pass upon the matters to which they relate. Of course there is no method to which I could resort to compel their production in this proceeding, and I therefore rely for obtaining them upon a simple request to you to exhibit them at the hearing on Monday next.

I have the honor to be, yours, very respectfully,

CASEY YOUNG.

Mr. RANNEY. Now, I want to know if, while you occupied that room at Mrs. Bryan's, during the four days you occupied that room—the payment for which appears in your cash-book—these men who met in Washington in relation to this matter did not meet in your room?—A. No, sir; I think we met at the Ebbitt House. I do not think one of them was in my room. I know we did not have any meeting there.

Q. I want to know if during that time Attorney-General Garland did not come there to see you?—A. No, sir; never.

Q. You are confident of that?—A. Yes, sir; I never saw him outside of the Department of Justice in relation to any such matter.

Q. Where are those three copies of the Van Benthuyzen agreement that Mr. Gardner swore that he made for you?—A. He did not make three copies for me. He made two. I suppose Mr. Van Benthuyzen has them. He is here now and will produce them. I saw him this morning.

Q. He made two copies of that contract, you say?—A. Yes, sir.

Q. Where are they?—A. Mr. Van Benthuyzen has one of them.

Q. Has he got all three?—A. There were only two made. He has got one copy in Mr. Gardner's handwriting.

Q. Did you keep any of them?—A. He says he gave it to me, but I have not got it. I cannot find it. I have looked among my papers.

Q. You have seen Mr. Van Benthuyzen's copy?—A. Yes, sir; this morning.

Q. While this hearing has been going on have you sent Mr. Van Benthuyzen copies of the testimony?—A. I have not sent any; not a word of it. I saw him in bed this morning; he is sick. I heard that he got here last night and I went down to see him.

Q. He has got the original agreement?—A. Yes, sir; he has got that.

Q. And the supplemental one too?—A. No, sir; he has not got the supplemental one; he has got the original one.

Q. You saw the original one?—A. Yes, sir.

Q. And the two copies?—A. No, sir; he has got but one copy. I will say now that I was mistaken in one feature of that copy. There is one feature in it that I had overlooked altogether. There is a reference in it to this Government suit that we brought at Memphis.

Q. We will not go into the contents of it until we get it. I heard you say yesterday, when Mr. Gardner was speaking, that you had forgotten about his making any copies.—A. No, sir; I said he might have done it; I did not remember it. He was in the habit of doing writing for me sometimes. I was not able to write in consequence of this trouble with my arm. I did not remember that he did it until he told me himself.

By the CHAIRMAN:

Q. If Mr. Gardner had made two copies you would have one retained?—A. I supposed I had one of them at home.

By Mr. RANNEY:

Q. Since it was a mutual agreement, I suppose you would have had one?—A. Yes, sir; I should suppose so.

Q. What was the third copy for?—A. He is mistaken about that. At least, if he made three I didn't know it. I had forgotten that I had asked him to do it until he said so.

Q. Who were the other two made for?—A. I do not think there were but two made—one for me, perhaps.

By the CHAIRMAN:

Q. Who had the original; who took that?—A. I guess that was burned up. It may have been in my handwriting, and nobody could read it if it was.

Q. Do I understand you that Mr. Van Benthuyzen has two copies?—A. No, sir; he has one of those copies, and it looks to be in Mr. Gardner's handwriting, and is signed. I saw it this morning. He will produce it when he comes.

By Mr. MOFFATT:

Q. You spoke of the matter of these expenses of the hearing before the Interior Department, that you were reimbursed two-thirds of these expenses.—A. Yes, sir.

Q. I do not notice on the book any credit charged to yourself.—A. That was paid to me some time afterwards. You will find it in some of the vouchers. Possibly I have not entered it on the book at all.

Q. I do not find it.—A. I did not get the payment from the Globe Company until a short time ago, and there is a settlement between Mr. Van Benthuyzen and myself which has not been closed yet. I have all the papers and all the bills and a record of what has been paid me, but they have not been written on the book yet. I have all the papers at my room.

By Mr. RANNEY:

Q. But if a portion of it was repaid, why doesn't it appear among the receipts?—A. Well, it has not been entered on the book.

Q. You paid out the company's money and they have paid back two-thirds?—A. Yes, sir.

Q. Who was the other man who paid one-third?—A. Dr. Beckwith, the president of the Globe Telephone Company.

Q. The Globe Telephone Company paid one-third, Mr. Van Benthuyzen one-third, and the Pan-Electric Telephone Company one-third?—A. Yes, sir; that was our agreement.

By Mr. MILLARD:

Q. Was that by reason of a prior agreement?—A. No, sir; it was made at the time these things were printed. When I first went to have the copying done, the papers were scattered about, and nobody could make head or tail of them, and they suggested we should have them copied; Dr. Beckwith suggested that. I did not have any agreement with the Globe Company originally.

The CHAIRMAN. Is it desired that we should go further to-day?

Mr. HALL. I move that we adjourn until Monday at 12 o'clock.

The motion was agreed to; and the committee then adjourned until Monday, April 12, 1886, at 12 m.

WASHINGTON, D. C., *Monday, April 12, 1886.*

The committee was called to order at 12.25 p. m.

The CHAIRMAN. I believe it is understood that we shall proceed this morning with the examination of Mr. Van Benthuyzen. Is that the pleasure of the committee?

Mr. HALE. I understand that General Bradley T. Johnson is present and would like to be examined as early as may be.

Mr. BRADLEY T. JOHNSON. I would like to be called, but I am subject to the wishes of the committee, of course. If Mr. Van Benthuyzen is to be examined to-day I can return to Baltimore and return here to-morrow.

Mr. WATSON VAN BENTHUYSEN then came before the committee and was duly sworn.

By the CHAIRMAN (Mr. BOYLE):

Question. What is your place of residence?—Answer. New Orleans.

Q. What is your profession or occupation?—A. I am president of the New Orleans and Carrollton Railroad Company and of the National Improved Telephone Company.

Q. What instrument does the National Improved Telephone Company use; what patents?—A. We have some fifty or sixty different patents.

Q. Then I will be more explicit; do you use any of the inventions of J. Harris Rogers?—A. No, sir.

Q. You understood my question; I asked whether you used any of the inventions of J. Harris Rogers.—A. No; we do not. You ask me if we use them?

The CHAIRMAN. Yes.

The WITNESS. No, sir; we do not.

Q. Does the company own any of them?—A. Yes, sir.

Q. Will you name the inventions of his that your company owns?—A. We own, I think, seven, but I believe we have never had them made up; we have never used them; I cannot give you the numbers of those patents just now, but I can get them for you.

Q. When was the National Improved Company organized?—A. In 1884.

Q. At what time in 1884?—A. I have forgotten the exact date. I think it was in the spring of 1884.

Q. Was it incorporated?—A. Yes, sir.

Q. In what State?—A. Louisiana.

Q. Does it hold its privileges or its rights under any other company?—A. None whatever, sir.

Q. How long have you been connected with it?—A. Since its organization, sir; I organized it.

Q. Had it any connection at the outset, or previous to the suits that have been spoken of, with the Pan-Electric Telephone Company?—A. None whatever, sir.

Q. Was suit brought against your company in Pittsburgh?—A. Against one of our licensed companies. The National Improved Company is a parent company, owning a large number of patents and granting licenses to other companies.

Q. What was the name of the company in Pittsburgh that was sued?—A. The Western Pennsylvania Telegraph and Telephone Company.

Q. Do you know the officers of that company?—A. Yes, sir.

Q. Will you name them?—A. Mr. Keating was president; Mr. McGonnigle was secretary and treasurer. I think Mr. Converse was vice-president. I think Mr. Keating was president of the iron works at Pittsburgh, and Mr. Converse was president of the National Tube Works at Pittsburgh.

Q. Is not Mr. Converse connected with the tube works at McKeesport?—A. I thought it was in Pittsburgh. I don't know. I think I have heard him talk about going "out to the works," so they may have been some distance from Pittsburgh.

Q. Is the Mr. Keating you are speaking of Mr. A. F. Keating?—A. Yes, sir; Mr. A. F. Keating; and the Oliver Brothers were also, I think, connected with the company, and Mr. Scott McGee.

Q. Scott McGee or Chris. McGee?—A. Chris. McGee and his brother; Scott McGee is a gentleman in New Orleans.

Q. When did you license that company?—A. I think it was in the fall of 1884.

Q. Do you know whether it is incorporated?—A. Yes, sir; that is, I have seen it named as a corporation in the bill of complaint of the Bell Company.

Q. Do you know under the laws of what State it was incorporated?—A. Pennsylvania, I think; they had a license from us for the twenty western counties of Pennsylvania.

Q. You say that suit was brought against the Western Pennsylvania Company?—A. Yes, sir.

Q. By whom?—A. By the American Bell Telephone Company.

Q. Was your company made a party to that suit?—A. No, sir.

Q. Were you in any way interested in it?—A. Yes, sir; that is, under the license granted by our company to this company the defense of that suit was entirely in our hands; and also, under a subsequent private contract, the defense of that suit was entirely under our control and management.

Q. Did you undertake the defense of it?—A. Yes, sir.

Q. When did it come on for hearing?—A. On the 6th of July last.

Q. Were you present?—A. Yes, sir.

Q. Who were the counsel for the defendant in that case?—A. Bakewell & Kerr, of Pittsburgh, were the principal counsel, and Mr. Von Briesen, of New York; there were two or three other gentlemen retained, who, however, never put in any appearance in the case.

Q. Will you name them?—A. Mr. Keasby, of Newark, N. J., and Mr. Christie, of Pittsburgh.

Q. You say it came on for hearing on the 6th of July?—A. Yes.

Q. For what purpose?—A. On the application for a preliminary injunction.

Q. To what extent did the hearing proceed?—A. The court heard Mr. Storrow for two whole days, with the exception of about fifteen minutes in the afternoon; he stopped about fifteen minutes, I think, before the usual hour of adjournment. Mr. Von Briesen, on our side, then undertook to reply, and spoke about fifteen minutes in opening the case; I think he scarcely touched upon the defense at all, except in some preliminary remarks that he made in the first fifteen minutes of the next day, when he was suddenly stopped by the court with the intimation from the court that the injunction would be granted regardless of anything he might say.

Q. And does the case so rest? There was a preliminary injunction?—A. Yes, sir. We immediately withdrew from the contest, and withdrew all our exhibits, all our models, and apparatus. The court made an order allowing the withdrawal of everything. The court-room contained a great many instruments in circuit ready to be operated in the presence of the court, but the court gave its consent to the withdrawal without prejudice.

Q. Is the case now pending?—A. No, sir. To my utter astonishment, in the hearing before Secretary Lamar here, the Bell Company, with its characteristic ingenuity, introduced a certificate from the clerk of that court that the case had been carried to final hearing, without our knowledge, without our answer, without anybody being employed or appearing on our side.

Q. And a final injunction was granted?—A. Yes, sir; on final hearing. There was no one authorized to appear for us; all our attorneys had been discharged, and the license of that company had been revoked on the 15th of August following the grant of the preliminary injunction. I have faithfully endeavored to find out who it was that acted on behalf of the National Improved Telephone Company, but have never been able to ascertain. Mr. Keasby denies that he did so, though Mr. Storrow says that he did.

Q. That he appeared on behalf of the National Improved Company?—A. Mr. Storrow says that Mr. Keasby represented the National Improved Company, though Mr. Keasby denies that he ever did anything of the kind.

Q. At that time what day did you reach Pittsburgh?—A. Oh, I had been there for some time previous to the hearing, I think—some time previous to the case coming up.

Q. Can you state the number of days before the hearing?—A. I could not tell you the exact date without being at home.

Q. Can you approximate the time?—A. I think I was there fully a week or may be two weeks before the case came up.

Q. Had you previous to that time had any conversation with any persons interested in the Pan-Electric Telephone Company?—A. Not with the Pan-Electric Company here; no, sir. I had had conversations with some members of a branch company in New Orleans; I had warned them against using certain instruments that they claimed to own in New Orleans. I knew the president of that company there, and I not only warned him individually, but I published a warning against their using the instrument that they proposed to use.

Q. Had you had any conversations looking to a combination with the Pan-Electric Telephone Company for any purpose prior to the Pittsburgh suit?—A. No, sir; I had no acquaintance with any member of that company.

Q. Was the Pan-Electric Company represented at the time of the Pittsburgh trial? The WITNESS. Were they represented?

The CHAIRMAN. Yes; was there any person present there at that trial looking after the interests of the Pan-Electric Company so far as you know?

The WITNESS. No, sir. Mr. Boyle—I believe your name is Mr. Boyle?

The CHAIRMAN. Yes, sir.

The WITNESS. I have a statement that I have made up which, if you will allow me to read, will probably give you fuller and better information than I can give by answering your questions, because I have put it all down. It is much more concise, and if I should read it, you would probably get a better idea of the whole thing.

The CHAIRMAN. So far as I am concerned I have no objection.

The WITNESS. If it contains any matter that you do not want to go in the record you can strike it out afterwards.

Mr. RANNEY. I object to that. He is testifying under oath, and I do not want anything brought in from the outside. I think he should be subjected to the usual course of proceeding, and give his testimony here under oath.

The CHAIRMAN. If he reads the statement it will be under oath, of course.

The WITNESS. To get at it you will have to know exactly what actuated me on some of these occasions, and what I did afterwards.

The CHAIRMAN. I understand the gentlemen from Massachusetts to object to your making a written statement, so we will have to proceed the best we can without it.

Mr. HALE. The committee might think otherwise; it might not agree with the gentleman from Massachusetts.

The CHAIRMAN. If it is desired, I will submit it to the committee.

Mr. HALE. It might facilitate the examination very much for the witness to read his written statement first.

The WITNESS. It is simply a statement of facts reduced to writing by me, all in proper order.

Mr. RANNEY. I think his statement should be under oath.

Mr. HALE. It would be under oath. [To the witness.] That would be under oath, would it not?

The WITNESS. Yes, sir; I have it here with me.

The CHAIRMAN. What is the wish of the committee?

The WITNESS. I put it in writing, and it contains the whole matter in very concise form.

Mr. HALE. I ask that he be allowed to read his statement under oath.

Mr. RANNEY. I object to it.

Mr. MILLARD. The reading of the statement would be entirely foreign; some of it may be very immaterial.

Mr. HALE. It has been done in the case of Senator Harris.

Mr. RANNEY. Senator Harris made his statement under oath, and he is a Senator, and his statement was accepted.

Mr. HALE. And Mr. Van Benthuyzen is a citizen, and has the same right. Of course, I expect the statement to be under oath.

The CHAIRMAN. Of course.

Mr. RANNEY. Much of it may be immaterial, and it may be in the shape of an argument, such as would not be permitted if the witness was making his oral statement under oath.

Mr. HALE. We can stop him if he gets into immaterial matter. I think we can save time by allowing him to read it.

The CHAIRMAN. The gentleman from Missouri [Mr. Hale] moves that the witness be allowed to read his written statement under his oath, as a witness.

Mr. MILLARD. (After the chairman had put the question.) I vote no, on the ground that it is a very unusual proceeding to permit a witness to read such a statement.

The CHAIRMAN. The noes seem to have it. The noes have it, and the motion is not agreed to.

Mr. EDEN. Mr. Chairman, I would like to have the rules of evidence observed henceforward, and I shall object to anything which goes outside of that.

Q. Did you meet any of the parties concerned in the Pan-Electric Company, or any of their counsel, at the time of the hearing referred to in Pittsburgh?—A. Yes, sir. I ought to go back and explain to you about the organization of that company, in order to give you the proper facts. When this company was organized, the National Improved Telephone Company—

Mr. HALE. I insist that he be confined to the question.

The CHAIRMAN. Objection is made. I may suggest to you that the organization of your company in Pittsburgh is not deemed material. It was mentioned simply as introductory to the questions that I am now about to ask. You may answer my question, whether, at the time of your Pittsburgh hearing you met any of the parties interested in the Pan-Electric Company or their counsel.

The WITNESS. After that case was over I met Colonel Young there, yes.

Q. Do you remember on what day you met him?—A. It was either the 9th or the 10th of July.

Q. Under what circumstances did you meet him?—A. After we had retired from the court and I had gone around to the office of Bakewell & Kerr, the local attorneys there, I had become satisfied that it was no use to try to get an impartial hearing or to get a hearing at all in that circuit, and I went around there to discuss the situation with Mr. Bakewell. During the conversation he incidentally mentioned that a gentleman by the name of Young had been present during the proceedings in court, and said that he had come there as a spectator and for the purpose of trying to get some of our evidence and exhibits for a case that they had in Memphis.

Mr. MILLARD. What is the date of this?

The CHAIRMAN. The 10th of July, 1885. [To the witness:] Proceed.

The WITNESS. You know I am quite deaf, Mr. Boyle. Mr. Bakewell told me that the gentleman was staying at Seventh Avenue Hotel there, and I went around there to see him. I had never seen Colonel Young before, and was totally unacquainted with him or any of the members of the Pan-Electric Company. We had a conversation, lasting, I presume, an hour or two, with reference to the subject generally. During that conversation I told Colonel Young that I thought it was almost useless to attempt, in any of the Pennsylvania courts, to get a hearing. We discussed the matter for some time. Incidentally he mentioned to me that a law had been passed at the last session of Congress requiring the Attorney-General to institute suit in the name of the Government, on presentation of sufficient proof, against the owner of any patent, by any citizen. That was very gratifying intelligence to me, and I determined in my own mind to undertake to get a suit of that character, and I think I

mentioned to Colonel Young during the conversation that I would do so. I left the next day, and went to New York on my way to Connecticut to look at a farm. At the time I left Colonel Young in Pittsburgh I had never said a word to him as to whether I would do so or not. I merely told him that that suited me exactly, and I thought I would undertake it. He told me, however, that it would be perfectly useless to do so; that Mr. Garland, the Attorney-General, was interested in his telephone company. That was news to me; I don't think I knew anything of that kind at that time, and I became a little excited at that and told Colonel Young that I could not stand anything of that kind; that Mr. Garland's private relations to a telephone company ought not to stand in the way of my rights. But at the time I left him he did not know whether I was going to undertake to have a suit brought or not, or when and where I would attempt to carry out my idea. Indeed, it was not until after I got to New York that I determined to make application. I did make application at the New York hotel on the 12th of July. It was then and there that I wrote the letter which is a matter of public record here in the book of proceedings before the Secretary of the Interior.

Q. I show you the letter dated 12th July; state whether that is the letter you refer to.—A. Yes, sir; it is.

Q. Where was that letter written?—A. It was written from the New York Hotel, in the city of New York.

Q. Had there been any understanding between yourself and Colonel Young that you would write such a letter to the Attorney-General?—A. Not a word.

Q. Had there been any understanding that you would in any way make application to the Attorney-General?—A. No, sir. I merely stated that that suited me exactly, and that I was going to undertake to get a suit.

Q. When you left Pittsburgh did Colonel Young know, from what you said, where you were going?—A. I don't think I ever said a word to him as to where I was going; I think he was under the impression that I was going back to Waukesha, where my family was.

Q. Was there anything said at that time with reference to your coming to Washington?

The WITNESS. Right then?

The CHAIRMAN. Yes.

The WITNESS. I had made an arrangement with Mr. Young with reference to the suit in Memphis and the suit in New Orleans, to join forces and consolidate for our common interests in those two suits. That was in Memphis, but there was nothing said about a Government suit, because I did not know at that time whether I would ever undertake anything of the kind or not.

Q. Was the suit in Memphis the private suit of the Pan-Electric Company against the Bell Telephone Company?—A. Yes, that was a private suit instituted by the Pan-Electric Company in Memphis against the Bell Company.

Q. You say you did make an arrangement with him in regard to that suit?—A. Yes, sir; with reference to that suit and the suit we had instituted ourselves in New Orleans against the Bell Company.

Q. Was that arrangement reduced to writing?—A. There were simply notes made about it; it was not reduced to a regular form and signed by us at all, but we merely made notes and agreed to co-operate and consolidate with reference to those two suits.

Q. Have you those notes?—A. No, sir; I have not, now.

Q. What became of them?—A. I don't recollect; they were just memoranda I made at the time.

Q. Do you know whether they are in existence?—A. No, sir; I don't recollect whether I have them at home or not.

Q. You may state the agreement made between you.

Mr. RANNEY. If it was reduced to writing, it ought to be produced.

The CHAIRMAN. He says that he does not know that the notes are in existence, and that it was not reduced to writing.

Mr. RANNEY. But he says there were notes, and it seems to me they ought to be produced.

The CHAIRMAN. They would not make the negotiation incompetent. I think it is competent to prove the agreement and to prove what occurred between the parties.

Mr. RANNEY. I will not insist upon it.

Q. You may state the agreement that was made between yourself and Colonel Young at Pittsburgh.—A. I was very much gratified to hear Colonel Young say that they had instituted suit at Memphis, because it was the first instance I had ever heard of where there was any ground for suit being brought against the Bell Company, which would place the matter before the courts on an entirely different footing from that which the cases usually sustained. In previous cases the Bell Company were the plaintiffs, and in that way always had the advantage. He said their suit was instituted for damages, and would try the question of title, &c., and it struck me that it would be a magnificent opportunity to bring the matter before the court in an entirely different

shape from what it ever had been before. We had brought a somewhat similar case in New Orleans against the Bell Company, based on the idea that the Blake transmitter was an infringement of one of our patents. The Blake transmitter had been patented in 1881, and was being used by the Bell Company. It is no doubt an infringement, in my opinion, of instruments that we had that were of a previous date. But when I came to investigate the matter I found that the Blake transmitter had been in common use in this country since 1878, three years before it was patented; and therefore the courts would be very likely to say that it was not a patent, and hence, that anybody could use it, and there was no claim against the Bell Company under that suit.

The suit mentioned by Mr. Young was such an entirely different thing, that I thought it afforded a magnificent opportunity to join in with him and prosecute that suit. So the notes of that agreement were to the effect that we would each furnish all the information, exhibits, and models that we had; that we would divide the expenses, and that each party would put their lawyers into each case. That was all. It was not at all likely that we were going to enter into a written agreement at Pittsburgh about any matter, for I had never before seen Colonel Young in my life, and he had never seen me; I just met him in the way I have described, at the Seventh Avenue Hotel, in Pittsburgh, and spent an hour or two with him there. I did not see him after that until we met here in Washington under that agreement to consolidate for the purpose of protecting our interests against these attacks made upon us.

Q. What did you do with that letter you wrote at the New York Hotel?—A. I mailed it to the Attorney-General.

Q. How long did you remain in New York?—A. I think I left New York the next day.

Q. Where did you go?—A. To Waukesha, Wis.

Q. How long did you remain there?—A. I remained there, I think, until about the 26th of July.

Q. Then where did you go?—A. In the mean time I had gotten General Garland's reply, sent to me from New York.

Q. Have you that here?—A. No, sir; I left it at home. I have a copy of it here, embodied in the written statement I had prepared, and I will read that if desired.

Mr. RANNEY. I think we ought to have the original.

The WITNESS. In the corner of the letter there is "C. C. 6921."

DEPARTMENT OF JUSTICE,
Washington, D. C., July 14, 1885.

Mr. W. VAN BENTHUYSEN,
New York Hotel, New York:

SIR: In reply to your letter of the 12th instant on the subject of instituting suit against the Bell Telephone patents, I say that the matter has been referred to the Secretary of the Interior, to whom it should have been presented originally, and before reference to this Department, the reference to be from the Department of the Interior.

Very respectfully,

A. H. GARLAND,
Attorney-General.

I have the original of that at home; I forgot all about bringing it with me.

Q. That bears date the 14th?—A. It is dated the 14th of July, 1885. Now, when I got that letter I supposed that all the officials in the Patent Office were the same as when Bell's patent was issued, and I became dissatisfied; I became alarmed at that, believing that if that letter was referred to that Department it would fall into the very hands of the people who had issued that patent, and of course they would make an adverse report on my application. Of course they never would admit that any patent had ever been issued improperly from that Department. I therefore determined to come to Washington and prevent that if I could. When Colonel Young and I were at Pittsburgh I had requested him to meet me here so as to form this consolidation, his company being all here, though at that time I did not know it, and never knew where the company was located until he told me. I thought it was located at Memphis or some place there; but he told me that all the records of the office would be here, and it would be necessary to make my arrangement with him here, and so he had agreed to come here when I came.

Q. Had you fixed a date for coming?—A. Not at that time. Oh, no; we never said a word about that. Nor did I know when I would come here, according to my recollection. I only took up the idea of coming here after I got that letter.

Q. But you say you had an understanding with him that you would come?—A. Yes, some time or other.

Q. Was there any limit? Were you to come within any certain time?—A. I always left Waukesha about September and came East, and I supposed I might meet him here at the same time.

Q. Did you say so to him?—A. No; I always told him that I would come East and would meet him here in Washington, but he was not to come until I called him, that is, until I knew when I could be in Washington.

Q. You say you left Waukesha at what time?—A. I think I left there about the 26th of July.

Q. And where did you go?—A. I came straight to Washington.

Q. Did you inform Colonel Young that you were coming?—A. Yes, I notified him and asked him to meet me here.

Q. Did you do that by letter?—A. Yes, sir.

Q. To what point was your letter addressed?—A. To Memphis.

Q. What day did you reach Washington?—A. My recollection is that I got here the 28th of July.

Q. Was there any person with you?—A. No, I came by myself; there was nobody here when I came here; but I asked Mr. Huntington to meet me here, and he did so.

Q. Who is Mr. Huntington?—A. A gentleman who lives in Greenville, Miss.

Q. Is he connected with your company?—A. Yes, sir.

Q. You say you reached here the 28th?—A. I think it was the 28th, the Ebbitt House book will show; I did not even think of looking at the book to see, but I think it was on the 28th.

Q. Did you meet Colonel Young?—A. He was not here; he arrived here one or two days after that.

Q. State what occurred between yourself and Colonel Young upon his arrival here?—A. Before Colonel Young arrived I had gone to see Mr. Garland about this matter.

Q. What day was that?—A. I think that was on the 29th or the 28th.

Q. Did any person go with you?—A. Mr. Huntington.

Q. What day did Mr. Huntington reach here?—A. That I don't recollect. I think he was here when I came; yes, I know he was, for I recollect he had arranged for my room in the hotel.

Q. Will you state what occurred when you called upon Mr. Garland? State fully.—A. I called upon Mr. Garland and started to talk about this matter. I told him that I found my letter had been referred to the Department of the Interior; and the very moment I commenced talking about it Mr. Garland said he could not have anything to do with it, would not enter into any conversation about it; that he was connected with the telephone company and was in such a position that he could not act. He treated me very politely and courteously, but was firm in saying he could not have anything to do with it. I became excited about it, for I did not think, and I do not think now, that Mr. Garland had any right to refuse to act, even if he was connected with the telephone company, and I so told him. I told everybody here that I was determined that that suit should be brought; that we had a right to it, and I should see that the Attorney-General should exercise the right which the law gave him to institute suit. I said that if he refused to act I would go to the President about it; that if he refused to act I would go to Congress about it; and that if Congress refused to act I would go to the people. I believe it is my right, and my belief has been sustained.

Q. Did you say so to Mr. Garland in your conversation with him?—A. I told him that I did not think he had any right to interpose his private relations to a telephone company against my rights or the rights of the public.

Q. What did he say to that?—A. He said he could not have anything to do with it.

Q. How long did that interview continue?—A. I don't know; it didn't last very long; fifteen or twenty minutes, I suppose.

Q. Was there any person present?—A. There may have been somebody present who was connected with the Department; I don't recollect; I know Mr. Huntington was with me. I know Mr. Garland was very determined, and I know I was very determined about it. On the first day that I went to see Mr. Garland I was still under the impression that that law had been passed. The next day, before Mr. Young got here, I found that the law had not been passed.

Q. We will come to that. That, you say, was on the 29th?—A. The 28th or the 29th.

Q. Was there anything said on that day about the withdrawal of this letter of yours which had been filed in the Interior Department?—A. Not a word. I told Mr. Garland that day that I was going to call upon him the next day. I was waiting for Mr. Von Briesen, my attorney, to get here; he was not here that day.

Q. Did you call the next day?—A. Yes, sir.

Q. Who was with you at that time?—A. Mr. Von Briesen, Mr. Huntington, Colonel Gantt, of Memphis, and we got Colonel Young to go along and introduce us, because I was a perfect stranger, and Mr. Garland and Mr. Gantt were strangers, I understood, and Mr. Von Briesen was a stranger.

Q. As I understand you, you came here on the 28th?—A. I think it was the 28th.

Q. And called on Mr. Garland the following day?—A. I think it was on the same day,

the 28th, I am not certain; it was either the 28th or 29th. The next day after that Mr. Von Briesen came here, and then Mr. Von Briesen ascertained that the bill that I supposed had passed when I wrote that letter had not passed and become a law; that it had passed the House but had disappeared in the Senate. So when he called the next day we did not call for the purpose of asking for a suit under that law, for as soon as Mr. Von Briesen got here he advised me that we did not need any statute; that there was law enough on the subject already.

Q. As I understand you, Colonel Young had arrived before this second call?—A. Oh, yes, before the second call he had arrived.

Q. Do you know what day he came?—A. I think he got here on the night of the 30th or 31st. When I say we called the next day, Mr. Boyle, it was not the next day that we called; I think it was the second day; I think we called on the 30th.

Q. You say that at your first interview with the Attorney-General you informed him that you would call again?—A. On the arrival of my attorney, yes, sir.

Q. Did you state to him for what purpose you would call?—A. For the same purpose.

Q. What reply did he make to that suggestion?—A. He replied that he would not have anything to do with the matter. In this mean time I had ascertained, through Mr. Von Briesen, according to my recollection, that the law I supposed had passed had not passed, and Mr. Von Briesen's advice to me then was that there was no necessity for any law on the subject; that proceedings of that kind did not require any special statute, and that my proper proceeding in the matter would be to lay the facts before some district attorney in some district, and have that district attorney, if he was satisfied with the proofs laid before him, make the application to the Department. So the next day when we called Mr. Von Briesen made this statement to the Attorney-General, and told him that we were determined to make an application in that form. Our object that day was to get General Garland to say that he would promptly act upon the application of some district attorney, if we succeeded in getting one to send it in, without referring the matter to the Department of the Interior, because we already knew what the action of the Interior Department had been; it was a matter of record. If there was no law for such a reference, and there was no necessity for such reference, we did not want to be delayed for months from going on when we were entitled to it at once. The result of that interview was that Mr. Garland still very promptly stated that he would not have anything to do with the matter.

Q. Did you ask him whether he would dispose of the matter if application should be made to him without reference to the Department of the Interior?—A. That was what we called there for—to ask him if the Department of Justice would not give prompt assent to our application if we succeeded in getting some district attorney to make the application.

Q. What did he say to that?—A. He positively refused. He said he would not have anything to do with the matter; that he had told us before that the situation was such that he could not and would not have anything to do with the matter.

Q. Did you at any time, in either of these interviews, get more than that from the Attorney-General?—A. Nothing whatever. He spoke in a very peremptory manner. He was very determined about it.

Q. Can you give the date of this second interview?—A. That must have been either the 30th or the 31st of July. I said before that it was the day after my arrival, on the 28th, but I think it was the 30th or 31st.

Q. I note that this letter of yours of the 12th of July was withdrawn from the Interior Department.—A. Yes, sir.

Q. Have you that letter?—A. No, sir; Mr. Montgomery has it.

Q. You withdrew it?—A. Yes, sir.

Q. How did it come in the Department again?—A. Mr. Von Briesen and I went to Mr. Montgomery and got it. Now I have a very indistinct recollection that during the conversation with Mr. Garland he was asked whether he had any objection to my having back that letter, but that is a very indistinct recollection. My impression is that we went to Mr. Montgomery and told him we wanted that letter back.

Q. Did you get it?—A. Yes, sir.

Q. And what did you do with it?—A. Took it home with me.

Q. Where is it now?—A. In the hands of Mr. Montgomery.

Q. Did you return it?—A. About two months ago he asked me for it, and said he ought never to have given it up, that he did it without thinking at the time. I think during that conversation with Mr. Garland Mr. Von Briesen asked Mr. Garland if he had any objection to me having that letter back. I did not want that letter to lie in the Department of the Interior, because I was afraid it would fall into the hands of people who would be interested in the Bell patent, or who had been interested in its issue, and I was satisfied that they would make some adverse report upon it and stop my proceedings, and so we asked for it explicitly for that reason. I think I stated there that I withdrew it because the law had not been passed, but that was only part of my reason.

Q. Did you go personally to the Commissioner of Patents and withdraw that letter?—A. I went as far as the door; I did not go in with Mr. Von Briesen. Mr. Von Briesen got the letter from Mr. Montgomery.

Q. I note this, among other things, as having been indorsed on your letter: "On request of the writer, and on assurance that it is in accordance with the views of the Attorney-General, this paper is returned to such writer without report." Dated July 31, 1885, and signed by M. V. Montgomery, Commissioner of Patents.—A. That will fix the day when we went to General Garland, because we went from General Garland to the Patent Office and got that letter. So it must have been done that day.

Q. Will you state as fully as you can what was said by the Attorney-General with reference to the withdrawal of that letter?—A. So far as I can recollect Mr. Von Briesen did nearly all the talking, though there was not much talking done; we were not there very long. I think Mr. Von Briesen asked General Garland if he had any objection to our having that letter back, and he said no. That was all that was ever said on the subject, so far as my memory goes. Mr. Garland never ordered the letter withdrawn. I have seen it stated here that he ordered it withdrawn. It was withdrawn by request, but not by order of Mr. Garland; there was no such thing; Mr. Garland did not know anything about it except just what I tell you, nor have anything to do with it except just what I tell you.

Q. You say you went from the Department of Justice to the Interior Department?—A. Yes, sir.

Q. Directly?—A. I think we went directly there.

Q. Did you see the Commissioner of Patents personally?—A. Not when he handed that letter. No, sir; Mr. Von Briesen got the letter from him.

Q. Did you see the Commissioner of Patents personally at any time?—A. Mr. Von Briesen then came out and handed it to me, and I put it into my pocket and took it home.

Q. Were you in the same room with the Commissioner of Patents when that was done?—A. No, sir. I was attending to some other matters; I don't recollect now what; I think I was getting some copies of patents.

Q. Did you at any time say to the Commissioner of Patents that you had Mr. Garland's consent to the withdrawal of that letter?—A. I did not, no, sir. Wait now, Mr. Boyle. Long afterwards, at the Department of the Interior, I told Mr. Montgomery. Yes, because he had written to get the letter back; I brought it back with me when I came on here to attend the hearing before Secretary Lamar.

Q. What did you say at that time with reference to the consent of Mr. Garland?—A. Mr. Montgomery said it was part of the papers of the Department, and probably he ought not to have given it to me, and he so stated publicly at the hearing. I said to him that Mr. Garland did not object to my having it, and I wanted it back because I was still anxious about it falling into the hands of somebody who would make an adverse report on it.

Q. Was Colonel Young still present in Mr. Garland's office when this conversation occurred between Mr. Garland and Mr. Von Briesen with respect to the withdrawal of the letter?—A. Yes, sir.

Q. Can you remember what Mr. Garland said—his language or the substance of it?

The WITNESS. About the letter?

The CHAIRMAN. About the withdrawal.

The WITNESS. So far as I recollect, if he said anything, he simply said the word "no;" that he had no objection to the letter being withdrawn. I was a little excited at that time and may not be absolutely correct, but I am satisfied of this, that all that was said was no more than the mere word "no" in answer to the inquiry whether he had any objection to giving back that letter.

Q. Have you stated as fully as you desire your reason for the withdrawal of the letter?—A. My reasons were twofold; first, there was no such law; secondly, that I was afraid it would fall into the hands of some of the people in the Patent Office who had passed Bell's patent to issue, and necessarily they would make an adverse report on that application of mine for a suit.

Mr. HANBACK. "No such law;" what does he mean by that?

The CHAIRMAN. A law supposed to have been passed by Congress.

Q. In your view what harm could follow if this letter did fall into the hands of some of those people?—A. I did not suppose, if they had passed that patent to issue, that they would admit that there was any impropriety in issuing it. I alleged in that letter that that patent was improvidently issued; that it ought never to have been issued; that Mr. Bell never invented the telephone.

Q. Did you at the time of the withdrawal of the letter intend to pursue your application for a suit?—A. I had informed everybody that I was going to make my presentation to some district attorney and get him to apply. That was in accordance with the very advice I had received.

Q. What harm would follow from leaving the original application in the Department, then, if you intended to make another?—A. I think a great deal of harm would

have followed. It would have forestalled me entirely if somebody in the Patent Office had issued an opinion that there was no ground for any such suit. I was necessarily very suspicious, you understand. I had been told, and I am informed, that there are people in the Patent Office who are in the interest of the Bell Company. I do not hesitate to say so. I do not know whether they are improperly in the interest of the Bell Company or not, but they are certainly in the interest of the Bell Company.

Q. Did you withdraw it with a view of making another application through a district attorney?—A. That was part of my proceeding, yes, sir.

Q. Had there been any conversation at that time between you and Colonel Young with reference to the making of another application?—A. Not a word more than I tell you occurred just at that time—the advice given me by Mr. Von Briesen and the conversation that took place in the Attorney-General's office. You must understand that still at that time I knew nobody connected with the Pan-Electric Company except Colonel Young.

Q. Yes; I will come to that; I note another indorsement on that letter, as printed here:

“NEW ORLEANS, *October 23, 1885.*

“Finding that the law referred to in the writer's letter to General Garland had not been adopted, and being informed that the bill had been stolen from the Senate after being adopted in the House of Representatives, and being advised by my attorney to pursue another course, consent to the withdrawal of the letter was obtained and the letter was withdrawn by A. Von Briesen, esq., my attorney.”

On what occasion did you make that indorsement?—A. The date you see, October 23. At the time I made that indorsement I intended to send it by mail, but as I was coming on here I brought it myself and handed it to Mr. Montgomery in person.

Q. Had you, at that time, received a request for its return?—A. Yes, sir.

Q. Did you make the indorsement before or after receiving that request?—A. After.

Q. You say you had been informed that the bill had been stolen from the Senate?—A. That is what I was informed here, that it had disappeared from the Senate, and some said it was stolen from the Senate.

Q. Do you know anybody who told you that?—A. No, sir; my first recollection about that is connected with Mr. Von Briesen; I think he was the first one who told me. I never saw the bill, and did not know anything whatever about it, except what Colonel Young had told me in Pittsburgh.

Q. Did you yourself make any investigation to ascertain whether the bill had become a law?—A. No, sir.

Q. Did you call on Mr. Smith, the journal clerk of the House, in relation to the matter?—A. No, sir.

Q. Did Colonel Young know that you were withdrawing this letter from the Department?—A. I don't think he ever did.

Q. Did he go with you from the Attorney-General's office to the Interior Department?—A. No, sir.

Q. Who did go with you?—A. Mr. Von Briesen.

Q. Any other person?—A. No, sir; I don't think Mr. Young ever did know anything about it except what you see there, and that I brought it back.

Q. Where did you separate from Mr. Young after you left the Department of Justice?—A. I think we separated at the door.

Q. Did he know you were going to the Interior Department?—A. No, sir; I don't think he did.

Q. You say it is your belief that that was on the 31st of July?—A. Yes, sir; my belief is that it was withdrawn on the 31st of July.

Q. Did you have any conversation with Colonel Young about that?—A. Oh, yes, some conversation.

Q. I mean during that visit here.

The WITNESS. About my visit to the Interior Department? No.

The CHAIRMAN. No; in regard to the bringing of a Government suit.

The WITNESS. No, sir; not at that time.

Q. Did you have any conversation with Colonel Young in the latter part of July or early in August in relation to combining your companies for the purpose of bringing suit?—A. Up to the time that you are speaking of now, only in respect to the two suits, one in Memphis and one in New Orleans.

Q. Did you make known to Colonel Young at any time during your stay in Washington, the last of July and early in August, your intention to bring a Government suit or have one brought through a district attorney?—A. I left here, according to my recollection, about 9 o'clock on the morning of the 4th; I took the limited express and went back to Waukesha, and on the last day that I was here, my recollection is, that I drew a lead-pencil memorandum embodying the verbal agreement that

we had made with reference to the suit in Memphis and the one in New Orleans, and I also stipulated in that memorandum about what my ideas were with reference to instituting a Government suit.

Q. Have you that memorandum?—A. I have.

Q. Will you produce it?—A. Yes, sir. Now, my recollection is that I sent this agreement that I speak of to Colonel Young by a colored boy that he had in his employ; that I drew it up in lead-pencil and sent it to him. I never received it back—that is, I never received a copy of it—until, I think it was, the middle of September; it may have been the middle of August. But up to the time that I handed him that agreement not a word had been said with reference to a combination between us in regard to a Government suit. My lead-pencil copy was dated on the 4th day of August, because the morning of that day was the last I was here in Washington. This is the agreement drawn up by me and sent, as I have stated, to Colonel Young. It is dated on the 4th of August, and it was returned to me about the middle of September, I think. That was after the Government suit was instituted.

(The witness handed the paper to the chairman.)

The WITNESS. Had you not better let me read that?

Mr. RANNEY. Let me look at it first, please.

(The witness, apparently not hearing Mr. Ranney's request, reads as follows:)

"This agreement, made and entered into this day, at the city of Washington, in the District of Columbia, by and between the National Improved Telephone Company, a body corporate, incorporated under the laws of the State of Louisiana, party of the first part, and the Pan-Electric Telephone Company, a body corporate, incorporated under the laws of the State of Tennessee, party of the second part, witnesseth:

"That whereas each of said parties is the owner, respectively, of certain valuable telephone inventions and improvements, in respect to which there are now pending certain suits between the said parties and the American Bell Telephone Company in the United States court at New Orleans, in the State of Louisiana, and at Memphis, in the State of Tennessee;

"And whereas the parties hereto, the said National Improved Telephone Company and the said Pan-Electric Telephone Company, propose to commence proceedings in the name of the United States against the American Bell Telephone Company, provided they can obtain the assent of the Attorney-General of the United States to do so:

"Now, therefore, it is hereby stipulated and agreed, by and between the parties hereto, that in the further conduct of the suits, now pending as aforesaid, they will render such mutual aid and assistance as may be convenient and necessary to protect and secure their common interest;

"And it is further stipulated and agreed that, should they succeed in having a suit brought by or in the name of the Government, the lawyers of each party shall be entered as counsel of record in said suit, and every possible assistance shall be given by the contracting parties to carry it to a successful conclusion;

"With this further express agreement and understanding, that there shall be no settlement or compromise of the same by either party in interest without a full discussion thereof by the members of both companies, and an agreement upon such terms of settlement or compromise as may seem just and fair to both.

"In witness whereof the proper officers of said companies hereto attach their hands and seals this 4th day of August, A. D. 1885.

"ISHAM G. HARRIS,

"Vice-President Pan. E. T. Co., the President being absent.

"The NATIONAL IMPROVED TELEPHONE COMPANY OF LA.,

"By W. VAN BENTHUYSEN, President."

Q. You have stated that you wrote this agreement in pencil?—A. Yes, sir.

Q. And sent that to Colonel Young?—A. Yes, sir.

Q. Had there been any previous conversation or any previous understanding between yourself and Colonel Young, with reference to the making of such an agreement?—A. I don't think there ever had been; I have no recollection of ever having said a word to him on the subject, except so far as related to the suit at Memphis and the suit at New Orleans.

Q. Did you send him any letter or make any explanation to him at the time of sending him this pencil draft?—A. No, sir; I think I just sent it by the young colored man—that is my recollection, though I may have handed it to him; I don't know; but my recollection is that I sent it by the mulatto boy and told him that I wanted him to tell Colonel Young to communicate with me, to fix it up and send it to me.

Q. Did you see Colonel Young after sending it to him?—A. No, sir; I left Washington that morning at 9 o'clock, I think.

Q. Were there any instructions as to where he should send it?—A. He knew where I was going when I left Washington.

Q. Where were you going?—A. To Waukesha. For a number of years I have spent my summers at the Fountain Hotel, in Waukesha, and he knew that at that time; he knew I came from there.

Q. Have you any recollection whether you had any written communication with Colonel Young about it?—A. I am confident I had not.

Q. Did you ever receive the pencil memorandum from Colonel Young?—A. I think when this paper came back that was sent to me, but I never kept that, because this was an exact copy of it.

Q. You say your impression is that you did not receive this agreement until the middle of September?—A. My impression is that I received it in Chicago in September.

Q. Had you seen Colonel Young in the mean time?—A. Well, no, I had not. I saw him later than that; he came to New Orleans after that, and I saw him there; I think that was late in September or early in October.

Q. Was there not another agreement made between yourself and Colonel Young?—A. There was an agreement drawn up in Memphis, but that was never completed. I saw Colonel Young in Pittsburgh, but that was about the 10th of July. I then saw Colonel Young here from the 30th of July to the 4th of August, and then I saw Colonel Young in Memphis. Yes, I did see him before September; I saw him in Memphis from the 19th until about the 28th of August; then I saw him late in September.

Q. When you saw him in Memphis from the 19th to the 28th of August was there anything said between you respecting this agreement that you had left with him?—

A. My recollection is that it had not been signed at that time; I don't recollect positively; he did not sign it, and he had to find Mr. Harris, I suppose, from seeing Mr. Harris's signature to it; I had supposed that General Joe Johnston was going to sign it, but when it was returned to me it had Harris's signature.

Q. Did you and Colonel Young have any conversation in Memphis at the time about the agreement?—A. No, sir; I don't think we did; our time was taken up there in getting up this application to the district attorney, Judge McCorry.

Q. You think you did not mention this agreement at all?—A. I don't recollect doing so; no, sir. I got the impression on my mind that it was sent and had not been signed, but where I got it, I don't recollect; I don't recollect of any conversation I had with Colonel Young on that subject at that time.

Q. I understand you to say that there was a supplemental agreement drawn up?—A. Yes, sir; that was drawn up the latter part of August. I believe you have that here.

The CHAIRMAN. Yes; we have a copy of it.

The WITNESS. That was never finished; never completed.

Q. (Handing paper to witness.) I show you the supplemental agreement, dated the 27th of August, 1885, already in evidence. State whether that is the supplemental agreement referred to, and whether it is not executed.—A. Yes, sir; I presume that is it.

Q. Is that your signature, and did you sign it?—A. Yes, sir; that is my signature. I sign very badly sometimes. I have got a great deal of trouble in my right arm, and sometimes I wouldn't recognize my own signature, scarcely.

Q. Do you note that the paper bears date the 27th of August?—A. Yes, sir.

Q. In view of that fact, what do you say about your previous statement that you did not receive the original agreement until the middle of September?—A. I don't think I did. I may have received it the middle of August, but I don't think I received it until September. I think I received it while I was at the Grand Pacific in Chicago.

Q. And that, you say, was in September?—A. That was in September.

Q. You think, then, you made this supplemental agreement, referring to the original agreement, the latter bearing date on the 4th of August and this bearing date on the 7th of August—you think you made the supplemental agreement referring to the original agreement, before the original had been delivered to you?—A. That is my impression; yes, sir. This was drawn up by me and handed to Colonel Young.

Q. Where?—A. In Memphis. You understand it is not in my handwriting, but I mean the draft of that was drawn up by me and given to Colonel Young.

Q. You are referring to the last agreement I showed you; the supplemental agreement?—A. Yes, sir. My recollection is I told Colonel Young at the time that I did not know anybody in the Pan-Electric Company except himself—(then I had become acquainted with Senator Harris in the mean time; that is, I was introduced to him here early in August. I was just introduced to him, and that was all)—but that I didn't know anybody connected with the company, either by reputation or otherwise, and that the probability was the expense in this suit would be pretty large, fifteen or twenty thousand dollars, and I looked to him to see that the money was provided for his share of expense. That agreement was never completed. He took that agreement—

By Mr. HALL:

Q. Which one do you speak of; the supplemental or the original agreement?—A. The supplemental. That was never completed. I have not considered that either agreement, except the original, was of any value—except the first part of the original—because all our plans under those agreements went for naught, because we did not get the suit as we supposed we would. It was taken entirely out of our hands, and therefore the thing ended there.

By the CHAIRMAN:

Q. You stated, when first asked as to the supplemental agreement, that it had never been signed, if I recollect.—A. It was never carried out. It never was signed and never filled up.

Q. It was signed by you?—A. Yes, sir.

Q. Was it ever signed by the other party?—A. I have an indistinct recollection; there were three or four copies, and perhaps Colonel Young signed one of them, but I don't know.

Q. Have you one copy in your possession?—A. No, sir; I have none. I never kept a copy, because I did not consider it of any value.

Q. Why not?—A. The Government suit was entirely taken out of our hands.

Q. It had not been done at the time this agreement was made in Memphis?—A. Well, but I never got it back.

Q. Where did you sign this supplemental agreement?—A. I signed it in Memphis.

Q. You say you wrote the draft in Memphis. Is this paper in your handwriting?—A. No, sir; I gave the draft of that to Mr. Young, and he had them written off and brought one to me, and I think I signed it. I don't know what became of the others.

Q. And that was all done in Memphis?—A. Yes, sir.

Q. Did you never have a copy of it?—A. I was under the impression I had a copy signed by Mr. Young, but I never kept the copy, because, as I told you, everything had fallen through except so far as related to the Memphis suit. Our suit in New Orleans had fallen through; our arrangement about the Government suit had fallen through, and there was nothing left under it except the arrangement with reference to the Memphis suit.

Q. What is your recollection as to what became of the copy you had or you thought you had?—A. I think I destroyed it. I don't think I kept it.

Q. Where were you when you signed the original agreement?—A. I was in—well, wherever it was sent to me.

Q. Was there more than one copy sent to you?—A. I think there were two copies sent to me, and I signed one and returned it.

Q. Do you know where you sent it?—A. I think I sent it to Mr. Young, in Memphis.

Q. That, then, if your recollection is correct, was after the writing of the supplemental agreement in Memphis?—A. Yes, sir; I never paid much attention to those agreements. I never even put them before the board. They were never made a matter of record in the office. You see, circumstances had occurred—my own suit in New Orleans had become a failure.

Q. At what date?—A. Oh, about that time. We realized that there was no use carrying on that suit, from the fact that the instrument had been in use three years before it was ever patented.

Q. Did you discontinue your suits?—A. I am now talking about the matter in Memphis, you understand. The Memphis suit, as I understood, was still going on, and I attached a great deal of importance to that; but I did not attach any importance to our suit in New Orleans. Then, after the first suit was instituted in Memphis, which, you recollect, was instituted about the 9th of September—

Q. That was the first Government suit?—A. That was the first Government suit; yes, sir. I attached very little importance to these agreements, because I saw that the whole thing had passed out of our hands and that we would not have the conduct of those suits, and therefore the agreements amounted to nothing.

Q. What disposition was made of your New Orleans suit?—A. Nothing was ever done with it.

Q. Is it standing open yet?—A. Yes, sir. I think they made a reply, and that is all. It never went any further.

Q. You have stated you were in Memphis from the 19th of August until the latter part of August. Do you remember the date?—A. I think I got there about the 19th, and I staid there until about the 26th or 29th; somewhere along there. I was there about ten days.

Q. Did you go to Memphis in pursuance of any agreement with Colonel Young, or with any other person connected with the Pan-Electric Company?—A. I went there with this object: After we left the Attorney-General's Office here we consulted for a day or two as to what we should do, and under Mr. Briesen's advice I determined to institute proceedings before some district attorney in some district. I knew I could not do so in New Orleans because Mr. Leonard, the district attorney—his time

had expired and there had been no new appointment; and our judges in New Orleans do not sit in the summer; they were not there; they both go away, and don't come back until fall, usually. We discussed other points, I think Saint Louis, Chicago, Kansas City, and finally hit on Memphis. I had made my first application to Mr. Garland that the suit should be brought in Memphis, for that same reason. My presence in Memphis was in pursuance of getting up the petition to Judge McCorry. I went there for that purpose.

Q. Did you go there in pursuance of any arrangement with Colonel Young?—A. Not in pursuance of any arrangement made when we separated here. It was in pursuance of an arrangement afterwards. I think I wrote him I would go to Memphis and I would make my appeal from there.

Q. Was it determined before you separated here that the suit should be brought in Memphis?—A. No, sir; I don't think it was, any more than was intimated in my first letter to General Garland. I had always been in favor of Memphis. It was nearer my home than any place I could get, and I couldn't do it in New Orleans.

Q. You have stated that after your visit to the Attorney-General you consulted for a day or two?—A. Yes, sir; but we were only consulting as to the plan. Our idea—my idea—at first was to try and send in a petition from two or three different points.

Q. With whom did you consult?—A. Mr. Briesen.

Q. Any other person?—A. Not Mr. Briesen altogether. I consulted with Mr. Gantt who was the attorney of the Memphis case.

Q. Did you consult with Colonel Young?—A. No, sir; I don't think I did. Mr. Young was always of the impression that it was labor thrown away to attempt to get a suit in that way.

Q. You say you consulted with Mr. Gantt among others?—A. Mr. Gantt and Mr. Briesen.

Q. You may state whether it was concluded between yourself, Mr. Gantt, and Mr. Briesen, or understood before you separated here in Washington, that you should go to Memphis and make the application there?—A. I don't think it was determined upon at that time; no, sir.

Q. When was it determined upon that Memphis should be the point for attack?—A. It was some time later than that.

Q. Where were you?—A. I think I was in Waukesha.

Q. Did you have any of these parties there to consult with you at Waukesha?—A. No, sir.

Q. Did you select Memphis?—A. I selected Memphis, yes, sir; after this consultation here. I made up my mind, and I think I have some letters—it strikes me I had some correspondence with Mr. Seixas on the subject before we finally determined on Memphis.

Q. You say several points were named while you were here?—A. Yes, sir; we were just discussing certain points.

Q. What other points were named?—A. I think Kansas City was mentioned, Baltimore was mentioned, and Chicago and Saint Louis, I think.

Q. Had you come to any conclusion at the time of separating as to what point you would select?—A. No, sir; I don't think there was anything concluded until after I corresponded with Mr. Seixas down in New Orleans about it. He was then in charge of the company at New Orleans. I was always desirous of having it at home, if I could get it there, and I was still under the impression that there might something turn up there by which we could get it there. My impression is I wrote to ask whether we could not find Judge Billings; whether we couldn't institute—that is, if we could get a district attorney, get Mr. Leonard to act, although his time of service was out and there was nobody appointed in his place, we could probably find one of the judges, if any proceedings in court became necessary; but it was finally determined that we should bring the suit—make the attempt—from Memphis.

Q. As the Attorney-General had absolutely refused to take any part in the matter, how did you expect to have the suit directed from the Department of Justice?—A. Well, I determined to put the matter at issue. I determined to force it in some way or other. I determined to come on here if it was necessary, and if General Garland had refused when it was presented to him—at that time I did not know that anybody acted in his place—I intended to go to Mr. Cleveland about it; and if I could not get any satisfaction from Mr. Cleveland, I was going to Congress, and I thought I would succeed somewhere. I know that pretty determined efforts sometimes succeed. I knew that we had right on our side and I knew that we had sufficient evidence to warrant a suit of that kind, and I was determined to press it by every means in my power. I am determined now to press it, if I can, by every means in my power, and if there is anything on top of the earth that I can do, that suit shall be brought to an honorable, honest determination.

Q. When you went to Memphis about the 19th of August what was done towards the making of this application?—A. There the facts were all laid before Judge McCorry. I had ordered a large number of models and instruments down there from

Pittsburgh, and had put them up in circuit and worked them for Judge McCorry. All the documents and all the evidence was gotten up there and placed before Judge McCorry.

Q. Who was connected with you in making these charges?—A. Mr. Beckwith, our New Orleans attorney, and Mr. Gantt got it up. Mr. Beckwith, I think, drew up part of the papers, and Mr. Gantt drew up part. We drew up all the papers in regular form, and put them together in regular form, so that Mr. McCorry could go over them and see everything. We had a very large record. I think in this document here (the Interior Department record) is a list of what we sent to Judge McCorry. I think there is a list in that book. We made an exhibit of the Van der Weyde and Reis instruments, and put them in operation for him. Judge McCorry took one end of the line and I took the other, and we operated them.

Q. Did Colonel Young aid you in preparing the application?—A. Colonel Young was in and out there at different times. I don't think Colonel Young took any active part in it; I think he refused to do so. He declined to sign the application.

Q. Did you request him to sign the application?—A. I think I did.

Q. You speak of the application to McCorry?—A. Yes, sir.

Q. Did you see McCorry at Memphis or Jackson?—A. I saw him at Memphis, sir.

Q. Does he reside there?—A. I don't know.

Q. Did you sign the application?—A. Yes, sir.

Q. The application to the Attorney-General?—A. The application to Judge McCorry.

Q. Do you remember what day you left Memphis?—A. No, sir; I don't recollect; but I presume it was about the 28th or 29th of August.

Q. Had you any knowledge at that time of the Attorney-General's intention to be absent from Washington?—A. Not the slightest; I never dreamed of such a thing.

Q. Will you state what arrangement was made, if any, for sending the application to Washington?—A. It took two or three days, according to my recollection, to draw up—it took several days, I don't remember how many, to get all the facts together, to get all this evidence together, and to draw up this application which is a part of that printed record; and it was determined that the application should not be signed by any companies at all; that it should be signed by citizens; and I understood from Colonel Gantt that we could get a large number of signatures there in Memphis to it. But we had been delayed so long and there was so much worry and trouble over the thing, and when we got ready it was late in the day, according to my recollection, and there were just four of us signed it, and then it was sent right off to Judge McCorry, who at that time was at Jackson, Tenn.

Q. Was there any arrangement with reference to the sending of the application to Washington?—A. Then I got Mr. Huntington to take this application and go to Jackson, Tenn., and present it to Judge McCorry.

Q. You had seen Judge McCorry before that?—A. Yes, sir; I had operated the instruments for him. He came to Memphis, as I understood. Of course I did not know where he lived at that time, but he came to where we were, and I operated the instruments for him.

Q. Had he agreed that he would make the application to the Attorney-General?

The WITNESS. Then?

The CHAIRMAN. Yes.

The WITNESS. No, sir; I never heard of it.

Q. Had he made such an agreement before you sent the written application to him by Mr. Huntington?—A. I never had a moment's conversation with Judge McCorry, except about the instruments. I never heard of any such agreement.

Q. Did I understand you that at the time of sending the written application to Judge McCorry you had no assurance from him that it would be granted?—A. Not the slightest; no, sir.

Q. How long did you remain in Memphis after making the application to him?—A. I don't think I remained there more than a day or two.

Q. Did you know before leaving Memphis that Judge McCorry would make application to the Department of Justice?

The WITNESS. That he would make the application?

The CHAIRMAN. Yes.

The WITNESS. No, sir; I felt satisfied he would be obliged to do so; but I never had any assurance of that.

Q. Did you have any knowledge before leaving Memphis that the application would be made to the Department of Justice?

The WITNESS. By Judge McCorry?

The CHAIRMAN. Yes.

The WITNESS. No, sir.

Q. Was there any arrangement made between you and Colonel Young or Colonel Gantt in relation to coming to Washington in connection with the application?—A. Mr. Huntington came on here to Washington.

Q. Did you know he was coming?—A. Yes, sir; he was coming on here North. He was staying at that time at the New York Hotel, for two or three months, and he was coming back to the hotel, although his residence is in Greenville, Miss.

Q. For what purpose was he coming to Washington?—A. I understood he was going to stop here in Washington, and see what became of the application, if it came on. We felt perfectly satisfied—I felt perfectly satisfied from the evidence that we collated there that Judge McCorry certainly could not or would not refuse to make this application, because there was a *prima facie* case made out; and as I understood from the advice given to me, there could not be a refusal on such papers as those. But so far as an understanding is concerned, I never heard of such a thing.

Q. Was there any arrangement or understanding that Colonel Young should come to Washington?—A. No, sir; I don't recollect anything of the sort. It is only here lately that I recollected Colonel Young did come on at that time. He made no arrangement with me to come on.

Q. Had you any assurance of any kind that he would come?—A. No, sir; I don't recollect that we ever said anything about it. I afterwards learned he came on to Washington, but I don't think I knew at that time he was coming. I knew Huntington was coming on.

Q. Where did you go from Memphis?—A. Back to Waukesha.

Q. And remained there how long?—A. I think I remained there until the 9th or 10th of September. It was the 10th or 11th, may be.

Q. Had you learned before leaving Waukesha that the suit had been ordered by the Department of Justice?—A. I had.

Q. By what means?—A. I received a telegraphic dispatch from Mr. Beckwith.

Q. Where was he?—A. He was at Memphis.

Q. Had you information from any other quarter that the suit had been brought?—A. Mr. Huntington, I think, telegraphed me from Washington that Mr. Somebody here in the Department of Justice had ordered the suit.

Q. Had you any word from Colonel Young?—A. I don't think I had; no, sir. My recollection about that is rather definite, for this reason: When I got the information that a bill had been ordered filed or the suit had been instituted, the editor of the Inter-Ocean was at the hotel, and a gentleman, representing the Chicago Tribune. When I got that dispatch I told them about it; that the suit had been ordered or the bill had been filed; I believe that was it. That was about the 10th of September. I received a telegraphic dispatch from Mr. Beckwith that the bill had been filed by him. The next morning I looked in the papers and I found no reference to it whatever. I thought that was very strange, and I thought they would think, probably, I had led them astray about the matter. It seems they did become a little alarmed about it. Mr. Busby, the editor of the Inter-Ocean, had, I suppose, telegraphed down to his paper, and he had a notice of it in there, which notice came from me; but there were no press dispatches; no Associated Press dispatches. I was very much annoyed, and I telegraphed down to find out what was the matter, and I received a message back that all the messages with reference to that had been suppressed by the Associated Press at Memphis. The next morning, the 11th, I bought the Chicago Tribune, and I found a very elaborate description of the bill in a special dispatch from Memphis, and then, of course, I felt much better, as I knew that they realized what I had told them was the truth about the matter. That I think was the morning of the 11th. I mailed the first paper I bought down home to New Orleans. I left Waukesha, and when I got to Milwaukee I bought another copy of the Tribune, and I could not find that long account of the Memphis suit—about the suit being instituted in Memphis. When I got to Chicago I went to the Tribune office to ascertain how such a thing could occur—how I could get one copy of that morning's paper with this notice of it and the other copy had no notice; it had disappeared. Well, the only explanation that I ever received about the matter was, that the first edition went off on the early train, and that sometimes other matter came in that was important, and they would take out one thing and put in the other; and for that reason the matter was rather definitely fixed upon my mind.

Q. You say that was on the 11th of September?—A. I think that was on the morning of the 11th of September.

Q. And this article gave an account of the filing of the bill?—A. Yes, sir; it gave a very detailed account of the different features of the bill, and an account of the bill having been filed down there.

Q. Do you know who prepared that bill?—A. Yes, sir; Mr. Beckwith.

Q. Where?—A. In New Orleans.

Q. When?—A. Of course I don't know when he did it, but my recollection is that the suit was ordered about the 2d, and it was filed about the 9th or the 10th or somewhere along there.

Q. Was any part of the bill prepared while you were in Memphis?—A. That I do not recollect; no, sir; I do not think so.

Q. You state that Mr. Beckwith prepared the bill. How do you know that fact?—
A. I heard that from home, and I understood from him that he prepared the bill; I was not there; I had left and gone home. He was acting for us and was instructed to do so.

Q. Have you any knowledge of the preparation of the bill, then, except from what you heard as to Mr. Beckwith's preparing it?—A. No, sir.

Q. Had you heard anything in regard to the preparation of the bill before you knew that the suit had been ordered?—A. Not the bill that was filed; no, sir. There was this that I knew before: I will tell you what I know about this. Mr. Von Briesen's views about this suit were different from those of anybody else that I had conversed with. Mr. Von Briesen maintained that there was no special statute required; he believed that service could be found anywhere wherever you could find the instruments in use. I think the other gentlemen, in talking the matter over casually, were of the opinion that whenever a suit was filed against the Bell Company it would have to be done in Boston. So I had asked Mr. Von Briesen to send out his views about what a bill would be if filed under those circumstances. But there was no bill drawn up by Mr. Von Briesen or anybody else, except Mr. Beckwith, that was filed in that suit.

Q. Did Mr. Von Briesen send the draft of a bill to you?—A. He did not send it to me; he sent it to our people in New Orleans. It was not the draft of a bill, I understand. I never saw what he did send, but I understood that he sent them his views on the subject.

Q. Were you in Washington at the time of the hearing before the Secretary of the Interior?—A. I was.

Q. It has been stated here that a second edition of this record which I hold in my hand, the record of the proofs, &c., before the Secretary of the Interior, was printed, and that certain papers appearing in the first edition were omitted from the second edition.—A. Well, that is another one of the lies circulated by the Bell Company.

Q. Will you explain fully in regard to that?—A. Yes, sir; I will. There was an affidavit in that book by Professor Neipher, of Washington College, Saint Louis. It was a very peculiar affidavit. It stated, I think, now, without referring to it, that he was cognizant of the fact that the Reis instrument worked and would transmit speech, and therefore anticipated Bell's so-called invention; and he also stated that Fig. 7 of Bell's instrument would work. Then he made some very severe comments on the courts, according to my recollection now—you have the affidavit there before you, I presume. I objected to that affidavit going into this record, for the reason that Bell himself has sworn that speech was never produced by any instrument that he ever made until long after his patent was issued, and then only by making a great many alterations in that instrument, which, in my opinion, took it entirely out from under his patent. Now, it did not seem to me at all probable that Professor Neipher could take a Chinese copy of that instrument and make it work, when Bell could not do it himself, and when Bell had sworn that he did not do it and could not do it. Therefore, I did not think it proper that the affidavit should go into any record before any court unless accompanied with the instruments. So when the record was made up here I requested Colonel Young to have a certain number of copies of it made up, leaving out that Neipher affidavit, for my use in our suit in New Orleans, and one week—over a week, probably ten days—before the suit came up in New Orleans the Bell Company attorneys were notified that that affidavit would not be in the record; and they have circulated the report—the lying report—that it was a trick on the court. It was a lie from beginning to end, and those who have circulated it are liars and know that they are liars. The affidavit was made in the court at the time. I believe this, though; I believe that the attorneys of this company in New Orleans, whom I had notified, did not tell Mr. Storrow of it, and Mr. Storrow got up in court and called the attention of the court to the fact that this affidavit had disappeared out of this record. I believed then that Mr. Storrow was playing a trick on the court himself, but I believe now that probably he was not informed by the local attorneys whom I had informed that this would be taken out of the record and would not be in there. I could take out anything and put in anything I supposed. I was not bound to take that record and put it in just as it was. I had a right to put in anything or leave out anything. The court called Mr. Storrow's attention to the fact that it was an improper affidavit to go in, anyhow, and Judge Billings spoke of it as very disrespectful to the court. Judge Pardee, on the bench, said that "Mr. Van Benthuyzen's affidavit does not include everything in that record." And they have made use of that; some of these newspaper reporters and some of these newspaper editors have lied about it, and lied about it knowingly.

Q. I will come to that. You say that you informed the attorneys of the Bell Company at New Orleans that this affidavit had been omitted?—A. Yes; that it would not be in that record—not that it had been omitted, but that it would not go into that record, and that was done in the presence of witnesses; it was done in the presence

of the Brazilian consul and the clerk of the supreme court of the State, who were in my office at the time.

Q. What use could you make of the printed record in that New Orleans suit; how could you use this record?—A. This became part of our record in the suit in New Orleans.

Q. In what way; how could you accomplish that?—A. It became part of our record of defense. We filed a certified copy of this record, leaving out the Neipher affidavit.

Q. Did you file it as a copy of the proceedings before the Interior Department?—A. No, sir; we filed it merely as a part of the papers before that Department.

Q. Have you the affidavit that you made?—A. No, sir; I have not, but I have sent for it. I never thought until I got here that it might be wanted, and I have telegraphed for it to-day.

By Mr. RANNEY:

Q. Have you a copy of the record that you made here; that you reprinted here?—A. A copy of the record that was made up and handed in there?

Q. I mean the one that was reprinted here and sent down there and used.—A. No, sir; but it was exactly like the one you have here, without that Neipher affidavit.

Q. I would like that identical record that you had printed here and sent down there to use, as well as your affidavit.—A. I suppose there are some copies of it here. I think that Mr. Chandler has a copy (I am not sure) of our record. We took these papers, and then we took a large number of additional papers and bound them all together, and right in the front of those is an affidavit of mine about those papers.

By the CHAIRMAN:

Q. What use was made of it in the New Orleans suit; what use could be made of it in that suit?—A. In our suit?

Q. Yes.—A. Well, I think that a great many of those papers are valuable as a matter of defense in the attack of the Bell Company in their application for a preliminary injunction.

Q. They were put in as affidavits, were they?—A. They were put in as certified copies of what was presented to the Department of the Interior.

Q. They were certified?—A. They are all certified in there.

Q. There is no certificate here that I see; what I am trying to get at is how you would use this as an instrument of evidence in any judicial proceeding.—A. It was used as I have said; these papers were used as a part of the papers in defense in our reply.

By Mr. HALE:

Q. Are you a lawyer?—A. No, sir.

By the CHAIRMAN:

Q. Were they certified from the Interior Department?—A. Every paper in there is certified by the Department.

Q. In this book [referring to the record of the Department of the Interior]?—A. Yes, sir.

Mr. RANNEY. Before the Interior Department there were certain papers certified by the officers and put in here in the record. The papers put in evidence were certified to and then the printed record made up.

The CHAIRMAN. They were authenticated there?

Mr. RANNEY. Yes; authenticated before they were put in.

The CHAIRMAN. How a printed copy of these papers could be made evidence in a judicial proceeding in New Orleans is what I asked.

Mr. MILLARD. It was done probably by stipulation between counsel.

The WITNESS. The Bell Company, in putting in their bill of complaint, put in a large number of papers and affidavits taken years ago, not taken specially for the case in which they are put in, and there was never any objection to them; we made none.

Q. They put in copies?—A. Yes, sir; affidavits that were taken years ago in previous cases. We never made any objection to that, and they never made any objection to these going in there. I do not think Mr. Storrow would ever have gotten afloat if Bayne & Denaigre, of New Orleans, the local attorneys in New Orleans, had told him the facts. I do not believe that they ever told him that that affidavit would not be used. In the hearing before the Department of the Interior here it was the only proof that was made, and the only proof they brought that the Bell instrument would work, and I was satisfied it was not the original instrument; that they were not instruments made in accordance with that patent. How was it possible for Professor Neipher to take the Bell instrument and make it work when Bell has sworn that he was unable to do it himself?

Q. Did you put this record, whatever it may be, into your Louisiana suit as a complete record of proceedings before the Interior Department?—A. No, sir; not as a complete record.

Q. Or did you put it in as a lot of affidavits in support of your resistance there to the preliminary injunction?—A. My affidavit was that the following papers were the papers that had been submitted in the case in the hearing before the Department of the Interior.

Q. Did you state they were all the papers?—A. No, sir; I did not state they were all the papers; of course not. Judge Pardee himself called Mr. Storrow's attention to that fact.

Mr. HALE. They are all certified to by the Commissioner of Patents, Mr. Montgomery, on page "24 L."

By Mr. HALL:

Q. I understand you introduced these papers and affidavits the same as you might have introduced one affidavit. You made an affidavit that the papers and affidavits set forth in this record, as you had it, had been introduced, just as if you had made an affidavit that only one of them had been.—A. I did not say they were all the papers before the Department of the Interior, because we submitted a large number of papers that were not before the Department of the Interior at all. I put an affidavit into the court at the time to that effect, as to why I had left that out, and to that affidavit it became necessary for me to add another thing with reference to our record in New Orleans. I had gotten Professor Sloan, of New York, to repeat his affidavit that he had given us in the Pittsburgh case, and I had forgotten to mention to him the fact that we were not using the same instrument in New Orleans that we were using in Pittsburgh. He sent me the identical affidavit that we had used in the Pittsburgh case, and I never noticed that it referred to this instrument until after we had got into court. Then, when attention was called to it, I had to explain it to the court (and it was perfectly satisfactory) that his affidavit referred to a different set of instruments from those we were using in New Orleans.

By the CHAIRMAN:

Q. The view which I took of this book, and it is what prompted my question, was that that book, containing the printed papers, would not be competent for use in that suit or in any other suit simply because they had been produced before the Interior Department. But you say they were used?—A. Yes, sir; they were used and were received and no objection made to them by the opposite side, and no objection by the court. I have always understood that that was a usual thing. The Bell Company put in all sorts of things of that kind; they put in some of the papers that were before the Department of the Interior, and there was no objection made on either side to it. Now, I will say, that after Mr. Storrow became aware of the fact that the local counsel in New Orleans had been notified that this affidavit would not be in that record, I think he called these people in New Orleans to account for not having notified him of it, because it would have saved him from appearing ridiculous in court, when we had a perfect right to put in whatever we pleased. It made him appear as though he was trying to create a sensation when there was no foundation for it.

Q. You say you did not represent it, then, as the entire record of what had been put in before the Interior Department?—A. I think we included everything except that Neipher affidavit; everything that was printed in that record. I understand that there were a good many things presented to the Department of the Interior by the other side that do not appear in that book at all.

The CHAIRMAN. I supposed so.

By Mr. RANNEY:

Q. Will you please state—

The WITNESS. Now, first, Mr. Ranney, before I answer you, I want to say something, as I notice that certain things have been permitted to be said on the part of other witnesses. I want to make some statement in connection with this matter.

The CHAIRMAN. You may proceed.

The WITNESS. I notice in this record (I have read a part of this record here) that it has been stated by one J. W. Rogers that I was moved to this course by him or his agents in some way, and that I represented a small licensed company at New Orleans. Now there is not one word of truth in that nor a shadow of foundation for the remark. I never saw Mr. Rogers in my life to know him, except his back, and that occurred in a hotel one night when I was here, at the time of the hearing before Secretary Lamar. When I went to New York I bought a large number of patents of the National Secret Telephone Company, and I not only bought what they had but I bought all there were, many of them from other people, and included in that list were seven patents from Mr. J. Harris Rogers, and I was informed at that time that Mr. Rogers had given them a great deal of trouble and that he had offered this very telephone patent to these people in New York, and they had refused to buy it because they considered it an infringement of the ones they already owned; that he became very indignant with them, that he published some scurrilous attacks upon them, but they, however, deeming that he was out of his senses—

Mr. RANNEY, I protest against going into that collateral matter.

The WITNESS. But that man has sat here and made these reflections on me, and I am going to answer them.

Mr. RANNEY. The witness is stating what other people said to him; not what he knows himself.

The CHAIRMAN. You cannot go into anything which does not come within the scope of this inquiry.

The WITNESS. But you have allowed that man to sit here and call me an adventurer; I have read that in this record. You have allowed him to sit here and tell you that Senator Harris, in New Orleans, denounced me as a scoundrel. I am sure that Senator Harris never said such a word in his life. He never came to me. I say let me answer it there. I know that Senator Harris is too much of a gentleman ever to have made such a remark. He has been allowed to do that, and I am going to answer it. Senator Harris never sent me such a message, and there was never anything of the kind to indicate that he ever uttered any such thing. You have it in the record there, and you cannot shut my mouth up on that subject.

The CHAIRMAN. Can you show us where it is in the record?

The WITNESS. Yes; it is where he said that Senator Harris got up in New Orleans somewhere and denounced me as a liar, or something of that kind, and had notified me that he was waiting for me at his hotel. Senator Harris never did anything of that kind, and the first time I ever heard of it—

The CHAIRMAN. Wait until we find that.

The WITNESS. I do not believe Senator Harris ever dreamed of doing any such thing. There was no foundation for his doing it. Why should he have done such a thing? I read it in that book, and you cannot allow any man to get up here and speak about me and not give me a chance to reply to him or any other dead beat ejected from the hotels here.

Mr. MILLARD. I call the gentleman to order.

The WITNESS. These gentlemen who testify here have had some knowledge of him heretofore, but I have not, and there is no reason why I should shut my mouth about it and not tell his true character.

The CHAIRMAN. One moment.

The WITNESS. You have it in the record there, Mr. Boyle.

The CHAIRMAN. That is what we are coming to; allow us to go on in our own way. If it is in the record we want to find it.

Mr. MOFFATT. My recollection is that he was speaking about his not being invited to the Ebbitt House to attend the conference, and he said he did not know any reason why he should not go if Senator Harris went, as he had called this gentleman a scoundrel.

The CHAIRMAN. Yes, it was something of that kind.

Mr. RANNEY. But it was only putting in a conversation.

The WITNESS. That man roamed all over creation in his testimony.

The CHAIRMAN. Let us confine ourselves to the matters under investigation.

Mr. MILLARD. I suggest that we should go on with the examination.

Mr. HALL. All the witnesses have been allowed to make explanations.

Mr. MILLARD. Not this kind of explanation. We cannot sit here and allow a controversy between the witness and the examiner.

The CHAIRMAN. As we have allowed one side to make allusions of that kind, we should the other.

Mr. RANNEY. Dr. Rogers simply expressed in that conversation his surprise that they would not let him go along. He did not mention anything else.

Mr. HALE. It can be drawn out in cross-examination on this side if necessary.

Mr. RANNEY. You can contradict Dr. Rogers by showing that nothing of that kind was said, if Mr. Moffatt's recollection about it is correct. I do not remember that Dr. Rogers said it; I did not know that he did.

The CHAIRMAN. I think there is no objection to the witness making a statement confining it to any matter that has been brought out before the committee, and to those matters which are relevant to this inquiry.

The WITNESS. You are going to trust to me to say whether it was before the committee or not?

The CHAIRMAN. Yes, I will take your recollection as to that.

The WITNESS. I make a special denial of that part of it, which has gone out before the country, first, that the National Improved Telephone Company was a small licensed company in New Orleans, licensed as the owners of the Bell patent license companies. There is not a shadow of foundation for any such statement. We have never used their patent; it is a parent and not a licensed company. We have bought a large number of patents from different people, and there happened to be seven patents of J. Harris Rogers among the patents we purchased, and, as I said before, when we purchased them I was told in New York we would have a great deal of trouble with Mr. Rogers.

The CHAIRMAN. That, I think, is not material.

The WITNESS. The next statement I see in here is that when Senator Harris came to New Orleans he said that because I had warned people against using a certain instrument that the Pan-Electric Company were using that I was a liar; that it was not an infringement; that I lied when I said it was an infringement, and that he notified me that I was a liar, and that he was waiting at his hotel for me. There was not a word of truth in any such statement as that. I do not believe Senator Harris ever uttered such a thing. Certainly he never notified me, and I never received such an invitation from him, and was dumbfounded when I read it in this record. I never became acquainted with Senator Harris until I met him here about the 2d or 3d of August, and then I was simply introduced to him, and did not have five minutes' conversation with him, and since then we have been the best of friends. We have met several times, and I am sure that he never would have made such a remark as that. He is not a person to do such a thing. If he had anything to say against me, I am satisfied he would have come to me and said it. The Rogers' instruments have never been used by the National Improved Telephone Company. There is no connection of any character between the National Improved Company and the Pan-Electric Company in any manner, shape, or form, except so far as you have seen there.

The CHAIRMAN. Is that all you care to say now?

The WITNESS. That is all for to-day; yes, sir. I will go over this record, and I may find some other remarks I desire to notice.

The CHAIRMAN. Very well; we will hear you then.

By Mr. RANNEY:

Q. As a matter of fact, Mr. Van Benthuysen, there was a time when there was a controversy between your company and the Pan-Electric Company in regard to an alleged infringement, was there not?—A. Yes, sir.

Q. And it was made the subject of circulars; circulars were issued regarding it, mutually, were there not?—A. I do not think there were any circulars issued about it; there were some newspaper articles written, and I have those newspaper articles with me, and in connection with that, if you think it is necessary, I will produce those newspaper articles.

Q. Did you charge them with infringing your patents, or did they charge you with infringing theirs?—A. We charged them with infringing our patents.

Q. And did not the Pan-Electric Company publish in the New Orleans Picayune a letter of Mr. Garland, a letter of Senator Harris, and a letter of Dr. Rogers in relation to it?—A. Now I am coming back at you, as you generally come back at others. I say we will produce the articles.

Q. But first I want to know whether there were any articles.—A. I do not want you to go down on the record as to what they were; I will produce them.

Q. Will you please answer the question first as to whether there were any?—A. Well, I will produce them. I do not mean any reflection, Mr. Ranney. I only mean to say that we had better not have your construction of what they are; we had better put the articles themselves in.

Q. You will please allow me to be my own judge as to that.

The WITNESS. Do you want these articles, Mr. Boyle?

The CHAIRMAN. Mr. Ranney is looking for them.

Q. Have you got the papers containing the letters published in the New Orleans Picayune, the three or four letters, have you got them there?—A. No, sir; I have not got them.

Mr. RANNEY. The letters published in the controversy between the National Improved Company and the Pan-Electric Company?—A. I had the paper here.

Mr. MOFFATT. They are printed on page 360 of the record.

Q. To begin with, on page 359 of the record you will find the letters printed. Please look at them first and identify them.—A. (After referring to the page as indicated.) I take it for granted that these are correct.

Q. You remember seeing them in the Picayune?—A. Yes, sir; I think these are correct.

Q. Now, if you wish to put into the record your reply to them, what you published, I have no objection. I do not care for them myself, but I will give you the chance.

The WITNESS. I will read these first; there are two.

Mr. RANNEY. It is unnecessary to spend time in reading them. Let me see what you say you put in. I do not think they are material to this issue.

The WITNESS. These are the answers to them [producing some newspaper slips].

Mr. RANNEY. You may hand them to the stenographer and let them go in. I do not deem it material for you to read them. I do not care to pursue that matter.

The WITNESS. I prefer to read them.

Mr. RANNEY. I do not ask for that. I simply give you an opportunity to put them into the record, if you want to.

The CHAIRMAN. They can either go into the record, just as the others did, or you can read them, if you insist upon it.

The WITNESS. I prefer to read them.

Mr. RANNEY. I think it will unnecessarily waste our time. It is not an issue that is here, and is of no sort of consequence as to the fact. I should like to have the committee decide whether we shall waste time by reading these three or four long communications.

The CHAIRMAN. They can go into the record without reading. It is not material anyway.

The WITNESS. Very well, I will let them go into the record without being read.

Mr. RANNEY. I am not going to investigate that controversy.

The WITNESS. Well, it is a part of that very Rogers matter.

The letters produced by the witness are as follows:

[The National Improved Telephone Company of Louisiana *vs.* The Pan Electric Company of Washington.]

OFFICE NATIONAL IMPROVED TELEPHONE COMPANY,
New Orleans, October 4, 1884.

General GEO. D. JOHNSTON:

DEAR SIR: Our attention has been called to your card, published in the Times-Democrat of September 28.

You had been notified by the National Improved Telephone Company that the Pan-Electric Company, which you claim to represent, were using and offering for use telephone instruments that infringe the patents owned by our company.

Your card is accompanied by three letters, maintaining that your instruments do not infringe ours, written by General Garland, General Joseph E. Johnston, and Mr. I. G. Harris, and one purporting to have been written by your electrician, J. Harris Rogers, in which he enumerates a number of patents owned by us, which he alleges are the patents your company are charged with infringing, and then denies any infringement of these particular patents, and so constructs his letter as to induce the belief that these are patents in dispute, and that they relate entirely to a secret telephone system.

We would not have noticed your publication but for this extraordinary evasion.

We are satisfied that neither General Garland, Mr. Harris, General Joseph E. Johnston, or yourself would knowingly perpetrate or countenance an act of this character, and that your seeming indorsement of this extraordinary letter is due to a want of proper information upon the subject.

Your company was not charged with infringing any secret telephone system or patent of that character.

Your company was charged specifically with infringing the McTighe receiver patent and the fundamental transmitter patents, Nos. 252255 and 252521, of which J. Harris Rogers is the inventor, and he purposely evades any mention of these three patents, for he knows that he could not truthfully say that the Pan-Electric is not infringing these three.

The father of J. Harris Rogers begged General Ewing, of the National Secret Company (all of whose patents we own), to buy the transmitter you are using for a trifling sum, and it was rejected because the company already owned the original, and the so-called improved instrument had no commercial value.

Your vice-president insinuates that the National Improved Telephone Company, being unable to compete with your instrument, had published their caution for the purpose of defeating your efforts to establish a telephone company in this community.

Do you think it honorable for Mr. Harris to make such a statement when he could readily ascertain that the instruments owned by the National Improved Telephone Company have produced far greater results than any instrument used by the Pan-Electric, and that the National Improved Telephone Company own among many the only transmitter and receiver that produced practical results of any commercial value between Chicago and New York?

Is it right for the Pan-Electric Company to attach a transmitter to a copper wire a few hundred feet in length, entirely free from induction, and then claim extraordinary results over the Bell instruments that are an iron wire and contending with heavy induction and the disturbing elements of nature encountered in actual business, when almost any of the various instruments extant will do all and more than your company claims for the infringement they use, particularly as it is almost impossible to keep your instrument in adjustment, and as it is continually out of order and becomes useless by a slight jar?

Does your company pretend to own a patent for the receiver you are using?

Mr. Harris Rogers never invented any such instrument.

We claim that you are using our McTighe patent, and that there are only four receivers in the world of any commercial value, and that the Pan-Electric do not own any one of the four.

Of what use is a simple transmitter to a telephone company, even if free from infringement, without a receiver?

Three of your letters maintain that your so-called improved instrument by Rogers was compared with others and found free from infringement.

Now, we assert without hesitation that those who made this examination compared the instrument with those of other patentees, and never thought of comparing it with the original patents taken out by Rogers (which belong to this company) or his assignments. If they did, they were so deficient in mechanical knowledge and the law that they were incapable of comparing mechanical devices or giving a proper opinion, as any boy can see at a glance that there is no essential difference between the originals and the so-called improvement, and the assignments read as follows:

The Commissioner will issue patents Nos. 252,255 and 252,521 to L. G. Hine, Frank Hume, and myself. "Neither party shall sell, assign, or transfer any interest in said invention or *improvement* or any portion thereof, without the written consent of the parties named herein." (See record, Patent Office.)

These three assigned to the National Secret Telephone Company and that company to ourselves.

In conclusion, we respectfully decline the invitation to sue your company in Washington. We are determined, however, to prosecute any and every one using the instruments that infringe our patents here or elsewhere.

NATIONAL IMPROVED TELEPHONE COMPANY OF LOUISIANA.

[The National Improved Telephone Company vs. The Pan-Electric Company.]

OFFICE NATIONAL IMPROVED TELEPHONE COMPANY,
New Orleans, October 8, 1884.

General GEORGE D. JOHNSON,
Agent Pan-Electric Company:

DEAR SIR: When you were notified by the National Improved Telephone Company that the Pan-Electric Company were using and offering for use telephone instruments that infringed the patents owned by our company, you answered, denying the charge, and published three letters, maintaining your denial, written by General Joseph E. Johnston, General A. H. Garland, and Senator Isham G. Harris, and another by your electrician, J. Harris Rogers.

We have already exposed the attempt of J. Harris Rogers to make it appear that we had charged the Pan-Electric Company with infringing our secret telephone system, when no mention had been made by us of those patents, as you were charged specifically with infringing the McTighe receiver patent and fundamental transmitter patents Nos. 252,255 and 252,521, and that he had evaded all mention of these patents purposely.

The duty we owe the public and ourselves requires that we shall expose the extraordinary character of the remaining portions of that remarkable letter, and we therefore quote from it as follows:

"The Pan-Electric has no secret telephone, but only a secret exchange system which controls the National Improved Telephone patents, numbers 251,292 and 252,257.

"The Pan-Electric Company also owns a patent which controls the National Improved Telephone Company's patent No. 257,075; but while owning these controlling patents never uses them, for such is the wealth of patents of the Pan-Electric Company in her general system that she has no occasion to use these controlling patents, and only holds them to restrain rival companies.

* * * * *

"Even the patents excepted above were bought by the Pan-Electric Company, not for use, but simply for their great value to the National Secret Telephone Company.

* * * * *

"And for these very reasons the National Secret Company have been stock-jobbing for three years without establishing a single exchange."

* * * * *

Immediately upon reading this extraordinary statement we sent to Washington for all the telephone patents owned by the Pan-Electric Company; and to make assurance doubly sure we obtained from and we are assured by you that the following list comprises all the telephone patents owned by the Pan-Electric Company, and is the great wealth of telephone patents owned by the Pan-Electric Company claimed by Rogers:

No. 268,294, exchange system, November 28, 1882.

No. 269,326, repeater, December 19, 1882.

No. 281,560, transmitter, July 17, 1883.

No. 297,166, soft iron core for permanent magnets, April 22, 1884.

No. 297,167, simple microphone, April 22, 1884.

No. 297,168, simple microphone, April 22, 1884.

Now, the following three patents, out of over fifty owned by the National Improved Telephone Company, are the three patents referred to by Rogers as being controlled by the patents owned by the Pan-Electric Company

No. 251,292, issued December 20, 1881.

No. 252,257, issued January 10, 1882.

No. 257,075, issued April 25, 1882.

It will be observed immediately that the last-mentioned patents are older than the first, and yet Rogers had the audacity to assert that the youngest patents controlled the oldest, and that statement is indorsed by the Pan-Electric Company.

We now come to that portion of his letter wherein he sneers at the National Secret Telephone Company of New York (which he originated and remained with a long time) as being a stock-jobbing concern; and for the purpose of comparing this "sneer" with the published estimate of the "National Secret Company" by the Pan-Electric Company, we quote from a pamphlet recently issued by the Pan-Electric Company, as follows:

"J. Harris Rogers, late electrician United States Capitol, will be chief electrician of the Pan-Electric Company.

"His 'Secret Telephone,' stocked in New York at \$5,000,000, and his 'Electro Gas Telephone,' stocked at \$1,000,000, have already enriched himself and others, *which past successes promise more to the 'Pan Electric Company,' embracing so vast a field of invention and discovery.* * * *

"We therefore propose to public consideration a powerful corporation to possess, a little in the future, vast laboratories, learned electricians, and skilled mechanics standing ready to seize upon and develop whatever may be presented in the light of its influence, capital, and genius. Nor would it seem extravagant to say that such a corporation with its new methods might convert great coal, fields into torrents of electricity; that it might in time harness the very waves, clouds, water-falls, and winds to generate this mysterious agent of nature; and that busy marts and thoroughfares with their bankers, tradesmen, and pompous fashions may soon be seen thousands of miles distant through the "telemorphe" riding in carriages without horses, cars without steam, all lighted up by electric suns in a new and enchanting civilization! In a word, that the Pan-Electric Company will soon take a high place in the markets of the world and enrich all who are wise enough to measure its grand conceptions.

"One-tenth interest will be sold only to moneyed men applying for it, at a mere nominal price to construct machinery, and other interests will be sold at auction on the New York Stock Exchange for what it may bring; but it is confidently predicted that the stock will ultimately go greatly above par. It may require years to effect this result, for we depend in no way upon stock-jobbing operations, but upon a manly and scientific development of real values which stand on their intrinsic merits.

"Parties investing must examine through their own electricians, experts, and lawyers, who will judge whether the inventions are valuable or not, so that if they should, by unseen possibilities, be less valuable than we suppose, or if thieves should creep in and get control and cheat us all, no stockholder can plead the baby act. It is a venture for enormous profits on a trifle. The company has so ventured, and would rather keep its stock and take its own chances of profit and loss than to let babies in."

The italics are ours.—N. I. T. Co.

The above is a true extract from a circular issued by the Pan-Electric Company, of which General Jos. E. Johnston is president, Senator Isham G. Harris vice-president, General A. H. Garland attorney.

Will the world believe they authorized it?

Will not Barnum's mermaid lash into foam with its tail the multitudinous seas from pure envy?

Is it possible that business men and sensible persons can be induced to give such a company and such a circular one moment's consideration?

We believe that you gentlemen never realized the position you were being placed in, for there is not one single patent enumerated in your list of telephone patents that we would give five dollars for.

NATIONAL IMPROVED TELEPHONE COMPANY OF LOUISIANA.

Q. After the 1st of September, 1885, you never had any controversy with the Pan-Electric Company; you buried your differences; didn't you agree to bury your past differences in August, 1885?

The WITNESS. This was a year previous.

Mr. OATES. I think we ought to exclude from the record everything about this New Orleans Company and their suits. There could be but one relevant fact, and that is that they entered into an agreement or alliance with the Pan-Electric Company about

the prosecution of a suit against the Bell Company to get the patent set aside. It seems to me that that is all that is relevant in this inquiry, and these letters and everything else pertaining to it I think we ought to strike from the record.

Mr. RANNEY. I said I did not think it was necessary to the record.

The CHAIRMAN. How did the first lot of letters get in?

Mr. OATES. Anything about that agreement to prosecute a Government suit or to get a Government suit filed against the Bell Company I think is relevant and ought to go in.

Mr. RANNEY. It is only to show that they were fighting each other up to that time.

Mr. OATES. That is admitted—that they had an agreement.

Mr. RANNEY. It has been sworn to, and I will not say anything more about it; I will not repeat it. [To the witness.] We will pass from that, then. Who got that record printed in Washington for use in your New Orleans suit. Was this copy of the record of the Interior Department which you used in your suit in New Orleans printed there or printed here?

The WITNESS. That portion of it was printed here.

Q. I understand that you can get me a copy of one of the records that you got printed here.

The WITNESS. Without the Neipher affidavit in it?

Mr. RANNEY. Yes.

The WITNESS. I do not think we have any copies of that. I think they have all been distributed.

Q. I thought you said that Mr. Chandler had one of them.—A. I say it is possible that he has a copy. I think that Mr. Seixas knows who has a copy here.

Q. I would like to see one of those copies.—A. If I can find one in town I will bring it here with me.

Q. Who got it done here?—A. That record of what took place before Secretary Lamar was gotten up by Colonel Young and Mr. S. R. Beckwith (another Mr. Beckwith from New York or New Jersey) and myself.

Q. Here in Washington?—A. Yes, sir.

Q. Were you here at the time?—A. Yes, sir; part of the time. I read part of the proof.

Q. Was Casey Young with you?—A. Yes, sir.

Q. Did you act jointly in getting it done?—A. Yes, sir; we paid the expense jointly.

Q. Did you have the new copies gotten up on the same paper as the other?—A. Why they were the same books precisely.

Q. Was it the same colored envelope or leaf outside like this?—A. When they were used by us they had no covers on at all.

Q. As they were printed and came to you from Washington, they had the same covers as this [referring to the Interior Department record]?—A. I presume they had.

Q. Were they not made to look as near like it as you could make them?—A. You are trying to make it appear that the matter was put into court in a way to deceive the court. You cannot do anything of that kind with me. Now, you take my answers, and don't you put down your answers. I will put down my answers. I will say that the record used in New Orleans had no covers. Now that is the answer; that is the answer I want to go in there.

Q. As they were printed in Washington, hadn't they the same colors and the same colored or tinted paper?—A. I presume they had; I don't recollect. I did not pay any attention to it.

Q. As you looked at them, in their appearance didn't they look to be the same?—A. Now, I won't answer any such question as that, because you want to inquire if they were used in that way in court, and they were not.

Q. I do not want to make any implication about it, but I want to know the fact if they did not look to be the same.—A. They were never used with any covers on in any way.

Q. As printed, how was it?—A. I don't know how they were printed. My opinion is that some of them had different covers on; I don't recollect; I didn't pay any attention; but when they were used some of them had different covers on.

Q. I will come to that; I am asking you about the printing now. Who sent them from Washington to New Orleans?—A. I do not know. I merely know that I asked Colonel Young while they were being printed to go to the printer and tell him to send me a certain number of copies of that book without the Neipher affidavit in them.

Q. Did you have, in New Orleans, sent to you the original record, the record itself as printed and used in the Interior Department, sent to you at New Orleans?—A. Yes, sir.

Q. The whole of it; how many copies of that did you have?—A. I don't know; ten or fifteen, or something of that kind.

Q. The only difference between the record as it stood here in the Interior Depart-

ment and the one which you had was, that you had left out the Neipher affidavit, hadn't you?—A. Now you can't put it that way at all.

Q. Isn't that true?—A. You are not going to put any such question to me; it is not proper to do so. I am going to tell you that I took the papers out of what was used in the Department of the Interior, such as I wanted, and added them to our record in New Orleans, and you cannot make it appear in any other way. I have no doubt you would like to do it, but you can't do it.

Q. You must not talk in that way. I am going to put a respectful question, and I want a respectful answer. I ask simply this: Is it not true that the Neipher affidavit was left out? First, that fact.—A. Well, the truth of the matter was that the papers that I used were papers that were included in that hearing, but I did not use the Neipher affidavit. That is the proper way to put it.

Q. You do not understand my question.—A. Yes, I do.

Q. The book that you got printed here in Washington did not have in it the Neipher affidavit, but the Neipher affidavit was left out.—A. I had copies of every paper put before Secretary Lamar printed for me to use in that suit in New Orleans without including the Neipher affidavit.

Q. That answers my question. Did it include the Wellington Adams affidavit or not?—A. I put the Adams affidavit into the record used in New Orleans; yes, sir.

Q. I mean in the record that you got printed. I am not talking about what you put before the court, but about the record you got printed. In that you did retain the Adams affidavit?—A. I did not have any of the record printed here except the records of that Department.

Q. Was there anything left out of that book you had printed except the Neipher affidavit?—A. I did not include the Neipher affidavit in our record used in New Orleans.

Q. Was there anything else left out?—A. We did not include in our case the Meucia matter. It was in the book, I believe, but we specially notified the court that we did not use it.

Q. Was it in the printed record?—A. Yes, sir; it was in the printed record.

Q. Then in the record you got printed here you left out nothing but the Neipher affidavit, did you?—A. I had certain books printed here that included the Neipher affidavit, but such part of the papers that were put before Secretary Lamar that I wanted to use in our New Orleans suit did not include the Neipher affidavit.

Q. Didn't it include everything else in that book except the Neipher affidavit? that is the question.—A. It included all the papers used before the Department of the Interior that I wanted used except the Neipher affidavit.

Q. Did it not include all there was in that book except the Neipher affidavit?—A. I tell you it included all the papers used before the Department of the Interior except the Neipher affidavit, so far as I recollect.

Q. That answers it. Now, is it not true, Mr. Witness, that the affidavit you used of Professor Adams in that book, that in that affidavit—A. Oh, I don't know without looking at it. There are so many I cannot tell without looking at it.

Q. Is it not true that you left in an affidavit of Professor Adams?—A. I will not say that it was true or untrue, for I have told you positively that there were so many papers that I do not recollect what they were without looking at them.

Q. I thought you said you had left out nothing but the Neipher affidavit?—A. I think that was the only thing left out.

Q. Is that your recollection?—A. My recollection is, I told you that I used all the papers in our record in New Orleans except the Neipher affidavit.

Q. That is enough. You were aware, were you not, that in the Adams affidavit that you used he had sworn that Fig. 7, in the specifications of Bell's instrument, made in accordance with Fig. 7, would not talk?—A. No, sir. I give you my word that I never have read Professor Adams's affidavit; I never have read it in my life.

Q. Don't you know that in the Neipher affidavit he had sworn that it would talk, because he and Professor Adams had tried it?—A. I know that I never have read the Adam's affidavit; I don't recollect ever reading it in my life. Life is too short now to read everything connected with this Bell telephone record.

Q. We can read it for ourselves. But you did know that in the Neipher affidavit he had sworn that it would talk, because he and Professor Adams had tried it, didn't you; you knew that?—A. No, sir; I don't recollect that part of it. I recollect that he said it would talk; but I don't recollect that he said that he and Professor Adams had tried it.

Q. You don't remember that fact. Have you got that compilation of Professor Adams?—A. Do you mean the book published by Professor Adams? I think I have.

Q. Will you produce it?—A. Can I produce it?

Q. Yes.—A. No, sir; I have a copy in New Orleans, but I can't spare that.

Q. Will you produce it here and let me look at it?—A. It is away down in New Orleans, and I don't know now whether I have it. Mr. Beckwith may have it; some of the attorneys may have it; I don't know whether I have got it.

Q. Were you present in court when that book that was printed here by you and Colonel Young was presented to the court?—A. Now which book are you talking about?

Q. The new ones that you got printed with the Neipher affidavit left out.—A. There was no such book as you are trying to make it appear presented to the court. Now let me relate to you the way that thing was compiled, and then you will get at it straight.

Q. No; you have told your story and I only want a specific fact; were you present in court when Mr. Beckwith, your counsel, presented this book that you had had printed in Washington with the Neipher affidavit left out?—A. He did not present that book, I tell you, as you put the question, nor anybody else present it in that way. If you will wait a moment and allow me to explain about it, you will get at it right. When all this printed matter came down to New Orleans that was taken from the papers in the Interior Department, leaving out the Neipher affidavit (now you understand about it), there was added all the matter and affidavits that we had gotten up in New Orleans and other places; it was all combined together in one book, and was presented to the court as our defense—one book, and was presented to the Bell attorneys as one book—with the distinct statement to them that the papers that were used before the Department of the Interior did not include the Neipher affidavit.

That was the way it was put in—the book itself, in that shape and in that form—not in a manner that might lead the court to suppose that it was a book that had been used in Washington; that is not true. There is no truth in such a statement, and you ought not to try to make it appear in that way. I don't suppose you want to do a wrong, but you are not making it appear right; you are trying to make it appear wrong. There is no truth in that. If I had presented that book to that court in that shape and form, and with that cover, and represented it as the book that had appeared before the Secretary of the Interior, it would have been a different thing. But it was not done in that way. But this book was all taken apart. There was no index, no cover, or anything. But the matter—all this matter in here which was printed in Washington, with the exception of the Neipher affidavit—was put in our book in this way, the whole of it [indicating], and the book itself in that way was presented to the court, with notice that we did not use the Neipher affidavit among the papers taken from the Department of the Interior. I had a perfect right to leave out any document there, all of them, or half of them, and why should you raise any question about it?

Mr. HALE. I object to the putting of any further questions as to what took place at the New Orleans suit. That is a matter between private parties, and I think it is wholly immaterial to this inquiry.

Mr. RANNEY. Such an objection, if introduced, would have been very proper, if at all, when the chairman was interrogating the witness about the matter. As he went into a part of it, you should allow us to pursue it through.

The CHAIRMAN. It would have been more appropriate when you interrogated Colonel Young about it. It has no relation to this inquiry, but I merely gave this gentleman an opportunity to explain his connection with the matter. You brought it out in connection with Colonel Young's testimony. It has no relation to the matter of inquiry at all.

Mr. RANNEY. What I object to is that Mr. Hale should sit by and allow you to examine in regard to the matter and then try to preclude another member of the committee from following up the same line of inquiry.

Mr. HALE. I do not object to you following that up; but I object to this matter now as being immaterial. It was only an incidental inquiry by the chairman.

Mr. RANNEY. I have read the record in the New Orleans case.

The WITNESS. I want to make a statement.

Mr. HALE. I insist that we have not any authority to go into the investigation of that case, as to what the court did at that time. We might as well cut it off here as anywhere.

Mr. RANNEY. You say you are going to cut it off half told, with only one side of it developed?

Mr. HALE. We have had enough on that fact, I think. I think it is all immaterial, and only came out incidentally on the examination of the chairman.

Mr. RANNEY. I claim the right to pursue the inquiry in the same line, and to the same extent, to see what the exact facts are, after the chairman has gone into the matter.

Mr. HALE. I do not see what it has to do with this investigation or what need there is of inquiring into it.

The CHAIRMAN. I think if there is any incorrectness about the statement of the witness as to the New Orleans matter he ought to be subjected to further examination; but in connection with that I will say that he was not asked with reference to it, because it was supposed to be within the scope of our inquiry, but only as giving him an opportunity to explain his conduct in connection with this printing, as it had

been already testified to by Colonel Young. It has no relation to the inquiry whatever.

Mr. RANNEY. I am not aware that any one member of the committee has an exclusive right to inquire into a subject-matter while another is to be precluded from doing so.

The CHAIRMAN. I do not understand the gentleman from Missouri to make that point.

Mr. HALE. I do not.

Mr. RANNEY. I think the chairman takes the correct view of it.

Mr. HALE. Why didn't you make objection to the chairman's inquiry, if you thought it was improper?

Mr. RANNEY. Because I deemed it material.

The CHAIRMAN. I do not think we ought to stop the examination.

Mr. HALE. What is the ruling of the chairman?

The CHAIRMAN. I think the gentleman from Massachusetts should be allowed to proceed with the examination of the witness.

Mr. HALE. In regard to the proceedings in that suit in New Orleans?

The CHAIRMAN. I think so, as the witness has already been examined on that subject.

Mr. HALE. My understanding is it was a long-continued suit between private parties, and I would like to have the sense of the committee if it should go into the record.

Mr. HALL. I think there ought to be some limit to the points of inquiry.

Mr. HALE. I am getting tired of the investigation myself. It has gone beyond the original scope of the inquiry, and I do not think this has any relation to it. I would like to have the matter understood as to how far we can go on.

Mr. RANNEY. I do not propose to go any further excepting within the range of the inquiry made by the chairman. (To the witness.) Now I want to put the question simply and squarely to you once more; if it is not true that your counsel, Mr. Beckwith, in your presence, produced a book, and told the court on inquiry by Mr. Storrow, that that was the record of the proceedings before the Interior Department. You understand the question?

The WITNESS. Your question is whether Mr. Beckwith did not produce a book and present it to the court?

Q. Yes; and whether Mr. Storrow asked if that was the book containing the record of the proceeding before the Interior Department?—A. No, sir; no such thing occurred in court. Now I am very glad, and I thank the committee for allowing me to go thus far in answering these questions, for there seems to be an attempt here to go beyond the scope of the authority given to this committee, and inquire into the affairs of private parties. I have read the resolution under which this committee is acting. I think I can read and understand the English language, and in my opinion there is an attempt tried to be made, it seems to me, by Mr. Ranney in behalf of his company—

Mr. RANNEY. What? What do you mean by that, sir?

The WITNESS. To besmirch me in some way.

Mr. RANNEY. What do you mean by "my company?"

The WITNESS. I understand that you are here advocating the case of the Bell Telephone Company; that seems to be the general impression.

Mr. RANNEY. Where did you get that impression?

The WITNESS. I get it all over town here, from everybody. I have understood that you own stock in that company.

Mr. RANNEY. You do? I will tell you, and I desire to put it on the record, that I own no stock in the Bell Telephone Company and never have. I do not know the officers of the company, and I have no more connection with it than any other man on this committee.

The WITNESS. If you were situated as I am, and I was not under oath, you would tell me that you did not believe what I said unless I was under oath. Now, I don't believe your statement, unless you put yourself under oath to make it. I do not intend to be besmirched here. I have done nothing in my life for anybody to besmirch me. I have done what I thought it was my proper duty to do, not only in the interest of my company, but in the interest of the public, and I do not intend that anybody shall besmirch my character.

Mr. RANNEY. I put only a respectful question and I insist on a respectful answer, and if you don't stop your impudence to me—

The WITNESS. But I won't allow you to attempt to make it appear that I tried to play a trick on the court. You can't do that with me, and nobody else on top of the earth can do it with me.

Mr. RANNEY. I am not trying to do anything of the kind. I asked you a proper question relating to an inquiry opened up by the chairman.

The WITNESS. I think they are improper questions. I think that you have no right to ask me about my case in New Orleans; that is a private matter.

Mr. RANNEY. When the chairman asked you about it, why didn't you say then that you thought it was improper?

The WITNESS. Because I wanted to try and answer the slanderous insinuations that have been inserted into this record, and when I got through that answer, there the matter ended, and should not have been carried any further.

Mr. RANNEY. When the chairman asked you about this matter, why didn't you say then that he was trying to besmirch you? Answer that question, if you please.

The WITNESS. Because it was my opportunity to try and answer the insinuations that have been put into this record against me.

Mr. RANNEY. By whom?

The WITNESS. I don't know all the questions that have been asked here in the examination. But it has been asserted here and been published in the papers, in the New York Tribune and the New York Sun, the editors of both of which are lying scoundrels—I say so, and I am responsible for what I say—that there was a trick played upon the court; that there was a book introduced there with leaves extracted without the court knowing it. That is a barefaced, slanderous lie, and the man who uttered it is an infamous liar.

The CHAIRMAN. You have made a statement as to how the book was introduced, and I think we had better leave that.

The WITNESS. There was no record introduced into the court in New Orleans with anything abstracted from it. The record was made up of affidavits and papers placed before the Department of the Interior, such as we chose to use. Such as we did not choose to use we excluded, and we added to them whatever we thought was proper.

The CHAIRMAN. I think we understand it.

The WITNESS. But there was no question on the part of the court, and the court will say so to-day, about the record.

By Mr. RANNEY:

Q. Have you a stenographic report of what occurred there?—A. No, sir; I have not.

Q. The question I put to you I put after reading the record of the case in that court.—A. I have no doubt of that, because you have the Bell records in your possession, and that is the reason I think you are advocating the Bell suit.

Mr. HALL. I object to your statement, Mr. Ranney, unless you are sworn yourself.

The WITNESS. You have no right to ask me questions about it; it is my private matter.

Mr. MILLARD. I object to the course that is being pursued.

The CHAIRMAN. Just answer the questions put to you.

The WITNESS. I will do so, but Mr. Ranney has no right to ask me any questions about my private business. This matter does not concern the Pan-Electric Company or any of its sub-companies.

The CHAIRMAN. I understand that it does not relate to the Pan-Electric Company, and I will state that I only entered upon that line of inquiry with you this morning in order to give you an opportunity of explaining in regard to the printing of this second edition of the record, and that I did because the matter had already appeared before in the testimony of another witness. I do not think myself that the New Orleans suit has any relation to this inquiry whatever.

The WITNESS. I am thankful to the committee for giving me an opportunity of replying as far as I have in regard to the slanders that have been put forth.

The CHAIRMAN. You will agree with me then in this, that one of the objections to allowing such a discussion between witness and counsel is, that we are apt to drift too far away from the inquiry, and it would be better for us all to limit ourselves to the strict line of inquiry.

The WITNESS. Do you say between "witness and counsel"?

The CHAIRMAN. I meant between a witness and a member of the committee.

The WITNESS. I see that I am not alone in my opinion.

The CHAIRMAN. I did not mean to state or insinuate anything of the kind. That results from a habit acquired by practice in court.

Mr. RANNEY. Now, after the remarks of the chairman, I will proceed. [To the witness.] I will give you warning now that I want an answer to my question. We are here as investigators and we want the facts.

The WITNESS. If you will stick to the facts you will get them all from me.

Q. Try and not get mad, for I shall not.—A. Well, I am not going to get mad, either, except in this way, if you are going to try and besmirch anybody, I will get mad for certain. There is nobody here to besmirch; there is not a single human being in the world —

The CHAIRMAN. Let us proceed.

Mr. RANNEY. Your answers to my questions are the only things that will besmirch you, so be careful as to what you say. You were in Memphis in 1885. When did you go there and when did you leave?

WITNESS. I was in Memphis, I think, on the 19th of August, and staid there, I think, until the 28th or 29th of August.

Q. Have you any means of telling what day you left?—A. No, sir; I have no means of telling unless I could find my hotel bill.

Q. You say you were informed of the suit by a telegram from Mr. Beckwith?—A. Not while I was there.

Q. I didn't say while you were there. But you were informed of the suit by a telegram sent from Memphis?—A. I am not going to answer a question which would make it appear that I was in Memphis on the 27th of August, and heard of a suit being instituted which took place on the 9th of September. I want you to put the question so that it will go down on the record right; I am going to have it go down right.

Q. You said you were informed by telegraph?—A. Yes, sir; but I was at Waukesha Springs at that time; that was in September, not in August.

Q. I never said it was.—A. But from the way you put the question anybody would have thought that I got that telegraphic dispatch about fifteen or twenty days before the suit was instituted.

Q. It is no such thing. The man who sent you the telegram was Mr. Beckwith, was it not?—A. That the suit was filed? Yes, sir.

Q. Where was Mr. Beckwith then?—A. In Memphis. Oh, that was in September. [To the stenographer.] Now, put it down in September; don't put it down in August.

Q. Mr. Beckwith was in Memphis when you left there?—A. Mr. Beckwith was in Memphis when I left there.

Q. Mr. Beckwith was in Memphis when you left there for the place to which you went?—A. No, sir; I think he left before I did.

Q. Then how did he send you the telegram from Memphis if he had gone?—A. Because he went back there afterwards. When the suit was instituted he went back there and instituted it and filed the bill.

Q. At Memphis?—A. Yes, sir, at Memphis.

Q. Was he at Memphis when you left?—A. No, sir; I think he left before I did.

Q. Are you sure?—A. I am not positive, but I think he went down to New Orleans before I left.

Q. And you left on the 28th or 29th of August, you think?—A. I think I left on the 28th or 29th.

Q. You were there when the memorial was signed on the 26th of August, were you not?—A. Yes, sir.

Q. And when it was presented to the district attorney, Mr. McCorry?—A. No; I did not say so.

Q. Were you not in Memphis?—A. I told you I was in Memphis when that memorial was signed by me, but I did not tell you I was there when it was presented to Judge McCorry.

Q. I am asking you whether you were or not there.—A. I thought you asked me if I was not there when it was presented to Judge McCorry.

Q. Yes; I did.—A. Well, I told you it was never presented to Judge McCorry in Memphis, and I was not there.

Q. You have testified that somebody went to carry it to him from Memphis to Jackson.—A. I got Mr. Huntington to carry that from Memphis to Judge McCorry, who I understood was at Jackson.

Q. Were you there when Mr. Huntington came back from carrying it to Judge McCorry?—A. To where?

Q. Were you at Memphis when he returned from Jackson?—A. So far as I know he never returned from Jackson. I was not there after he left; we both left about the same time.

Q. All that you can say is that you left Memphis on the 28th or 29th of August?—A. I can recall the fact that Mr. Huntington took that memorial and went to Jackson with it to deliver it to Judge McCorry. Whether he ever came back to Memphis after that or not I do not know.

Q. Have you taken back the original agreement which you produced here, the one of the 4th of August and the supplemental agreement?—A. No, sir; you gentlemen have got it somewhere.

Mr. RANNEY. I shall not go on with the examination until those papers are found.

Mr. HALL. I move that the committee adjourn.

Mr. RANNEY. I want this question about these papers settled.

Mr. HALL (to the witness). You did not, by mistake, restore those papers to your pocket, did you?

The WITNESS. No, sir. I have looked among my papers, and I have not got it. I handed them over to the committee. After I read it I handed it right to Mr. Boyle.

The CHAIRMAN. Yes, you did.

Mr. RANNEY. It was passed around, and we all read it.

The WITNESS. For Heaven's sake don't lose that agreement; there has been such a fuss kicked up about it. I brought it a thousand miles here, and I don't want you to lose it.

Mr. MILLARD. Well, we have got a report of it here in the record.

Q. Did you look at that supplemental agreement to see who wrote the word "27th" in it, the 27th of August?—A. What?

Q. The word "27th," the date of that supplemental agreement, is in your handwriting?—A. Yes, sir.

Q. You wrote it, did you not?—A. Yes, I think I did.

Q. The body of the instrument, in whose handwriting is that?—A. I do not know.

Q. You say there were two copies made of it?—A. I think there were two or three copies.

Q. And you say that Casey Young signed one of them?—A. That is my impression.

Q. Where is that paper that he signed?—A. I do not know; I did not keep that agreement.

Q. You do not generally, in the case of a paper relating to two parties, give the other side a copy of it without taking one yourself, do you?—A. I did not give one until it became of no value; it was of no value.

Q. At the time it was signed and delivered? You say Casey Young signed one, and that was delivered to you, was it not?—A. I will not be certain about that; I think so.

Q. Have you looked to see whether you have not got it among your papers?—A. But you recollect that for a long time the circumstances under which that thing was made were changed, and it became entirely worthless.

Q. You mean changed after the action of the Interior Department and the change in the suit?—A. Yes, sir; I think that is about the first thing that occurred. It took away from us all control of any suit that might be instituted.

Q. I am talking of the period up to that date. Have you looked among your papers to see if you can find the one which Casey Young signed?—A. Yes, sir; I have not got it I know.

Q. When did you search for it?—A. Just before I left home I looked through all my papers there.

Q. What probably has become of it?—A. I am satisfied that I tore it up, threw it away, or destroyed it.

Q. When?—A. I do not know; some time ago.

Q. When, do you think?—A. I suppose probably two or three months ago; a month or two ago.

Q. Do you remember doing it?—A. No, sir; I do not remember doing it.

Q. After this hearing began, did you get a telegram from Casey Young asking for that agreement?—A. Did I get a telegram for the agreement?

Q. Yes.—A. I got a telegram that I did not understand—

Q. Did you get a telegram?—A. Yes, sir.

Q. Have you got it?—A. No, sir.

Q. Where is it?—A. I asked Colonel Young to go and get a copy of that telegram here from the office, and I think he got it. Where is Colonel Young?

Q. Well, did you answer it?—A. Yes, sir; I first answered—

Q. Did you answer it by inquiring which agreement he wanted?—A. No, sir; I did not. I answered that I supposed he was referring to the agreement that was made here in Washington. That is my recollection.

Q. Do you remember what your reply was?—A. I think his dispatch was of such a character that I could not tell exactly what he did refer to. I asked Colonel Young to get me a copy of that, and he went and got a certified copy of this dispatch (reading a copy of a telegram).

"Send me copy or original of agreement made in Washington between our companies as to payment of costs in our suits against Bell Company."

"CASEY YOUNG."

Q. Now I am asking for your reply. Have you got a copy of that? You replied to it, didn't you?—A. Yes, sir; this is my reply. [Reading:] "Dispatch received too late to send by to-day's mail. Will send it to-morrow. Do you remember that you were not in Washington early in July, as stated by Dr. Rogers." I had seen that in the paper.

Q. Where did you get a copy of your reply?—A. I never thought of bringing this with me, and I asked Colonel Young—

Q. Where did you get a copy of your reply here?—A. Why, there it is [indicating].

Q. But where did you get it?—A. Why, didn't Colonel Young just hand it to me?

Mr. MILLARD. That is not the dispatch that Colonel Young presented to him.

The WITNESS. He went to the office and got these copies sworn to.

Q. But there was one prior to that in which you asked him which agreement he wanted?—A. No, sir; I have no recollection as to that.

Q. Have you read Colonel Youngs' testimony as given before the committee?—A. Partly; yes, sir. I cannot remember it, but I do not think I sent any message—

Q. He testified here that he got a dispatch about it asking what agreement he wanted.—A. I think he may have gotten that from something I had written to Mr. Seixas.

Q. He testifies that he had such a dispatch.

Mr. HALL. From this witness?

Mr. CASEY YOUNG. Oh, that is infamous. I did not say that. I made no such statement. That ought not to be submitted to.

Q. What office did you send your dispatch through?—A. Sometimes I send by one and sometimes the other; I don't recollect.

Q. That dispatch appears to be the 28th of March, as I read it. He has given you a copy of it.

Mr. HALL. Now I submit—

Q. Wasn't there a prior one?

Mr. HALL. If you call attention to a dispatch it ought to be explained if it is in the record. The contents show—

Q. You have produced a dispatch there which Colonel Young says is a copy of your dispatch.—A. Yes, sir; dated March 18, not the 28th.

Q. Was there not one prior to that?—A. I don't recollect.

Q. How do you know that is a copy of the one you sent?—A. I understand that this is certified to by the telegraph office here in Washington.

Q. By the office here in Washington?—A. Yes, sir. We do not do things half-way.

Q. You understand that the office here keeps copies of telegrams received?—A. I understand that Colonel Young went to that office purposely to get these dispatches, because I did not have copies of them; and I understand that that is sworn to by the office, and I take it that it is correct. I do not take it for granted that everybody is a rascal by any means, and I suppose if they swear to it it is correct.

Q. You should not suppose that people who interrogate you do?—A. I do not; but I will tell you what I fear. I fear that the interrogator thinks that everybody is.

Q. You should not infer that when my questions do not imply it.—A. If anybody should pick up the record, and read the questions you put, it would appear to them, I tell you frankly right to your face, as if you were not trying to get at the facts, but as if you were trying to besmirch somebody.

Q. It must be because you are very sensitive.—A. You can put it on whatever ground you please; I will not interfere; I am not under any scandal myself.

Q. Do you know what question I put to you?—A. No, I do not.

Mr. RANNEY (to the stenographer). Wont you read it to him?

The stenographer read the last question to the witness, as follows: "Q. You understand that the office here keeps copies of telegrams received?"

Mr. RANNEY. Do you understand that the office here keeps copies of the telegrams received?

The WITNESS. I understand that they do keep copies, and that they have given them. These are exact copies of what were sent and received.

Q. That was the only question I put to you, and you might just as well have answered it.—A. Of course I suppose they are perfectly correct. I do not know that they are not.

Q. State your recollection. Do you think there was a dispatch before that?—A. I do not recollect.

Q. Will you swear that there was not?—A. No, sir; I would not swear there was not.

Q. Did you write a letter in reply to Colonel Young?—A. No, sir; I do not think I did.

Q. Did you receive a letter from him?—A. I did receive one letter.

Q. Will you be kind enough to produce it?—A. Yes, sir; I will produce it, provided the chairman thinks it is a letter that is proper to put before the committee.

Q. Will you allow me to see it?

The CHAIRMAN. I think there is a part of this letter of a personal character that should not go in at all events.

Mr. RANNEY. Isn't there a part that relates to this matter?

The CHAIRMAN. Yes; and if the committee will trust me I will read that part of it.

Mr. RANNEY. Will you let me see it?

The CHAIRMAN. No.

Mr. RANNEY. I do not mean the personal part.

The CHAIRMAN. You can hardly see one without the other. I will read it to you; that is, if Colonel Young consents.

Mr. CASEY YOUNG. I think the personal part should not be read. It was written under a feeling of some little irritation.

The WITNESS. I would like to state, and have it go into the record, that I would not produce any private correspondence here without the consent of the gentleman who wrote the letters. I had spoken to Colonel Young on the subject, and he had told me that in regard to any letter of that kind he would be perfectly willing for the chairman of the committee to decide whether it should go into the record or not.

The CHAIRMAN. I will read a part of the letter. I guess we can agree as to the parts that ought to appear. (Reading:)

“WASHINGTON, *March 31, 1886.*

“MY DEAR SIR: When I saw your letter to Mr. Seixas some days ago about the contract, I had to telegraph, for I did not understand it; but I have now found a paper which gives me some light on the subject. I had forgotten that we had ever reduced to writing the verbal agreement which we made at Memphis in respect to the prosecution of the suit in our behalf by the Government, and supposed and so testified that the only agreement which was ever put in writing was the one which we made in Washington, when we were here in August of last year. On Sunday last, however, I found in my trunk what purports be a contract entered into between us in Memphis on the 27th of August, 1884, containing certain stipulations in respect to the cost of the suit to be brought by permission of the Government, a copy of which I inclose. I was under the impression that I had kept a copy of the application or agreement which we made in Washington in respect to the two suits which we then had pending against the Bell Company, but I have been unable to find it anywhere among my papers, and it may be possible I never had it, or may have handed it back to you when the second agreement was written—”

Mr. RANNEY. You can leave it there if you think the other is personal.

The CHAIRMAN (continuing to read):

“I hope, therefore, you will find it if possible and bring it with you when you come on.”

That is all.

Mr. RANNEY. One question. I have alluded to you as sending a telegraph to Colonel Young asking which paper he wanted. I am reminded by my associate, and I want to know, if you did not telegraph to Mr. Seixas inquiring which paper he wanted. Didn't you telegraph him asking which paper Colonel Young wanted?—A. I don't recollect. If I sent any dispatch I do not recollect it. I may have done it, but I do not know.

The CHAIRMAN. I would like to have it noted that the dispatch from Colonel Young to Mr. Van Benthuyzen was filed at 4.45 in the evening of the 18th of March, and the reply was received at 7.53 the same evening in Washington.

Mr. HALE. I move that the committee adjourn until Wednesday at 12 o'clock.

The motion was agreed to, and the committee then adjourned to meet on Wednesday, April 14, 1886, at 12 m.

WASHINGTON, D. C., *Wednesday, April 14, 1886.*

The committee was called to order at 12.15 p. m.

The CHAIRMAN (Mr. Boyle). Mr. Ranney, you can proceed with your examination.

Mr. WATSON VAN BENTHUYSEN then came before the committee, and his examination was resumed.

By Mr. RANNEY:

Question. I asked you a question the other day about the original and the supplemental contract which had then been mislaid. I wish you now to look at the supplementary agreement, so called, dated on the 27th of August, 1885; look at the date of it, and tell me whether the words “twenty-seventh” are in your handwriting?—Answer. Mr. Chairman, I think that on Monday, when we closed here the last testimony, the question was with reference to the record used in New Orleans, and I promised to bring a copy of it here and show it to the committee.

Before answering the question, I would like to produce that copy, to show that the insinuation that we used in that suit a copy exactly similar to that used before the Interior Department is not true. This copy I have here, is exactly similar to that used before the Department of the Interior [exhibiting a copy of the Interior Department record]. This other one is the record as it was filed in New Orleans, exactly, and about one-half of the matter in this book was printed here in Washington. I had requested Mr. Young to have printed all the documents that were used before Mr. Lamar except one, and the matter as you see it here put together was done by the printer. He had no instructions other than to send me copies of all the documents except this Neipher affidavit. It has been stated that part of it was abstracted. That is not

true. I presume from looking at it that he printed just about what he had already set up, and the papers here are printed and put together by the printer himself without any instructions upon the subject except to send me copies of all the papers that were printed, with the exception of one. Now *that* [exhibiting] is our book. It presents no similarity to the one that was brought here. It is double the size, and is differently bound in every particular. And of course every lawyer knows that we had a right to put the Declaration of Independence in it if we wished, or anything else, and to leave out half of it if we chose, or put in anything that we chose. It was a trick of Mr. Storow's, and the court very decidedly snubbed Mr. Storow for his trick. Both of the judges on the bench snubbed Mr. Storow for his attempt to falsify the facts. I also said that I would bring in a copy of my affidavit. I did not have a chance to get a certified copy from the court, but I have here the affidavit as it was printed in the newspapers in New Orleans.

Mr. OATES (in the chair). You can read, if you want to, what you say was your affidavit.

The WITNESS. This was the affidavit [reading]:

"At the conclusion of Mr. Storow's argument, an affidavit was filed by Mr. W. Van Benthuyzen to the effect that as the figure seven instrument of Bell's 1876 patent will not transmit speech according to the testimony of A. G. Bell and the Bell Company's experts, without great changes, which are not admissible under the patent laws, deponent did not believe the Neipher affidavit a proper one to submit to this court without the instruments, and believing that no affidavit with reference to the capabilities of any instrument should be submitted in this case unless accompanied by the instruments for actual examination and test, deponent refused to permit said affidavit to become part of defendant's record, particularly as said figure seven instrument never did and never will transmit speech if made and operated according to Bell's patent, and Mr. George Denegre, of the Bell Company's attorneys, was notified, in the presence of witnesses, over one week before the commencement of the suit, that said affidavit would not be on the record of defendants, and the reasons therefor were given to Mr. Denegre."

Now, sir, those are the facts about the gross insinuations that have been made here with reference to the record in that case.

Mr. OATES. Very well. Now answer the question Mr. Ranney put to you.

Mr. MILLARD. Let me see the book you have there.

The WITNESS. Of course I do not leave this book here. It is borrowed for the occasion.

The question was then read to the witness by the reporter.

Q. I asked you a question the other day about the original and the supplemental contract which had then been mislaid. I wish you now to look at the supplementary agreement, so called, dated on the 27th of August, 1885; look at the date of it, and tell me whether the words "twenty seventh" are in your handwriting.—A. I think I have already told you that, Mr. Ranney, and I do not see any necessity of going over this thing again and again. I have no time to spend on this matter, unless it is something that is absolutely essential. I have told you, I believe, that the two words "twenty" and "seventh" are in my handwriting.

Q. Another question. State whether you showed to your co-directors in the National Improved Company the original agreement, dated August 4, 1885, and the supplemental agreement, dated August 27, 1885, or the other part of it that Casey Young signed.—A. No, sir; I do not think I ever have. It was filed among the papers in the office, and I do not think I ever showed it to them. I merely called their attention to the fact in general terms that I had entered into such an agreement. I looked before I left home to find if I had in any way, and I found that I never had mentioned it. Matters of that kind were left almost exclusively to me. In fact, I did not consider that the agreement was of any importance, because it was altogether contingent, and subsequently of course all those contingencies fell through, and I did not regard it as a matter of any consequence.

Q. You have produced here this morning a book which I perceive is the "Defendant's printed record on the motion for preliminary injunction in the circuit court of the United States for the eastern district of Louisiana, in the suit of the American Bell Telephone Company *et al.* against the National Improved Telephone Company *et al.*, in equity." This, you say, is larger than the book produced before the Secretary of the Interior. But is it not true that this is simply a copy of the whole case as put in in the case in Louisiana, and not the book purporting to be what was before the Secretary of the Interior?—A. That book is the record of our defense in the suit in New Orleans. There never was any other book presented to the court. There was no book ever presented to the court by us such as you have here. There was never any book like that one [referring to the record of the Department of the Interior] presented to the court in New Orleans by us. You understand, Mr. Ranney, of course, that in this matter I am perfectly willing to answer any question you ask me on the subject, although it is totally irrelevant to this investigation. I would like to know how it got lugged in here and who lugged it in.

Q. I find a last part of this book—

The WITNESS. Mr. Chairman, I would like to know how this matter with regard to our record of defense in the suit in the city of New Orleans ever was introduced into this case, for it is totally irrelevant to the matter of inquiry under the scope of this investigation.

Mr. OATES. (In the chair.) The present occupant of the chair was not present during the afternoon when this question came up, and cannot give you the information.

The WITNESS. I have no objection to it, but I do not propose that any record shall be made up here for the use of the Bell Company, in regard to matters totally irrelevant, by Mr. Ranney.

Mr. OATES (to Mr. Ranney). I do not understand that this book is to go into the record of the committee at all; it is just referred to by you. That is the understanding, I believe, that the book is not to go into the record.

Q. I find a last part of this book contains what is headed in this wise: "Before the Secretary of the Interior. The telephone case. In the matter of sundry petitions to the Attorney-General to bring suit in the name of the United States to annul patents No. 174465 and No. 186787 granted to Alexander Graham Bell." Now will you look at page 30 of that document and see if two leaves of diagrams are not inserted, thereby preserving the exact paging, while the Professor Neipher affidavit is left out?—A. As I said before, I asked to have a copy of every document that was used before the Department of the Interior, a printed copy, with the exception of one, and the printer sent them out in his own shape and form. The two drawings that you see here, or the four cuts that you see here, belong to the succeeding affidavit. They relate to the instrument sworn to by Prof. P. H. Van der Weyde. Now while I am about it, I might as well say, as I presume you will go to the others, that I have heard some of you say that these cuts are introduced also in another place. This instrument is referred to in different affidavits in this book, and they may appear in here again; I do not know whether they do or not; I have not noticed, but I presume they are referred to by the affidavit attached to them or near to them. I do not see them in here but once. Somebody said they were in here twice. But those cuts that you see there, those four pages, those instruments represented there, belong to this affidavit, and by reading the affidavit you will see that Professor Van der Weyde refers to it; they are his own instruments, an instrument that he made in 1868 and 1870. They are both magneto telephones, both transmitters and receivers of speech, as I know by personal experience, for I have tried them, and they were made six or eight years before Bell's patent was issued.

Mr. RANNEY. Will the reporter read the question again which I put to the witness. I desire him to answer the precise question that I put.

The question was read by the reporter as follows:

"Q. I find a last part of this book contains what is headed in this wise: 'Before the Secretary of the Interior. The telephone case. In the matter of sundry petitions to the Attorney-General to bring suit in the name of the United States to annul patents No. 174465 and No. 186787 granted to Alexander Graham Bell.' Now will you look at page 30 of that document and see if two leaves of diagrams are not inserted, thereby preserving the exact paging, while the Professor Neipher affidavit is left out."

The WITNESS. I do not know anything of the kind. I find those cuts there, and they belong to that affidavit. I suppose no matter what is there—it is a matter of no consequence what is there—the printer fixed it up to suit himself.

Mr. EDEN. Do you wish to look at this book any further in making your answer?

The WITNESS. I have answered the question, I think. He asks me to look and see, as I understand it, if at page 30 two pages have not been inserted. I do not find any pages inserted here; I don't know anything about any pages inserted here. I find page 30 here and then I find following four pages not numbered, but page 35 comes in regular order, and these cuts, as I tell you, belong to this affidavit. I do not find anything inserted; I do not know what you mean by being inserted. Here is page 30 and here is page 35. [Indicating]. Those pages containing the wood cuts of course are not printed, and therefore there was no number to them corresponding; but it is perfectly immaterial whether there was or not. It has nothing to do with this case and it is nobody's business. We have a right to make up our record just as we please.

Q. Will you look at that record from the court in Louisiana and tell me whether that, as it there stands, was not all printed in New Orleans—all there is of that record?

The WITNESS. I do not understand the question.

The question was read to the witness by the reporter.

The WITNESS. I still do not understand that question exactly. Whether the whole of the record was printed in Louisiana, is that what you mean?

Mr. EDEN. Whether it was not printed in Louisiana; that is the question.

The WITNESS. I haven't got it yet. Which part—the whole book?

Mr. RANNEY. Yes.

The WITNESS. All of this book?

Mr. RANNEY. Certainly.

The WITNESS. No, sir.

Mr. RANNEY. Just as it is in the volume bound up there?

The WITNESS. That part was all printed in Washington. [Indicating.] From that on—the part from the page commencing “In the telephone case, before the Secretary of the Interior” to the last page, No. 431—was all printed in Washington. That portion of it commencing with the index and ending with an affidavit of mine, after page CCCI, and an affidavit of Dr. Lawson Tait—that was all printed in New Orleans. It was all bound in New Orleans.

Q. I wish to understand you, and for that purpose I ask you to look at the volume which I now hand you, which is part of the record printed in Washington, and say whether there was carried down from Washington a book like that with the Neipher affidavit left out, and the same identical book put in in making this up, or whether it was reprinted by the same press with the rest of it as reprinted in New Orleans?—

A. In regard to all this printed matter, I have not examined it, but I take it for granted that all this printed matter here, with the exception of what is known as the Neipher affidavit, was all printed here; that these affidavits were printed here and sent down to me in this shape. Yes; they were all printed, I presume, just as they printed that, because they appeared when they got to me to be off the same form. They were sent down to me and all our affidavits made up in New Orleans were then added, and the whole matter—all the printed matter—was put together and bound. You can easily get at the facts in regard to the printing in Washington, because the printer is in town and knows all about it.

Q. How many copies of the printed record which you produced there in New Orleans were printed there and prepared for the use of the court?

The WITNESS. How many copies were printed like this?

Mr. RANNEY. Yes.—A. There were, I think, about twenty altogether; fifteen or twenty; I have forgotten the exact number; no, I think there were twelve, just twelve.

Q. How many of the reprinted copies that were gotten in Washington were sent to you by Colonel Young, and how many of the old ones as it was with the Neipher affidavit?—A. That I do not recollect. We had some of the books just as they were presented here to the Secretary of the Interior—that is, just as they were printed after the hearing was over; and then we had, as I told you, all the additional printed matter, all the affidavits printed by the printer here and sent down to us without the Neipher affidavit.

Q. If you had enough of the old ones here, what occasion was there to get some new ones printed in Washington?—A. Well, I told you that I wanted the printed matter without the Neipher affidavit.

Q. What difficulty, then, was there in cutting out the Neipher affidavit in the old one and using that for the record in New Orleans?—A. I won't answer any such question. You shall not insinuate there was any cutting out or any leaving out. In the first place, you have got no business to be asking any such question, and you shan't ask it; I won't answer it. If you are building up a record for anybody here now, you can't build it up by me.

Mr. RANNEY. I would like to have the reporter read the question to the witness.

The reporter read the question as follows:

“Q. What difficulty, then, was there in cutting out the Neipher affidavit in the old one and using that for the record in New Orleans?”

The WITNESS. I won't answer it. Whenever you ask me a question without an insinuation in it I will answer you, not before.

Mr. HALE. Do you insist on that question, Mr. Ranney?

Mr. RANNEY. I do. There is no insinuation about it. I simply ask for a naked fact. There is no insinuation or implication in it. I am asking for a simple fact, and all the rest is impudence and not drawn from anything I have said.

The WITNESS. The court has already passed on this thing, my friend. You cannot make anything out of it for your company, I can tell you.

Mr. RANNEY. Will you please answer the question which I have put to you?

The WITNESS. With that same remark in there about cutting out? No, sir; I will not. I won't answer any such question, sir.

Mr. RANNEY. Let it pass. I don't think it of enough consequence to ask it again.

Mr. EDEN. (To the witness.) It may be you did not understand the question. I do not understand Mr. Ranney to ask you if you did cut out anything from the record that was printed here to use in the suit at New Orleans, but if you might not have done that if you had chosen to; isn't that it, Mr. Ranney?

Mr. RANNEY. I prefer that the witness should answer my own question.

Mr. EDEN. I will withdraw that, then.

The WITNESS. Do I understand this: That you ask me if I cut any out, or whether there was any necessity for cutting any out?

Mr. RANNEY. Read him the question, Mr. Reporter, so that he may be sure to understand it.

The reporter read the question as follows:

"Q. What difficulty, then, was there in cutting out the Neipher affidavit in the old one and using that for the record in New Orleans?"

The WITNESS. I think that the form of your question is objectionable, because there was no cutting out; nobody thought of cutting anything out; and it is not right for a question to go in there carrying with it an insinuation.

Mr. EDEN. The question is whether you might not have done that if you wanted to, I understand.

The WITNESS. Well, he has got no right to ask me.

Mr. RANNEY. I must insist on my right to put my questions myself.

The WITNESS. Well, that is a physical act, and he has got no right to ask me any question about it.

Mr. EDEN. I only made the remark because the witness appealed to me.

Mr. RANNEY. I don't object to your saying what you did; there was no impropriety in your conduct.

Q. I understand you, Mr. Witness—A. I state here now positively and distinctly that I would not take any book and cut anything out of it, and those who have known me from my childhood know that I would not do any such thing as that, and therefore there could not have been anything cut out of any book, and there is no use of putting a question down there to imply that there was any cutting out, or that there could have been any cutting out, or that it was contemplated, or anything of that kind; it is not right for that thing to go into the record. The world does not understand this question as we do, and they immediately take up the idea that there was something wrong, some impropriety, when there was nothing of the kind. Mr. Ranney as a lawyer knows that we had a perfect right to put in anything or leave out anything. We could have put in the Declaration of Independence, as I say, or left out half of it, or put in both ends and left out the center. He knows that as well as I do, and therefore there is no use of piling up questions to make it appear so, and it has no reference to the scope of this investigation, but is entirely beyond it. He has not the right to ask me one word about my suit in New Orleans; not a word about it; and it is for no other purpose in the world than to benefit the Bell Company. He could not have gotten at the facts, at these statements, or any such insinuations except they came from the Bell Company and its numerous emissaries.

Mr. RANNEY. Let the reporter read to him again the interrogatory which I put, and add "will you please answer the same now, or say distinctly that you decline to do it?"

The reporter read the question, as follows:

"Q. What difficulty, then, was there in cutting out the Neipher affidavit in the old one and using that for the record in New Orleans?"

The WITNESS (striking with his fist on the table). I won't answer the question now. I will not answer any insinuating question. It might just as well come to a determination now as at any other time. I won't answer it, either, if the whole Congress should ask me to do it, because I don't think it is a proper question, and I have the highest respect for every member of Congress, with a few exceptions.

Mr. RANNEY. Let the reporter read the answer of the witness.

The reporter read as requested.

Mr. RANNEY. That answers the question. I will pass it not to withdraw it. [To the witness.] When was the suit brought at Pittsburgh as to which you testified at our last meeting?—A. I do not recollect when the bill was filed, but I know when it came up for hearing, and that was on the 6th of July.

Q. Who were the parties defendant to that suit?—A. The Western Pennsylvania Telegraph and Telephone Company.

Q. Your company had licensed them, and as I understand you had agreed to defend patents, had you not?—A. Yes, sir.

Q. And did you and your counsel not appear at the time assigned for a hearing for the purpose of making a defense?—A. We had no counsel from New Orleans in the case. We simply authorized the counsel that were employed by that company there to act in the matter.

Q. Who were the counsel employed?—A. Messrs. Bakewell and Kerr, of Pittsburgh. Well, I have forgotten; I should have added that Mr. Von Briesen, of New York, who was acting for our company in New Orleans, was there. I had forgotten that.

Q. I want to see if I understand you. As I understand you, you and your counsel went to Pittsburgh at the time assigned and engaged in the defense up to the time when you say the court said he should decide against you and grant the restraining order, or the preliminary injunction. Is that so?

Mr. EDEN. I want to inquire how far we are going into this suit at Pittsburgh, where neither the Pan-Electric Company nor any company organized under or growing out of that company had anything to do with it, and before any contract or agreement was made between the National Improved Company and the Pan-Electric Company.

Mr. RANNEY. I will answer that. I am only going into it to the extent and within the range to which the chairman went.

Mr. EDEN. The chairman went beyond the necessity of the case, and I do not see any propriety in incumbering the record with evidence about that matter.

Mr. RANNEY. You will find that I shall not go beyond what is proper, and you will see, before I get through, the point of it. I do not propose to incumber the record, but only question him as to certain facts that he has already testified to.

Mr. OATES. I will say, in reply, that the present incumbent of the chair cannot see the relevancy of it. Mr. Ranney says he expects to show it, however.

Mr. EDEN. Of course I have no question about Mr. Ranney's purpose to do that; but we might get at everything connected with all the suits that that company has ever had without finding out the relevancy.

Mr. RANNEY. I have but a few questions to ask, and it brings it right down to the personality of it. The matter was opened up by the chairman. Let the reporter read the question.

The reporter read as follows:

"Q. I want to see if I understand you. As I understand you, you and your counsel went to Pittsburgh at the time assigned and engaged in the defense up to the time when you say the court said he should decide against you and grant the restraining order, or the preliminary injunction. Is that so?"

The WITNESS. Yes, sir. I went to Pittsburgh with counsel and staid there until the extraordinary action of that court. And now I will add to that, you have got no right to ask me a question about the Pittsburgh suit. It does not come within the scope of this investigation; my company and the Pittsburgh company have nothing to do with this matter. The resolution of Congress confines this investigation strictly to the Pan-Electric Company and the companies springing from the Pan-Electric Company. It has nothing to do with us, and I am not going to make any more record in that direction.

Q. You said in answer to Mr. Boyle, the chairman, the other day, that you withdrew from the suit after the decision was made, and notified your attorneys not to go any further with it. Will you be kind enough to state at what date you notified your attorneys, when and where and how?—A. Well, Mr. Ranney, I don't know that that is any of your business. I have gone along here and have told you everything that there is to know under this resolution that I know anything about. If there has been any impropriety I swear I don't know anything about it. Now, if we are going to travel all over the United States and bring up as you have here private correspondence, I want you to bring that up again. You have already brought it up with some people, and I want you to bring it up with me, private correspondence outside, between individuals. I do not propose to go on here now in that way. There is a suit between us and the Bell Company in New Orleans now. There is a Government suit going on in which we expect to take part, and I do not propose to go on here now and make a record, particularly with reference to matters that are totally irrelevant to this investigation. You know that just as well as I do. You have read the resolution, and you know all about it, and you come here with a satchel full of Bell papers—for I recognized Mr. Storrow's papers in your hands on Monday—and I do not propose now to be making up a record for Mr. Storrow or anybody else, particularly as I have got other cases to attend to.

Mr. HALE. I think the objection made by the witness is well taken myself, and I would like to have the matter settled right here.

Mr. RANNEY (to the reporter). Will you read the last question and ask him to say whether he declines answering it or not?

The reporter read as follows:

Q. You said, in answer to Mr. Boyle, the chairman, the other day, that you withdrew from that suit after the decision was made, and notified your attorneys not to go any further with it. Will you be kind enough to state at what date you notified your attorneys, when, and where and how?

A. I decline to give any correspondence between myself and my attorneys. I think you are attorney enough to know that I have got the right to refuse it, too.

Q. Did you notify your attorneys, as you stated to Mr. Boyle, the chairman, not to go on any further in that suit before or after the time when you were in Washington, between the 28th of July, 1885, and August 4, 1885, when you say you left?—A. I decline to answer that question for the same reason.

Q. You will observe, Mr. Witness, that I am only asking you in relation to that to which you testified the day before yesterday, freely to Mr. Boyle in answer to his question, and I propose to go no further. I want to know if, on my calling your attention to that, you are not now willing to answer that question.—A. I decline, Mr. Ranney, to give any part of the correspondence between myself and any of my attorneys, for the reason, as I stated before, that I have a suit in New Orleans now pending with the Bell Company. There is a Government suit that I am very much gratified to say was instituted by my endeavors, and where I am going to be presently, and I should not be at all

surprised if I should have a suit with the Western Pennsylvania Telegraph and Telephone Company our licenses. Therefore, it is not proper for me to answer the question. The Bell Company or somebody else—whether it was that local company or not, I have not been able to find out—have carried that case in Pittsburgh to a final hearing without any authority whatever, without the slightest knowledge on our part, and without our consent in any manner, shape or form, and before I get through I will know who did it and who is responsible for it, and I may have a suit with them. Therefore it is not proper for me to answer any questions with reference to that case, particularly as it is a company outside of the scope of this investigation.

Q. You said, in answer to Mr. Boyle, in substance, as I remember it, that you withdrew from the suit at Pittsburgh, and notified your counsel not to go on with it any further; and my question now is whether you did that thing before or after the interview which you had in Washington, between the 28th of July, 1885, and the 4th of August of that year, whatever the date was when you left?—A. Well, I decline to answer the question. My statements to Mr. Boyle were in answer to a matter that had already been lugged into this investigation, though it had no business here; there was no right on the part of anybody to bring in that matter. Except so far as related to my interview with Colonel Young in Pittsburgh, there was nothing in connection with the Pittsburgh suit that has any connection whatever with this investigation. Now I just decline to answer right here, on the ground that these questions are improper in view of the fact that it does not come within the scope of this investigation, and because there are other suits pending, and I do not propose now to make a record for Mr. Storrow to use when we lock horns in New Orleans and in the Government suit.

Q. You said at the last meeting, in answer to a question by Mr. Boyle, that at the hearing before the Secretary of the Interior they put into the record certain things with regard to that suit. Will you now turn to the record and tell what it was that they put in there that you have reference to in that answer? I refer to the printed record that is here before you —A. The record will show for itself. There is no Bell record here, and nobody to look to for it except you, and now you have got it, and if you know what it is you produce it yourself.

Q. I hand you now what appears to be the second volume of that printed record before the Interior Department. Will you see if it is there? [handing the record to the witness.]—A. [Without examining the record.] I do not know anything about these papers at all. I am not going to testify anything about them.

Q. Will you state then from memory what you had reference to in your answer to Mr. Boyle?—A. I know what I heard before the Secretary of the Interior while I was there, but as to taking anything printed by the Bell Company, I would not do it, for I know they lie about it and distort it and garble it; I can prove it; and I do not intend to take anything in connection with it, nor do I intend to swear to anything issued by that company.

Q. If you look at the book which I have shown you, you will see that it is not a book issued by the Bell Telephone Company, but is a part of the printed record of the proceedings before the Secretary of the Interior on which the arguments before him were based.—A. How do you know that it is not a book issued by the Bell Company? Now, I assert from its appearance that it was issued by the Bell Company, and nobody else but the Bell Company, and printed by them.

Q. In the proceedings before the Secretary of the Interior, each party printed for his use his own record, didn't he; that is the record of his proofs?—A. Well, I will speak for myself; I won't speak for the Bell Company about anything. I know we introduced printed matter and written matter and type-written matter. If that book was issued by the Bell Company, and it should pass out of my sight, and I should pick up another one a month hence, I would not swear it was the same one, for I know they change their books.

Q. And then the record was made up of the proofs put in before the Secretary of the Interior, and on which the arguments were made; isn't this so?—A. Our records were made up from the papers which we put in before the Secretary of the Interior. I do not know what the Bell Company did. I would just as soon believe that they made up a record of a great many things that did not go before the Secretary of the Interior.

Q. As you decline looking at what I claim is a part of that record, for the reasons you have stated, for the purpose of seeing whether it was the one or not, and as you have stated to Mr. Boyle in answer to his question that they put in before the Interior Department certain things relating to the Pittsburgh suit, will you be kind enough to state what it was that they put in there to which you allude in your testimony, in your own way?—A. My testimony and my statement to Mr. Boyle were based upon the statements that I heard uttered before that hearing by Mr. Storrow and Mr. Dickerson, the Bell attorneys. I know that their statements were not true, and the issue of fact arose right there between them, and Mr. Beckwith (who was a spectator and an attorney, a gentleman from New Orleans, now engaged in our suit there, who hap-

pened to be a spectator) denied the statement made by Mr. Storow and Mr. Dickerson, and Mr. Bakewell, who was also there, denied the same statements, and that is what I referred to. Do not understand me, Mr. Storow, now—well, I was not far wrong, but I mean Mr. Ranney—that I am trying to be ugly towards you in this matter. I am talking about the Bell Company now, and I am not telling you anything more than I have told Mr. Storow and Mr. Dickerson. I have told them both, and I have published them both, as falsifiers of the facts, and they know it, and I have told the President of the United States that Mr. Dickerson ought not to be permitted to practice at any bar; that he ought to be disbarred. So I am not stating anything here now about Mr. Storow or Mr. Dickerson that I have not told them to their faces.

Mr. RANNEY. Will the reporter repeat the question to the witness, and ask him if he has any further answer to make to it.

The reporter read the question to the witness, as follows:

“Q. As you decline looking at what I claim is a part of that record, for the reasons you have stated, for the purpose of seeing whether it was the one or not, and as you have stated to Mr. Boyle, in answer to his question, that they put in before the Interior Department certain things relating to the Pittsburgh suit, will you be kind enough to state what it was that they put in there to which you allude in your testimony, in your own way; and do you desire to make any further answer than you have done?”

The WITNESS. I have answered that; I think I made a full answer there to that.

Mr. RANNEY. (To the reporter.) Will you now read his answer and ask him to state whether he declines to make any other answer.

The reporter read as requested.

The WITNESS. Now, if you don't think that is full enough, Mr. Ranney, I will tell you something that occurred there. Mr. Storow or the Bell Company have published a book which purports to be an account of what took place in that suit in Pittsburgh. Wherever there was anything important with reference to our side of the case the stenographic report ceased, and a note was inserted in the place of the stenographic report giving what somebody—Mr. Storow, I presume—thought would suit his side of the case to put in. Mr. Storow and Mr. Dickerson also tried to lead the Secretary of the Interior to believe, and have so published, that there was a long defense, and stated that that defense consisted of fifty-three pages of printed matter. Now, that was a deliberate falsehood. Of that fifty-three pages of printed matter (I have not the book here now, but it is their book too, recollect) one-half or probably three-quarters consists of conversations between the court and the various counsel at the termination—I won't say the termination of the suit exactly, but on the court's announcing that it would grant the preliminary injunction regardless of what the defense might say or show. Now, it was all conversations. Yet they have the audacity before a court of law in New Orleans to state that there were fifty-three pages of argument on the part of Mr. Von Briesen, while there was the book to show for itself right before the court. That is one thing. They stated also that we had not withdrawn our affidavits, that we had not withdrawn our exhibits, and that was another deliberate falsehood, for I had a number of them here in Washington, and I have got them all in New Orleans now; and I have got in my room (I thought I had it here) a copy of a book giving a photograph of the court in New Orleans, with all the models, instruments, and exhibits that I had in Pittsburgh. I had them all in New Orleans. And yet they had the audacity to say to a court of law in New Orleans that these things were still in court and had not been withdrawn in Pittsburgh; but what they would not say no mortal man knoweth.

Q. Have you now finished all that you desire to say in answer to that question?—

A. Don't you think that is enough?

Q. I am asking for your desires, not mine.—A. I did not desire to make any question, and now you have got it, and got it for all it is worth, too. I could give you a great deal more of the same sort, but I thought that was enough.

Q. Is it not true, Mr. Witness, that you determined to abandon that suit and leave the defense at Pittsburgh after you got through with the interviews in Washington between the 28th of July and the 4th of August, 1885, whenever the time was when you left Washington?—A. No, sir; that is not true. I will answer beyond that. We never abandoned the suit until the company there refused positively to pay what they owed us. They owed us a large amount of money, and I could not collect it. They promised me faithfully to pay it, gave me every assurance in the world that they would pay it, and were constantly giving me the statement from day to day that the next day or within the next two or three days they would pay it; that they were waiting for some of the stockholders to get together to get the money, and they were going to pay it. They kept telling me that for a long time. Of course I could produce those letters, although they are private correspondence. Finally I saw that I was not going to get the money, and under a clause in our contract stating that a failure to comply with it or to pay what they might owe was a cause for revoking their license, it was revoked; simply for that and nothing

else—nothing else in the world. I never dreamed of anything else in connection with it, except the mere fact that they owed us this large amount of money and would not pay it.

Q. When was it then that you did abandon that suit and notify your counsel not to go on any further with it. Fix the date?—A. I will give you the date of revocation, but I won't give you what transpired between our counsel at all. That license was revoked on the 15th of August. They had been promising me to pay all this time. Before the suit I had just sent them three hundred instruments, and those three hundred instruments were added to the amount previously due, previous to the commencement of the suit. All this was a debt contracted before the commencement of the suit. They had been promising me for some time previous to the suit that they would pay it, and they were promising me from day to day while I was there. I went on and gave them thirty days in which to pay it, and having failed to pay it then I revoked the license on the 15th of August.

Q. And when did you notify the counsel not to go on any further with it?—A. Now, I told you before that I was not going to answer that question; that is the same question you asked me before. You have a way of traveling around and bringing in the same thing at an intermediate stage, and then you go back to the question. You think I have forgotten it, but I don't forget so shortly. It is very ingenious; I admire your pertinacity in trying to get an answer.

Q. You seem to be better natured now, and I did not know but what you might be willing to answer the question; are you not willing to tell us when you did notify your counsel?—A. I notice that you have a way of traveling all around and coming back afterwards, and you think you will suddenly get it and pounce down on it. No, I don't feel very amiable this morning, Mr. Ranney; I am very sick.

Q. Are you willing to answer the question now?—A. No; I declined to answer that question before; that is a private correspondence between myself and my attorney.

Q. Did you notify them by letter or verbally?—A. Well, that is the same thing; you can't get it that way.

Q. Do I understand you decline now absolutely to state?—A. Yes, sir; I decline to answer that question; it is totally irrelevant to this matter, entirely.

Q. When you notified them you had concluded you would get the Government to bring a suit in its name, hadn't you?—A. I will answer you in this way; that the Government suit had nothing in the world to do with it; I never thought of a Government suit in connection with it in any manner, shape, or form.

Q. Did you not expect to get the Government to bring a suit on the 1st of August, 1885?—A. Oh, well, what have my expectations got to do with it? I might have very grand expectations about a variety of things. I don't see that that has anything to do with the case.

Q. If you had any, what did you base them on?—A. Did I say I had any? I know I did not say so.

Q. Did you have anything to do with getting the affidavit of Mr. Wilbur, a former examiner in the Patent Office?—A. Oh, I am so glad that you brought that up. Wilbur? Did I have anything to do with getting that affidavit? Well, now, I will give the whole history of that, and I won't keep anything from you. I haven't kept anything from you so far; I may say that, for you might misconstrue that remark. When I came to Washington, on the 28th of July (I think that is the time when I got here), and met Mr. von Briesen, I, for the first time, was informed that there was a man by the name of Zenas F. Wilbur in existence. Mr. von Briesen told me that he had met this man on the street; that he was the examiner who had passed Bell's patent to issue; and that in a conversation with him he had gone over the whole matter, and asked him how it was that he could, in violation of law—

Mr. RANNEY. Please stop the witness and ask him to confine himself to stating what he had to do himself personally, not what other people told him.

The WITNESS. I am telling you how I came to meet Mr. Wilbur. Let that go in because you will want it.

Mr. RANNEY. No; confine yourself to a legitimate answer to my question.

The WITNESS. I am only telling you how I happened to meet Mr. Wilbur.

Mr. RANNEY. I simply asked you what you had to do with it. Will the reporter read the question again.

The reporter read the question as follows:

“Q. Did you have anything to do with getting the affidavit of Mr. Wilbur, a former examiner in the Patent Office?”

The WITNESS. I did, and that is just what I am coming to.

Q. What did you do personally? you need not state what others told you.—A. You will regret that you did not let me go on in my own way. Mr. von Briesen came to my room and asked me if he could, or told me that he had invited Mr. Wilbur to come to my room to give him an affidavit with regard to his action in the issuing of that Bell patent. I told him I had no objection in the world, of course. I did not know

Mr. Wilbur or anything about what the affidavit was that he wanted to get, except from what he stated. Do you want me to tell what he stated?

Q. No, sir; just state what you did?—A. Now, I am going to tell you what Mr. Wilbur said; of course I can tell you that.

Q. I ask you what you did then; not what anybody said to you.

Mr. HALE. Go ahead and answer the question in your own way, unless you are stopped by the committee?

Mr. RANNEY. One moment. I hope the chairman will rule on that. I put a specific question and asked him what he did, and now Mr. Hale has taken it upon himself to direct what the witness shall do.

Mr. HALE. I have done no such thing; nothing of the sort.

Mr. OATES (in the chair). The Chair thinks that the witness, in answering a question, has a right to explain his testimony in that connection.

Mr. RANNEY. The question is whether, when the witness is asked to state what he did, he can be allowed to state what anybody else told him. I did not ask him what anybody else told him. Read the question again, Mr. Reporter, with this additional remark—that I ask him to confine himself to my question and omit what other people told him.

Mr. OATES. I think you are going outside of the order of proceeding. The Chair will state the question properly when it is reported and will endeavor to direct the witness properly about it. [To the witness.] Answer the question that Mr. Ranney put, and then you have a right to explain your testimony or any other circumstances connected with it.

The reporter read the question as follows:

“Q. I ask you what you did then; not what anybody said to you.”

The WITNESS. Well, I did have this to do with it; Mr. Wilbur gave that affidavit; it was given in my room, in my presence, and I think I made a copy of it; I think Mr. Von Briesen wrote it first and I made a copy of it. Then we sent out the copy—no, I think Mr. Wilbur took the copy; he took the affidavit that was drawn up, he worded it, he sat there and dictated it or worded it, and he took that copy—I should not say “copy” probably, I should say the original which was drawn up—and went out and swore to it before a notary public and brought it back and gave it to Mr. Von Briesen and I had a copy of it, an exact copy of it. Mr. Von Briesen took the original and put it into his pocket and carried it off to New York with him. After this, Mr. Wilbur was in my room and staid in my room. He was very talkative, but perfectly sober at that time. It was the first time I ever saw the man in my life. During that stay in my room he told us, without being asked, without anybody dreaming of asking him such a question, that he had given the contents of that Gray caveat to Bell and his attorneys, and he did it in the presence of Charles P. Huntington, of Mississippi, and Colonel Young, here. We conversed there for some time about it, and finally he left my room and went off.

Now, I see in the record here it has been asked how it was that he made the same affidavit on the 30th of July and on the 3d of August also. I will explain that. After Mr. Von Briesen took that original copy to New York—he left the hotel the same day or the next day—I wanted copies to take home with me of that same affidavit. I had a fac simile copy of the original, and I went out and had three more copies printed off on a type-writer. Then I sent to find Mr. Wilbur to get him to come and testify to those three copies which were exact copies, but I could not find him. Somebody at the house where he lived said he had left town. The third day after that, he walked into my room and said that he had heard I wanted him, and wanted to know what I wanted. I gave him those two copies and asked him if he had any objection to going out and swearing to them; that they were fac similes of the original. He read them over carefully and said “certainly not.” I told him I simply wanted them because I wanted a copy in New Orleans and Mr. Huntington wanted a copy. So he went out and swore to those three copies. When he went out with them they were dated the 30th of July, exactly the same as the original; but he came back and stated that the notary public had changed the date, of course, as he was making oath to them, to the 3d of August, I think it was, instead of the 30th of July. Now, that is the explanation of the affidavit being made on a subsequent date. He made no secret about the thing. He stated explicitly that he had showed the contents of that Gray caveat to Bell and his attorneys. I have met him since once—

Q. I am not on that affair now. Have you stated all that you did on those two occasions that you have spoken of in connection with Mr. Wilbur?—A. Yes, sir; all that I recollect.

Q. Did you give him no money?—A. No, sir; I did not—do you mean at the time he signed that affidavit?

Q. At either of the times?—A. The third day that he came in there I gave him \$2, I think, to pay for the swearing before the notary public. I never gave him any money besides that.

Q. Did you learn where he had been during those two days?—A. Oh, I will tell you what he has said, and I have a right to repeat what he has said to me; that when he passed that patent—

Mr. RANNEY. I object. What he has said since I have not asked about. I have asked you about those two occasions. Anything he said on those two occasions I asked the witness to tell all about.

Mr. EDEN. I am not able to see what the Pan-Electric Company or any of its associates has to do with this matter.

Mr. RANNEY. I will come to that pretty soon.

Mr. EDEN. You may come to it sometime or other, or you may not.

Mr. RANNEY. Anything else that Mr. Wilbur said on either of the two occasions to which you have alluded, on the 30th of July or the 3d of August, I do not object to your stating. But I do not want now to diverge into anything else. Did he tell you on the 3d of August where he had been meanwhile?—A. No, sir; I do not think he did. I have an impression that somebody told me he had been to Baltimore, but I am not certain about that. I am not certain whether I got that from the messenger who went to his house, or whether I got it from him. But I got the impression on my mind that somebody said he had been to Baltimore.

Q. Were you not told, or did you not learn, that during those days he had been confined here at police headquarters, or in jail for drunkenness?

Mr. OATES. You objected to his stating what he had heard, and now you are asking him what he was told.

Mr. EDEN. I do not see what that has to do with the investigation in any way.

Mr. RANNEY. You may strike out that last question. Perhaps it is pursuing it a little too far. [To the witness.] Was Casey Young present when either of those affidavits was taken?—A. I do not think he was; in fact, I know he was not.

Q. Was he in the room on the 30th of July or the 3d of August?—A. The affidavit was taken before I saw Colonel Young, and I told him about it when he came.

Q. What did you do with the affidavit after you got it—the first one?—A. Mr. Von Briesen kept that.

Q. How long did Mr. Von Briesen remain after that?—A. He left there that same day or the day after. I have it in my mind that he left on the evening train of that same day.

Q. Did you give it to him immediately after you got it?—A. No, it could not have been then. If that affidavit was given on the 30th of July he could not have left that day, because I think it was the 31st that we went up to see Mr. Garland, and he must have left the afternoon of the 31st.

Q. Did Mr. Von Briesen go with you to see the Attorney-General?—A. Yes, sir.

Q. On what day?—A. Why the only day that I went there with anybody except Mr. Huntington, and I tell you I don't recollect whether that was the 30th or 31st; it must have been one or the other; it was the 31st, I reckon, because we had that affidavit, my impression is, at the time we went to see Mr. Garland.

Q. What house did you stop at at that time when you were in Washington?—A. Great Scott! It is all there in the record; the Ebbitt House.

Q. You are sure that you got here on the 28th of July, are you?—A. No, sir; I am not sure about it; I think it was about that time. I even forgot to look at the register again; I will do so when I get back to the hotel to-day.

Q. What day was it when you went alone to see the Attorney-General?—A. I did not go alone; I went with Mr. Huntington the first time.

Q. What day was it when you and Mr. Huntington went there?—A. That was the first day we arrived here; it was either the 28th or 29th.

Q. How soon after your arrival did you see Casey Young?—A. I can fix all those dates better after I have looked at the hotel register, because I do not think I have any other means of knowing the exact date.

Q. Was it the day before or the day after when Casey Young went with you with reference to that interview, when several of you were there?—A. The first time I went to see Mr. Garland Colonel Young was not in the city; he had not arrived.

Several members of the committee, desiring to be present in the House to vote upon an important question, the examination of the witness was suspended at this point, and the committee adjourned to meet again to-morrow, Thursday, April 15, 1886, at 12 o'clock.

WASHINGTON, D. C., *Thursday, April 15, 1886.*

The committee was called to order at 12.30 p. m.

Mr. WATSON VAN BENTHUYSEN came before the committee and his examination was resumed.

Mr. RANNEY (to the stenographer). I wish you would pursue the same course as yesterday, first write down the questions and then read them to the witness. [To the witness.] Will you please state Mr. Witness, whether in both the suits at Pittsburgh and in New Orleans you did not put into the cases all the evidence you desired or had, and whether those cases did not involve the validity of the Bell telephone patents and the question of infringement which was charged against you?

Mr. EDEN. I do not see the relevancy of that question. The Pan-Electric Company had nothing whatever to do with those suits at Pittsburgh and New Orleans, nor was there any connection between that company and the New Orleans Company with reference to those matters at that time.

Mr. RANNEY. The evidence shows that they were acting in combination.

Mr. EDEN. The evidence shows that after the Pittsburgh suit had been heard on the application for a preliminary injunction there was an agreement made between Mr. Young and Mr. Van Benthuyesen.

Mr. RANNEY. The point is this: When this Government suit was brought there were these two pending suits which involved this identical question of infringement, and so the question arises as to whether the Government suit was a proper one to be instituted to settle private interests.

The CHAIRMAN (Mr. Boyle). Why is it material to prove that they have put in all their evidence in those cases?

Mr. RANNEY. Because he has put in evidence the statement that he abandoned that suit, and I want to show that he abandoned it after he supposed that a Government suit would be brought. There was no occasion for a Government suit, because those suits would have settled the questions at issue.

Mr. EDEN. I do not think it is necessary for us to go into the questions between the New Orleans National Improved Telephone Company and the Bell Telephone Company in order to determine their respective rights.

Mr. RANNEY. That is not my purpose. My purpose is merely to show that there was no occasion for the Government suit, because these suits involved the very issue involved in the Government suit.

The CHAIRMAN. It does not seem to be material, within the scope of this investigation, and I do not even in the light of the question put by Judge Ranney, perceive that it is material whether all the evidence was put in in those suits or not.

Mr. EDEN. If there should be any subsequent litigation between that company and the Bell Company the answer that the witness gives might possibly be used to his prejudice.

Mr. RANNEY. Oh, no; that is no valid objection.

Mr. EDEN. Whatever was done by the two companies after the agreement was made, in attempting to have this Government suit brought, would be relevant.

Mr. RANNEY. The question we have to determine here is, what authority there was to bring a Government suit. It is claimed on one side that there was none. It is claimed on the other side that it was necessary to have a Government suit brought in order to properly determine those questions. Now, the pertinency of this evidence is to show that at the time this Government suit was brought there was pending not only the suit at Pittsburgh, but the New Orleans case, in which every issue that is presented in this Government suit was pending, and full opportunity given to try and determine them, so that there was no occasion for a Government suit. Yet, notwithstanding that, it is alleged that he conspired with the Pan-Electric people and entered into an agreement to try to have a Government suit instituted, and that is one of the questions we have to investigate; that they succeeded in getting the Department of Justice, the head of which was one of the directors of the Pan-Electric Company, to bring a suit in the name of the Government and at the expense of the Government, to try an issue which issue was pending in these suits as they then stood in court, and the decision of which would have settled every issue that that Government suit would have settled. That is the view from which I ask the question.

Mr. EDEN. I do not understand that we are called upon to investigate whether there ought to have been a Government suit or not; I do not understand that that is within the scope of the inquiry at all. The language of the resolution is:

"Also as to what opinions, decisions, and orders relating to said stock have been made by any officers connected with the Government, and by whom, and all the circumstances connected therewith and arising therefrom, and also as to what suit or suits, if any, have been brought in the name of the United States to test the validity of patents issued or any other right in controversy between the Bell and Pan-Electric Telephone Companies, what contracts have been made, what moneys paid or to be paid to any person or persons as assistant counsel to the Attorney-General or

Solicitor-General of the United States, the reason and authority for constituting the United States as a party to said suit or suits, and all matters connected therewith."

I do not understand that we are to inquire whether there ought to have been a Government suit brought, or whether one ought not to have been brought; but we are to ascertain whether one was brought, and if so, upon what authority, and the reason. That authority does not involve the question of the legal right to bring suit, but who ordered it, and the reasons that that person had for ordering it. I do not understand that we have to decide the legal question as to whether the Government has the power to bring this suit. That question had been submitted to the Judiciary Committee before this committee was formed. But I think what we have to deal with here is the question, did the officers of the Government institute suit, what officers did it, and why they did it; and not whether, as a legal proposition or constitutional question, or as a matter of policy, the suit ought to have been brought. The question, it seems to me, simply looks to policy, and is made upon the assumption or for the purpose of establishing a proposition that individual suits were already pending that would have determined all the questions that could be determined in a suit brought by the Government. Now, it does not occur to me that it is within our province to go into that question, which would involve a very wide range, to determine whether suits brought by individuals against the Bell Company, or by rival companies against the Bell Company, or suits brought by the Bell Company against rival companies—whether a suit brought by the Government would settle anything more or anything less than a suit between those companies would settle.

Mr. RANNEY. It seems to me that the argument of the learned gentleman is unsound and untenable, to say nothing more, independently of the lateness of the day of his hearing when the question is raised, after we have spent a fortnight and more upon that very issue. What we have to do is to inquire about bringing the suit, and the reasons and authority for constituting the United States a party to said suit or suits, and all matters connected therewith. What I want to ascertain as a member of this committee is, what the reason was for bringing that Government suit, and what the authority was for bringing it; or, if it was brought without reason, then I want to know the fact, and I think the House wants to know it. If it was brought for no reason, with no cause or justification, and the Government is to be put to the expense of prosecuting that suit, then I think the House wants to know it, and the country would like to know it.

It is charged, and that is the issue here, that the reason for bringing that suit was that the Attorney-General was interested in the Pan-Electric Company, as a large stockholder and director, and the charge is—I do not make it—that it was brought because of that and by reason of that. It is charged and claimed that may be the Government brought that suit to settle questions of law as to the validity of the Bell patents, and that it was necessary to do so. The answer to that may be—and that may be the result of this hearing—that it was brought without any reason or justification; that it was brought through the Department of Justice with the concurrence, sanction, and authority of the Attorney-General, as has been sworn, and as the evidence tends to show, not for the public welfare, but in the interest of and to serve the purposes of certain men who are charged with infringing the Bell telephone or other patents; that it is simply a suit in their interest, and not for the public good, brought without any reason, without any authority, and for wrong purposes and wrong objects.

If it be true that at that time these very men, as is alleged—I do not allege it; that is a matter for investigation—in whose interest this suit was brought were in court charged with infringements, then they had the opportunity to litigate those cases at their own expense, in their own way; and if those suits were then pending, and those issues were before the court, and the proofs in, then it is an important fact bearing upon the question in whose interest the suit was brought, whether it was for any reason or no reason, and if for any reason, what that reason was. We have been showing all through, without any objection previous to this time, that there was no occasion for this Government suit, and no justification for putting the Government to the great expense of litigating a case simply and solely in the interest of individual infringers of these patents, as is charged, who were then in court. If those issues could have been tried—and it was apparent that they could have been tried in those suits just as well as in the Government suit—then there was no occasion for a Government suit, and no reason for it, and it was putting the Government to great expense unnecessarily, and lending its name, not for the benefit of the general public, but simply and solely to promote the interests of and aid these few individuals who are, as is alleged, in conspiracy and in combination in their infringements, in their defense against the charge of infringement.

I say this, not as making the charge myself or as expressing any opinion as to what the result will be, but that is the charge, and that is the thing which we are investigating. People say, and it is charged, that there was no reason whatever; that the Government suit was brought as the result of a conspiracy on the part of those indi-

viduals who, it is charged, infringed these patents; that they have succeeded by a conspiracy, it is charged in the newspapers, in getting the Attorney-General, an interested party, to lend the name and put the treasury of the Government at the command and for the benefit of persons engaged in private controversies. One of the papers has said that the Government is a mere puppet in the hands of these conspirators, lending its name and opening the public treasury to their drafts to fight their controversy, which could just as well have been fought, and just as well have been determined between themselves without Government aid in any shape.

That is the claim that is made. I am not arguing that it is proved, nor am I expressing any opinion upon it. That is what we have to investigate. The public want to know if the Government of the United States will lend its name and its treasury to fight the individual controversies of two parties who are in conflict on the question of the validity of patents and the question of infringement; and they want to know the reasons and authority and all matters connected therewith, and those are the questions we are required to investigate and report upon. I say again—I have stated it in that form as a charge, not as expressive of an opinion of my own about it at present, nor as to any conclusion to be derived from the evidence—that is the very charge we have been for a fortnight investigating without objection, but now the gentleman wishes it stopped.

Mr. EDEN. If the committee are going to assume, in the absence of any evidence whatever, that the Government instituted this suit in the interest of the National Improved Telephone Company, and for the Pan-Electric Telephone Company, and not in the public interest, there may be something in the position assumed by the gentlemen from Massachusetts; but, as one member of the committee, I do not assume anything of the sort.

Mr. RANNEY. I have assumed no such thing.

Mr. HANBACK. That is one of the questions being investigated.

Mr. RANNEY. That is one of the questions under investigation.

Mr. EDEN. I wish to make a remark or two.

Mr. RANNEY. I do not desire to be put in the position of assuming the very thing that we are called upon to investigate and ascertain whether it is true or not.

Mr. EDEN. If the public interest is to be subserved by the bringing of a Government suit, it does not make a particle of difference whether in the suit that the National Improved Telephone Company had with the Bell Company they put in all their evidence or not. That is a mere controversy between those two individual companies, with which, as a matter of course, the Government has no concern. If the investigation were to be narrowed to ascertain whether the National Improved Telephone Company or the Bell Telephone Company was in the right, then there might be something in this line of inquiry.

Mr. RANNEY. I do not claim that the committee is to investigate the question of infringement; I do not, for one, propose to go into it. I do not know anything about that.

Mr. EDEN. I do not understand that we are to pursue this investigation as to what the National Improved Telephone Company did, or what the Bell Company did, in the controversy between them, in order to determine their respective rights. That is not what we are here for, to settle the rights between those two companies. As to the remark about the Attorney-General, in view of the testimony which has been taken before this committee I do not think that it ought to go out from this committee that anybody has either charged or sworn that the Attorney-General had anything to do with the ordering of this suit, or that his interest in the Pan-Electric Telephone Company in any way effected the bringing of this suit, because, of course, that is the very matter that we have to investigate.

Mr. RANNEY. I have carefully abstained from making any such remark, or anything that would look like the expression of an opinion. Of course that would not be proper before we have finished the investigation and made our report. But the gentleman seems to be expressing an opinion before we are through.

Mr. EDEN. I have not expressed any opinion. I was only saying that it ought not to go out from the committee that the order of the Department of Justice to bring suit was, according to the evidence here, in any way effected by the interest of the Attorney-General in the Pan-Electric Company. My opinion is that the resolution does not authorize us to investigate the National Improved Telephone Company at all; that is not an offspring of the Pan-Electric Association; and whenever we go beyond where it is shown to be acting in concert with the Pan-Electric Company we are invading private rights, and are not within the purview of the resolution of the House.

Mr. RANNEY. Pardon me, Mr. Chairman; the learned gentleman seems to have forgotten that this suit we have been investigating is brought ostensibly at the instance and on the application of this very National Improved Telephone Company, of which Mr. Van Benthuyzen is the president, and on his own application. It is charged here (and there is some evidence to show it) that the real party behind that company and

co-operating with it, in conspiracy with it, to get suit brought, is the Pan-Electric Company.

Mr. EDEN. I do not object to pursuing that investigation, as to what he did to get this suit brought. That is not what I object to.

Mr. RANNEY. The gentleman does not seem now to understand the bearing of it. Here is a suit which, according to the evidence now in, was brought by the Government upon the application of this company.

Mr. EDEN. And five other companies.

Mr. RANNEY. It stands disclosed originally on the part of this company and other companies ultimately. The memorial for the first suit that was brought was signed by this man, by Mr. Gantt, and Mr. Wright, of Memphis, and not by any other companies. The second suit (and the inquiry embraces them both) was subsequently instituted. If the gentleman supposes that I propose to put in question here anything that bears upon the litigation with reference to the question of the validity or infringement of the Bell patents he is mistaken. We are not here to try that issue, and I should object distinctly to any attempt to try it.

But, as bearing upon the reason why either of those suits was brought in the name of the Government, it is important to show this fact: that there was no occasion for any such suit. Why? Supposing it had been found that the principal questions which the Government proposed to litigate in its own name had been settled by the Supreme Court of the United States as the final tribunal which could settle it; you would not say the Government would be justified in paying out several hundred thousand dollars, more or less, to litigate questions for the benefit of the public which had been fairly and fully tried below and conclusively adjudicated by the Supreme Court. Suppose at this time all these questions had been thoroughly tried by these very men at whose instance this suit was brought, and they had been determined; would the Government be justified in lending its name and the use of its Treasury in carrying on another suit? Suppose there were suits at Pittsburgh and in New Orleans, wherein the rights of this witness and of his company, charged with infringement as they were, were in issue fairly and squarely presented, where the issue of the validity of the Bell patents was involved, where they had full and ample opportunity to have it litigated before a proper court at Pittsburgh and in New Orleans, and ultimately by the Supreme Court; suppose they had made up their cases entirely, and could have gone on with those suits if they saw fit, but, seeing that they were to be beaten, had resorted to what is claimed as a conspiracy to use the Government as an instrument to institute a new suit—for what purpose? To prevent a preliminary injunction to stop their work, thinking they could do it when they could not otherwise do it; when otherwise they would be enjoined. Would any gentleman maintain before the House and before the country that there was any good reason for the institution of this suit? Would they not say that there was no reason, or that there was some bad reason, or that there was some gross mistake? Whichever one is true, the House wants us to ascertain, and the country wants to know. I say again that I present it in that view. I do not, as I understand you do, express any opinion.

Mr. EDEN. I did not express any opinion.

Mr. RANNEY. I did not suppose you meant to be so understood. I do not want to express any opinion until the investigation shall have been finished. I am willing to go through and make, as the House intended, a thorough search of everything that bears on that issue, and do it thoroughly and carefully, not one-sided but all-sided, and when we get through with the inquiry, then we can consider the evidence and make a report on it.

Mr. EDEN. The gentleman evidently misunderstood my position.

Mr. RANNEY. I am sorry I did.

Mr. EDEN. I want to make a single remark. I suppose that everybody who has given any attention to the matter of the Government suit knows very well that the decision by a court of any controversy between the National Improved Telephone Company and the Bell Telephone Company does not settle anything on earth except the issues between those two parties, and that the question as to the validity of the patent of the one company or the other is not in the remotest degree affected so far as the rights of everybody else in the United States are concerned.

Mr. HANBACK. Would not a decision adverse to the Bell telephone destroy the Bell Telephone Company?

Mr. EDEN. No, sir; not the decision of a suit between those two parties. But whatever it may be, it is not necessary for us to go into the private controversy between those two companies, for the reason that it does not throw any possible light on this controversy. We do not know what are the rights of the New York Board of Trade and Transportation—I believe that was one of the petitioners for the institution of this Government suit.

Mr. RANNEY. That has not been put in evidence yet.

Mr. EDEN. And there was some gentleman in Chicago who was an applicant.

Mr. RANNEY. That has not been put in evidence.

Mr. EDEN. The whole record has been here before us.

Mr. RANNEY. Has it been put in evidence?

Mr. EDEN. I do not know whether it has been, but it has been shown in the evidence, as the record will disclose, who the applicants were and all of them. I do not propose to be governed by any narrow view of this matter.

Mr. RANNEY. They were not applicants for the first suit, and we have not yet gone into the investigation of the second suit in the order of proof; that is a question I propose to raise by and by; my own mind is not made up on it yet.

Mr. EDEN. I propose not to be misunderstood.

Mr. RANNEY. I was going to say to you that these very men who were anticipated, here and in Chicago, the only people before the Interior Department, were alleged infringers of the patents.

Mr. EDEN. I do not propose to be misunderstood as to what I say about proofs and about a thorough search. I do not object to the most thorough examination of this witness with reference to anything and everything that he knows in regard to the bringing of this Government suit, but I do object to going into the private controversy between his company and the Bell Company. I do not think it is proper.

Mr. RANNEY. The gentleman must understand that I do not propose to go into private controversies.

Mr. EDEN. Then I do not see why you want to ask that question.

Mr. HALE. One gentleman of the committee has no right to monopolize all the time.

Mr. RANNEY. I want to correct him.

Mr. HALE. You have had nearly an hour.

Mr. RANNEY. I do not care to go into the trial of the issues between those parties; but he has testified, in answer to questions by Mr. Boyle, why he withdrew from that suit, and I simply want it to appear that in that suit at Pittsburg and in his suit in New Orleans that issue was raised; that is all.

Mr. EDEN. We have nothing to do with that.

Mr. RANNEY. That is why I wanted to correct Mr. Eden.

Mr. HALE. If this question was addressed to any person connected with the law department of the Government or who could give the reasons or motives for bringing that suit, it would be all right, but this witness is an outsider, connected with another company and having no connection with the Department of Justice. We will admit, I suppose, that he was interested in having this suit, a private suit, brought. But he is not competent to give the reasons why the legal department of the Government brought this suit. He says he is not a lawyer; he does not know anything about their reasons and could not give a correct opinion about it. If the question was addressed to Mr. Goode or Mr. Garland, or somebody who was responsible for bringing suit and who is supposed to know the reasons, it would be all right. But I object to it for the reason that he can know nothing about the reasons which actuated the law department of the Government in instituting a Government suit.

Mr. RANNEY. May I ask you a question?

Mr. HALE. Yes.

Mr. RANNEY. Do you understand that this inquiry which we are to make is limited to the reasons which actuated the Department, to wit, Mr. Goode or the Attorney-General, or whether there was in fact good reason for it?

*Mr. HALE. It means the reason and authority, in the legal sense, that the Government had for instituting the suits.

Mr. RANNEY. The question of whether they had or had not—

Mr. HALE. This witness cannot say what reason governed the Attorney-General or Mr. Goode in ordering this suit to be brought; he is not a lawyer and cannot look into their minds, and so I say he could not give a correct answer, in a legal sense, as to the necessity of bringing that suit.

Mr. HANBACK. If it had been made to appear here that the National Improved Telephone Company had nothing whatever to do with the bringing of this suit by the Solicitor-General, I agree with the proposition that is made, but the witness is the representative of that company.

Mr. HALE. The question is, what reason was there for bringing this suit by the Government? That is simply a legal question put by a man who is not a lawyer.

Mr. RANNEY. I have not asked any such question as that.

Mr. HALE. My understanding of the question is as to what the reason was for bringing this suit.

Mr. HANBACK. I assume, and probably shall assume until the case is closed, that the Department of Justice did make every effort to arrive at all the facts, so as to base its judgment clearly and distinctly, with reference to the right of the Government to institute this suit, upon proper reasons. It appears in the testimony that those suits were pending, suits which clearly to my mind involved the question of the legitimacy of the patents of the Bell Company, and if the decision of the court should destroy those patents the result would be to the benefit, not alone of Mr. Van Benthuyzen or the National Improved Telephone Company, but to the benefit of all.

Then the question would follow, who had the prior right, the Bell patents having been destroyed? The investigation has proceeded in this way so far without objection.

Mr. EDEN. Let me correct you. I have continually objected to going into these outside matters connected with the National Improved Telephone Company, but not in any way connected with the Pan-Electric Company.

Mr. HANBACK. Still, we have continued the investigation, and the objection has been withdrawn as a rule.

Mr. HALE. Is not this purely a legal question? The witness is not a lawyer, and his opinion upon the propriety and impropriety of the Government bringing suit cannot be competent.

Mr. HANBACK. No; that is not the question. The question is whether he filed all the papers there.

Mr. HALE. Let us have the question read.

Mr. EDEN. Let me ask you a question, Mr. Hanback.

Mr. HANBACK. Certainly.

Mr. EDEN. Do you understand the law to be that in a suit between the National Improved Telephone Company and the Bell Telephone Company the question can be raised as to whether a patent was fraudulently or improvidently issued?

Mr. HANBACK. Unquestionably. Such questions can be raised in every suit.

Mr. HALE. I would like to have the question read.

The CHAIRMAN. The reporter will turn to the question and read it.

Mr. RANNEY. The Judiciary Committee has held that in certain cases where the patent is obtained by fraud or surreptitiously an action on the part of the Government will lie, and that is my opinion.

Mr. EDEN. It is very well settled that there are cases where that question does arise.

The CHAIRMAN. The reporter will read the question.

The reporter read as follows:

"Q. Will you please state, Mr. Witness, whether in both suits at Pittsburgh and in New Orleans you did not put into the cases all the evidence you desired or had, and whether those cases did not involve the validity of the Bell telephone patents and the question of infringement, which was charged against you?"

Mr. MOFFATT. I do not consider that we are limited, as a strictly legal proposition, to the question whether the Department had the legal authority to institute the suit or not, but we are permitted to go into all the evidence necessary to shed light upon the question not only whether it had the legal authority, but whether it was proper to bring suit and whether any improper motive actuated the officers of that Department. As I understand Judge Ranney's question, what he wishes to draw out is the fact that this same question was pending and could have been determined in suits that were already before the courts, and therefore that the Government ought not—not that it did not have the right, but that it ought not—as a matter of public policy to have interfered. It seems to me that is proper.

Mr. RANNEY. Further than that, to show that this man himself, knowing that, proceeded in this combination to get the Government to do this, to fight his own suit.

The CHAIRMAN. It seems to me that the question put by the gentleman from Massachusetts involves two points: One is as to what was really involved in the Pittsburgh and New Orleans suits; how can that be proved? That certainly can only be proved by the pleadings in those cases. The opinion of this gentleman or any other as to what was alleged by the plaintiff there or denied by the defendant, and what may have been decided, can only be proved by the record; at least, that is my view, that such matters cannot be proved orally, even by a lawyer; that is the point made by the gentleman from Missouri. The other is as to the manner in which those cases were tried, that is to say, the gentleman from Massachusetts asked the witness whether his company put in in those cases all the evidence they desired or all the evidence they had; that involves the manner of trying those cases.

The whole question is put for the purpose of showing that there was no necessity for bringing the Government suits; that there were suits already pending in which the very questions raised in the Government suit could have been determined. The Pittsburgh suit was pending, the bill having been filed by the American Bell Telephone Company against the Western Pennsylvania Telegraph and Telephone Company, and there had been a hearing on motion for a preliminary injunction before any movement was made here by these parties to have a Government suit brought. That preliminary injunction had been granted in Pittsburgh, and the suit was abandoned, so far as the defendant was concerned. That was a bill in equity filed by the American Bell Telephone Company against the Western Pennsylvania Telegraph and Telephone Company, and, in my judgment, did not involve the question whether the Bell patent was fraudulently issued or not; it did involve the question whether there was an infringement by the Western Pennsylvania Telegraph and Telephone Company of the patent of the American Bell Telephone Company, and its decision would have been binding only upon those parties. My recollection is that the New Orleans

suit was not pending at the time the first Government suit was brought, but was brought afterwards. I will ask the witness if he knows when suit was brought in New Orleans against his company.

The WITNESS. November 5 the bill was filed.

The CHAIRMAN. So that the New Orleans suit could not have been abandoned for the purpose of having the Government undertake this proceeding against the Bell Telephone Company?

Mr. RANNEY. That was before this last suit.

The CHAIRMAN. I do not remember when the last suit was ordered.

Mr. RANNEY. The bill has been filed by the Government since this hearing was begun.

Mr. EDEN. The proceedings in the Interior Department were begun anterior to that.

The CHAIRMAN. As affecting the conduct of the Attorney-General, and of the other parties connected with the bringing of the first suit, it certainly could have had no such purpose, because it was brought after the first suit was brought, and was not abandoned, and I do not know but it is pending yet. It therefore has no connection with it, and I do not know what it is claimed to prove.

But, aside from all this, it seems to me immaterial in this investigation to prove the manner in which the cases at Pittsburgh and New Orleans were tried; and I say, further, that I think one of the parties to those cases ought not to be compelled to disclose whether he put in all the evidence he had. I therefore think that the question is irrelevant.

Mr. RANNEY. Take the yeas and nays on it. Before doing that I would like simply to remark that, technically as to the mode of proof, the decision is undoubtedly correct, but we have not thought it necessary in this investigation to encumber the record by reprinting all the records in those cases, but we have taken secondary proof in those cases right through. Technically the rule of law stated by the chairman is correct, but we have not complied with it, and I do not think it essential that we should. I would like to have the yeas and nays.

The CHAIRMAN. There has been some question heretofore as to the manner of submitting to the committee a question like this. I will submit it in this form: Shall the decision of the chair stand as the judgment of the committee?

Mr. OATES. I consulted the Speaker about it, and he says that is the correct form. I think that is the correct form.

The CHAIRMAN. Shall the decision of the chair stand as the judgment of the committee on this question? The yeas and nays are asked, and the clerk will call the roll.

The yeas were: Messrs. Oates, Eden, Hall, and Hale. The noes were: Messrs. Ranney, Hanback, and Moffatt.

The CHAIRMAN. The yeas are four and the nays three. The decision of the chair stands as the judgment of the committee.

By Mr. RANNEY:

Q. Now, one more question: On what day did you get the consent of the Attorney-General to the withdrawal of your application which had been made to the Attorney-General in July and referred to the Secretary of the Interior?—A. I think it was on the 31st of July.

Q. Who was present when you got it?

The WITNESS. Got the letter, or the consent?

Mr. RANNEY. The consent of the Attorney-General. Who was present when you got the consent of the Attorney-General?—A. It was the day, I think, that we all went there; and I think that after the conversation was over Mr. Von Briesen stepped up to the Attorney-General and asked him if he had any objection to my having the letter back, and my recollection is that he simply said no, and upon that Mr. Von Briesen and I went to the Patent Office, and Mr. Von Briesen went in to see the commissioner and obtained the letter.

Q. What reason was given to him why you wanted it?—A. Well, I didn't hear the whole conversation on the part of Mr. Von Briesen. I don't know that he gave any reasons at all; I don't think he did give any. I think he simply asked if there was any objection to my having back the letter which had been founded upon an error; and, as I told you the other day, I was apprehensive that it would fall into the hands of some of the men in the Patent Office who had had some connection with the issue of the Bell patent, and they might make some adverse report upon it.

Q. Was that stated to the Attorney-General as the reason, or any part of it?—A. No, sir; I don't think it was; in fact, I know it was not; I never heard anything of the kind, and if there had been, of course I would have heard of it.

Q. In that interview was anything said to the Attorney-General about your having concluded to adopt a different course of proceeding; if so, what?—A. Oh, yes. You have it down fully, for I gave it to you the other day.

Q. Will you be kind enough to state again, what different course you stated to the

Attorney-General you were going to pursue?—A. I gave that same answer yesterday or the day before. It was stated to the Attorney-General that we intended to apply to some district attorney to examine into the facts that we would present to him, and get him to apply to the Attorney-General for permission to institute a suit; and the visit to the Attorney-General was simply for the purpose of asking him to act upon that application, if we succeeded in getting one, without referring it to the Interior Department.

Q. Who said that to him?—A. I think it was said by Mr. Von Briesen. Mr. Von Briesen and Colonel Gantt conducted nearly the whole conversation; nearly every word that was said was said by them.

Q. Was Casey Young present at the same time?—A. I think Mr. Young was sitting off at some distance; I think he was sitting on the sofa, and Mr. Von Briesen and Colonel Gantt were sitting near Mr. Garland's desk, talking.

Q. When that was said to him, the Attorney-General, what reply did he make to it?—A. He had only one reply every time that we were there, that he could not have anything to do with it, and would not have anything to do with it; that was the substance of it; I don't recollect the exact words, but he would not listen to it.

Q. Was it said to him at that time that he was desired to bring a suit in behalf of the Pan-Electric Company, or the company in which he was a stockholder?—A. Why, no, sir; the Pan-Electric was not mentioned or thought of. The Pan-Electric Company was not present. I stated I was going to make the petition to some district attorney, and I was applying through my attorney, Mr. Von Briesen, to the Attorney-General for him to act promptly upon it, if I succeeded in getting the petition sent in by some district attorney. As I told you before, I did not know anybody connected with the Pan-Electric Company at that time except Colonel Young. I had been introduced to Senator Harris, but I knew nothing about them, nothing about the company. We never had a conversation about a Government suit until after all this transpired—that is, about joining together in reference to a joint action in a Government suit. All our conversation on the subject of suits previous to that was in connection with the suit in Memphis and the one in New Orleans.

Q. Then, if I understand you, you told the Attorney-General at that time that you proposed to make another application yourself through the district attorney?—A. Through some district attorney.

Q. You told him so in that interview?—A. Yes, sir. It was not determined at that time through what district attorney, or where we were to make the application from.

Q. Didn't you, or some one there in your presence, tell him that you wanted to have him bring a suit in the name of the United States at the instance of the Pan-Electric Telephone Company, the company in which the Attorney-General was a stockholder or director?—A. Now, Mr. Ranney, why put that same question over again in a different guise? I tell you there was nothing said about the Pan-Electric Company there at all; nobody uttered "Pan-Electric"; nobody dreamed of talking about Pan-Electric.

Q. And you say that the Attorney-General did not decline on the ground that he could not do it for that company because he was a stockholder or director in it?—A. Now that question again implies that I have already said that there was an application on the part of the Pan-Electric Company, when I have told you that there was no such thing.

Q. I only want to understand you, Mr. Witness. You meant to have the Attorney-General understand that this suit which you desired to have brought was to be brought at the instance of your company, the National Improved Telephone Company?—A. No, sir; there was no such thing said about how the suit should be brought other than I have told you; that we expected to lay all the facts in our possession before some district attorney, and if he thought we made out a *prima facie* case before him, we expected to get him to make an application to the Attorney-General for permission to institute a suit. At the interview with Mr. Garland there was not one word said about how the suit should be brought, whether in the name of the Government or at the relation of any company or anybody else. We were just talking in simple plain terms at that time. Colonel Young had said (after or about that time, conversing with me about my application to Mr. Garland, in which I asked him to bring a suit in the name of the Government) that the suit ought to be brought on the relation of some individual or some company, that was his idea, but there was not a word said about that to the Attorney-General; nobody uttered anything about Pan-Electric in the presence of Mr. Garland. Mr. Garland has written a letter in which he said he was called upon by somebody connected with the Pan-Electric Company. I have repeatedly stated, before I came here, in interviews in the public prints, that I was very much astonished that Mr. Garland made that mistake, because there was no one connected with the Pan-Electric Company there except Colonel Young; nobody had said anything about the Pan-Electric Company; and how he could have taken up an idea that there was an application in the name of the Pan-Electric Company I

have always wondered at. I do not know how he could have done it. It was a mistake and a very positive mistake.

Q. I would like to have you distinguish, Mr. Witness, and tell me again, to see if I understand you, what the interview was with the Attorney-General the day before, when you and Mr. Huntington alone were present with him.—A. My interview on the day before was a very short one. I called on him with Mr. Huntington. I have stated it to you now two or three times, and I will state it again, and I wish you would carry my testimony with you and look at it occasionally, and then you would not lumber up this record with the same questions a dozen times. I went there because I found my letter had been referred to the Department of the Interior, and I was dissatisfied with that action, because I thought it would fall into the hands of somebody who had issued that very remarkable so-called patent; and I stated to Mr. Garland that fact, I believe, at that time, and that I was going to call upon him next day again, as soon as my attorney got there, to make another application, because I found out that that law which I had supposed had passed had not passed. Let me write that down for you, Mr. Ranney, and keep it before you, and then you will not ask that question again. You have asked that question about a dozen times already.

Q. What did the Attorney-General say to that?—A. He said he could not take any action upon anything of the kind; that he would not have anything to do with it.

Q. Was he very decided about it?—A. Yes, sir; he was.

Q. What did you go again the next day for with the others?—A. Because I thought it was his duty to act, and I know it was his duty to act now. I thought so then, and I know it now, and I determined that he should act, if there was any way of making him do so.

Q. On the first day, what reason did the Attorney-General give you why he would not act?—A. He gave me as a reason that he was the attorney of a telephone company and had a direct interest in it.

Q. Did you not tell him that you were there acting for another telephone company in which he did not have any interest?—A. I told him that he had no right to make his private relations to another telephone company an impediment to my rights or the rights of the public. That is down in the record several times.

Q. What did he say to that?—A. He very firmly and positively repeated, every time I spoke to him on the subject, that he would not have anything to do with it.

Q. Did you tell him the first day that you had concluded to go to a district attorney, and come to him in some other form?—A. No, sir; not the first day, because I did not get that advice until Mr. Von Briesen arrived, and he had not arrived that day.

Q. Did you find out before the next day that the bill to which you referred had not passed the Senate and become a law?—A. I found out before I went to him the second time; yes, sir.

Q. Did you know it when you went to him the first time?—A. No, sir; I do not think I did. I think I found it out that same day or the next morning before we went there.

Q. Who told you, or from whom did you find it out?—A. My impression is that Mr. Von Briesen and somebody else here told me, I do not recollect who. I know Mr. Von Briesen was one of those who told me.

Q. Was not Casey Young one?—A. Mr. Young I think told me that some time afterwards; he went and ascertained the fact for himself, but not at that time. I had been to see Mr. Garland the first time before Colonel Young arrived.

Q. Who told you that the bill had been stolen?—A. I don't recollect, but I think it was Mr. Von Briesen who told me that; I don't recollect whether it was Mr. Von Briesen or not. Mr. Von Briesen told me there was no such law, but who told me it was stolen from the Senate I don't recollect.

Q. In the memorandum which you put upon the application, before referred to, to the Secretary of the Interior, you have stated there something about its having been stolen. Will you think a moment and tell me whether, according to your best recollection, you had not been so told about that time?—A. No; I was merely told at that time that there was no such law. I think afterwards I heard it half a dozen times here in Washington. That indorsement that you speak of where I make use of that language was made in October on that letter, and before I made it I had heard that the bill was stolen from the Senate; but who told me, I don't recollect; I think I saw it in the public prints.

Q. I intended to ask you, Mr. Witness, in my question whether you had not been told it—that is, that the bill had been stolen about the time you made that memorandum, in October?—A. Oh, in October? Of course I had been told by somebody, and I think I saw it in the public prints that the bill had passed the House, and had been stolen from the Senate.

Q. I do not want to press it if you understand it, but I want to be sure about it, whether you had been told it before October or about the time when you made that memorandum, and put the fact into it.—A. As I told you before, I learned on the day

that I got here, or the day after, that there was no such law. Now, when I learned and was told the fact of its being stolen from the Senate (I am dealing with the word "stolen"), I think that was some time subsequent. But I had heard at that time that the bill had not passed, had not become a law; that there had been such a law proposed but that it had not become a law, and Mr. Von Briesen told me there was no such law and no necessity for any such law.

Q. Did not Mr. Von Briesen at the same time that he told you there was no such law, and that there was no necessity for such a law, say that it would not make any difference with your application whether the suit was brought under such a statute or under the laws as already existing, and therefore that the application already in would answer the purpose?—A. Mr. Von Briesen on the contrary told me that the application would not suit my purpose as it was then put in.

Q. Did he not say that you had better not go on with that application, but had better start proceedings before some district attorney, and proceed in another way?—A. No, sir; he did not tell me that. He told me that what I had done so far was wrong; that my proper course would be to go to some district attorney, as I have already told you.

Q. Did you tell Mr. Casey Young that?—A. I think Mr. Von Briesen told him that during our conversations in the hotel.

Q. Was that conference here which you had with Casey Young and Mr. Von Briesen the last of July or the first of August, a thing requested by you, or requested by some one else, and if so, who else?—A. It was requested by me.

Q. Did you notify Mr. Casey Young to be there, or did he notify you, and of the time when you were to meet?—A. I notified him. Now, I will give you a letter to show about that; here is a letter of Colonel Young's that I have authority to introduce and to show to the chairman [producing a letter].

Mr. RANNEY. Will you be kind enough to let me see it.

The WITNESS. No; I beg your pardon; I will show it to the chairman first.

Mr. RANNEY. Have your choice; that is the rule we have formed.

The WITNESS. I will read this part and then give it to the chairman. This letter is dated July 25, 1885.

The CHAIRMAN. Let me see it.

(The witness handed the letter to the chairman as requested.)

The CHAIRMAN. This letter is dated July 25; it is not material at all, any part of it.

Mr. RANNEY. Give the date of the letter, and then read that part of it.

(The chairman handed the letter to the witness and indicated the portion he should read.)

The WITNESS. This letter is dated Memphis, July 25, 1885. It says:

"I think the proposed conference of the utmost importance, and if you still desire it when this letter reaches you, wire me, and we will start at once. If I hear from you in time, will start Tuesday morning. If we are to meet, the sooner we do so the better.

"In haste, yours truly,

"CASEY YOUNG."

By Mr. RANNEY:

Q. When you got that letter did you reply to it by letter or by telegram?—A. I could not recollect that now. I should suppose that I wired him, because it was so late, the 25th of the month, that I would have been compelled to have done so to have had him reach Washington on the 29th, the day I think he arrived.

Q. He speaks there of a conference that had been proposed or arranged—I do not remember the exact language. When had that conference been proposed or agreed upon?—A. That is the conference I have been telling you about in Pittsburg all the time.

Q. How did Mr. Von Briesen happen to be there? Did you telegraph him to meet you two?—A. I called him; yes, sir.

Q. How did Colonel Gantt happen to be there? Did you get him?—A. No, sir; I did not call him.

Q. In the conferences that you had when here at that time, did you meet Senator Harris?—A. No, sir; I never had any conference with Senator Harris. Colonel Gantt occupied rooms on the same floor of the Ebbitt House that I did, and about the third room from mine. Some one told me that Senator Harris had called there on a visit, called on Colonel Gantt, and he wanted to introduce me, and I went in and was introduced to Senator Harris. I was not there five minutes, and I do not think he remained a minute after I left. I think he went out of the door at the same time I did. I understood that he had just come in as I went there, and he went out about the same time I did. We just spoke a few words and separated. I would like to add to that a further explanation. It has been remarked here, I believe, that it was somewhat singular that as I had no acquaintance with Senator Harris and no conference

with him, yet on the fourth of August he had signed an agreement with my company. Now, that was not true. I have repeatedly stated here that that agreement on the 4th of August was drawn up in pencil by me at that time, and left here, and I have every reason to believe that Senator Harris did not see it for a long time afterwards, not until September or some time late in August, because it did not come to me signed until then. I did not sign it at that time, and I am satisfied that he did not sign it, for I did not get it for a long time afterwards, and the reason of the delay was, as I have understood—I do not know this of my own personal knowledge—

Q. Do not state anything that you do not personally know.—A. I have understood that Colonel Young kept it in his pocket and did not find Senator Harris until he caught him in Memphis.

Mr. RANNEY. I object to the witness stating that last fact.

The WITNESS. My impression is that it was not signed until after the Government suit was ordered.

Mr. RANNEY. I ask that the last part of the witness's answer be stricken out.

Mr. HALE. I do not think it is improper, where he is stating it as explanatory.

Mr. EDEN. It certainly is competent for him to state that he did not receive it until October.

The WITNESS. Mr. Chairman, I probably should have given you this copy of a letter to which that was sent in reply, so that you would have understood it. I wrote a letter to Mr. Casey Young, and this is the copy I kept of it (producing a letter).

The CHAIRMAN. In my view it is not material. Only one sentence of that letter of Mr. Young's has gone in, showing simply that it was an arrangement for a conference.

The WITNESS. It was a letter in which I notified them that there were certain patents of Mr. Rogers. You wanted the numbers of them the other day, and now I can give you the numbers from this letter if you want them.

Mr. RANNEY. That is of no consequence. (To the witness.) Your recollection is that the agreement of the 4th of August was sent to you when signed?

The WITNESS. Yes, sir; it was sent to me.

Q. How was it sent or how received?—A. By mail.

Q. Inclosed in a letter?—A. I do not think any letter came at all. I think there were just two copies of the agreement received by me in an envelope, and then I think I signed one and returned it by mail. That is my recollection of it.

Q. Haven't you that letter?—A. What letter?

Q. You said you sent it by mail. I assume that when you send by mail you send it inclosed in a letter. Have you that?—A. I did not say I received a letter inclosing them. I say they were inclosed in an envelope.

Q. And whether you sent back any answer to that inquiry, which was sent back in a letter?—A. It was not necessary for any letter to accompany them.

Q. Then you have no letter of Colonel Young's which you received at the time the agreement came, and no copy of your reply, if you made one, when you sent it back, by which you can fix the date, have you?—A. No, sir; I do not think I received any letter. I am positive I did not receive any letter, and I am confident I did not send any.

Q. Then have you anything by which you can determine the exact date when you received that agreement, if it was sent to you and not delivered here?—A. The only way I can determine the date is by recollecting that I received it either in Chicago or at Waukesha. If it was the middle of August that I received it, then I received it at Waukesha. If it was in the middle of September I received it, I received it in Chicago. I have tried to find something since I have been here that would enable me to fix the date, whether it was in September or August, but I have not been able to do so.

Q. I understood you to say the other day in reply to one or the other of us that it might have been in the middle of August when you received it. Might it not have been?—A. I will not say positively that it was or was not. My impression is that it was received in September. My impression is that I received it in Chicago, and if I did, then it was in September, because I reached Chicago on the 11th of September, and staid there until about the end of September.

Q. Was the memorandum or the agreement which you wrote in pencil and gave to Colonel Young in Washington signed when you gave it to him?—A. No, sir.

Q. Was it dated?—A. I think it was dated, but I know it was not signed. I never sign anything in lead pencil.

Q. Are you sure it was dated?—A. I am confident it was dated.

Q. When this supplementary agreement was drawn and executed on the 27th day of August, at Memphis, was not that original agreement there?—A. I have testified that it was not executed. What became of that original agreement? Where is the original agreement? It disappeared the other day; where is it now?

Mr. RANNEY. We had it the day after; the clerk has it. We found it that night after we got through.

The WITNESS. Where was it?

Mr. RANNEY. It was shown you the next day you remember.

The WITNESS. Where has it been all this time?

Mr. RANNEY. (To the clerk.) Will you show him the agreement? It is my privilege to examine the witness, not have him examine me.

The WITNESS. I would like to see that agreement. [The agreement was handed to the witness, who examined it critically.] Mr. Ranney, what did you take that paper the other day and hold it up to the light for; what was the matter with it?

Mr. RANNEY (To the reporter.) Will you read him my question?

The WITNESS. Mr. Chairman, has this agreement been out of the office since I filed it here?

The CHAIRMAN. I am not able to say; it has not been in my possession.

The WITNESS. If it has, I will not swear to it any longer. I am getting suspicious, too. It is somewhat infectious; somewhat contagious.

Mr. RANNEY. Will the reporter read my question to the witness?

The reporter read as follows:

Q. "When this supplementary agreement was drawn and executed on the 27th day August, of at Memphis, was not that original agreement there?"

The WITNESS. No, sir.

Q. How do you know it was not?—A. I know I did not have it. Whether anybody else had it or not I do not know, of course.

Q. When you signed the supplemental agreement, you referred to the original agreement and the exact date of it. How did you ascertain the exact date of the original agreement when the supplementary agreement was drawn and signed if you did not have it there?—A. Why, I recollected the date of the agreement, of course; I had written it, and a man can scarcely write anything without recollecting all about it. I wrote it on the 4th of August, and that one was written on the 27th of August, and if my memory is not that long it is a mighty poor one.

Q. If you had not got your original pencil agreement which you had drawn, back at that time, and did not know whether one had been executed or not, so as to become an agreement, and you had not signed it yourself, why in the supplemental agreement was it referred to as an agreement signed and dated?—A. Oh, I understood that it was all right, but they were just waiting to get it signed, that was all.

Q. Then the terms of the original agreement had been settled between you verbally, and you understood that whatever agreement you had made had been or would be reduced to writing, did you?—A. No; it had not been agreed to, because I had not seen Colonel Young until I got to Memphis, about the 19th or 20th. When I left here on the 4th I did not see him afterwards until I got to Memphis. It had not been positively agreed to, but I understood (although without any conversation on the subject) after I met Colonel Young, as he did not make any objection to it, that it was all right, would be acceptable, and would be signed.

Q. The agreement had been substantially made, verbally, at Pittsburgh, hadn't it, and was only left to be reduced to writing subsequently?—A. There had been no agreement made at Pittsburgh at all of that character. I have testified over and over and over again that I made no such agreement in Pittsburgh. All the agreement I made in Pittsburgh was, as I have repeatedly stated here, with reference to consolidating our forces with respect to the suit in Memphis and the suit in New Orleans. Now, Mr. Ranney, that is the last time I am going to testify about that matter. You have got it down there, in my opinion, at least half a dozen times, those same questions and those same answers, and I do not see any necessity of repeating it. I would like to get away from here some time or other. I cannot spend the balance of my life on this thing. It looks to me as though I was going to be kept here a month, when there is no necessity for it.

Q. You said yesterday that you would look at the Ebbitt House register and ascertain the exact date when you arrived and when you left, I think. State whether you have done so, and if you have, give the exact day when you arrived in Washington, and the exact day when you left.—A. I said I would, but I didn't; I sent my little son down to ask the clerk, and I think he brought me back the answer that I arrived in Washington on the 29th in the morning, or about the middle of the day; I think that is what he brought me back; but I remember, without referring to the register of the hotel, that I left here on the morning of the 4th.

Mr. RANNEY. I will relieve you, Mr. Witness, from further questions, so far as I am concerned.

The CHAIRMAN. I want to call the attention of the witness to the subject of the affidavit made by him.

Mr. RANNEY. There is one question I do wish to put to the witness; I had forgotten one question. [To the witness.] I want to know if you made yourself, or knew of any arrangement being made, for a combination with the Globe Telephone Company?—A. In the first place you have no right to ask that question, but I will very frankly tell you no. That is a matter between two companies outside of this investigation, but I do not know anything about the Globe Company.

Q. One more question. Did you or your company pay Casey Young a portion of the expenses of the proceedings before the Department of the Interior upon this matter?—A. We paid out a pretty large amount of money here, but I did not pay it to Casey Young. I think I owe Mr. Young something towards expenses that were made for our mutual interest, but I have not paid it yet, for I have not got the final account, and do not know exactly what it is. This record, so I understand—I am not giving you my personal knowledge about it now—was printed, one hundred copies of it were printed and one-third of the expense was paid by the Globe Company, one-third by ourselves, and one-third by Colonel Young. I know that we are responsible for one-third. I do not know of my own personal knowledge whether Mr. Beckwith, representing the Globe Company, paid his third or not.

Q. The Pan-Electric Company paid one-third. Who paid the other one-third besides that which you were to pay?—A. I think the Bell Company paid for a certain part of the expense.

Q. You do not understand. Of these certain expenses of which you were to pay one-third and the Pan-Electric Company one-third, who paid the other third?—A. What expenses? Don't you put my answers down there; wait until I put them down. One-third of the cost of that book?

Mr. RANNEY. Let the question be read.

The reporter read the question, as follows:

“Q. You do not understand. Of these certain expenses, of which you were to pay one-third and the Pan-Electric Company one-third, who paid the other third?”

A. The expenses for what?

The CHAIRMAN. I presume the expenses referred to are those paid for the printing of the book.

The WITNESS. I am speaking simply with regard to the cost of that book. There were 100 copies of that book printed. We agreed to pay one-third of the cost, and I understood that Mr. Beckwith, from New York, representing the Globe Company, agreed to pay one-third, and Colonel Young paid one-third. I don't know anything about the Pan-Electric Company. I only know Colonel Young in the matter. Then there was a certain additional number printed that the Bell Company paid for.

Mr. HALL. I desire to introduce in evidence the petition of the Globe Telephone Company.

Mr. EDEN. Put in all the petitions from the other companies.

Mr. HALL. Also the petition of the Washington Telephone Company, the petition of S. D. Cushman, and the resolutions of the Board of Trade of New York. I offer them in evidence in connection with the testimony which has heretofore been taken referring to them.

Mr. RANNEY. I wish to have a full understanding about that. I shall claim that the whole of that record of the Interior Department can be referred to, and we can put in such parts as we see fit.

Mr. HALL. I understood the other day that those petitions were introduced.

Mr. RANNEY. I say that when we put that whole record in, as I think it has to be, they will all be treated as in, and then we will agree as to what shall be reprinted. I shall not object to the whole going in.

By Mr. HALL:

Q. At the time you had this record printed the suit which was pending at New Orleans was in the attitude of an application for a temporary injunction against your company, was it not?—A. The bill against our company in New Orleans was not filed until November 5, but, according to my recollection, this hearing commenced in October.

Q. I understand. When you had this record printed, at the time you ordered the one hundred copies, an application was pending in the suit at New Orleans for a preliminary injunction against your company.—A. Yes, sir.

Q. And I understand you to say that you had a dozen or more copies of this record printed, omitting the Neipher affidavit; that is, that was not put in?—A. Let me put that in a little different language.

Q. Put it in your own language.—A. I had some of those copies printed just like this [indicating]. Then I asked Colonel Young to see the printer and have me a dozen copies of each one of these papers in here printed separately and distinct, without including the Neipher affidavit; I did not want that at all. Then I took that printed matter that was sent me, a dozen copies of that printed matter, and added it to my book.

Q. The purpose that you contemplated with that bundle of affidavits contained in the second record was to file them as affidavits in that suit in resistance to the application for an injunction?—A. Yes, sir.

Q. Where you had the right to file such affidavits as supported your defense, and were under no obligation to file any that did not?—A. None whatever.

By Mr. RANNEY:

Q. You have been asked as to the attitude of that suit in New Orleans, and the object of getting the copy of the record from the Interior Department. Now, I want to know if you were not in that suit setting up as a reason why the preliminary injunction should not be granted, the fact that the Government had determined, or the Secretary of the Interior had recommended, a suit in behalf of the Government, and that because of that no preliminary injunction could be granted. I ask this question in view of, and in connection with, the questions just put by Mr. Hall, a member of the committee, and your answers thereto.

Mr. HALE. I object to that.

Mr. EDEN. I suppose that the matter is set out in the usual way; that the pleadings are in writing, and that is the best evidence.

Mr. RANNEY. Let the question be read.

The reporter read the question as follows:

"Q. You have been asked as to the attitude of that suit in New Orleans, and the object of getting the copy of the record from the Interior Department. Now I want to know if you were not, in that suit, setting up as a reason why the preliminary injunction should not be granted, the fact that the Government had determined or the Secretary of the Interior had recommended a suit in behalf of the Government, and that because of that no preliminary injunction could be granted. I ask this question in view of and in connection with the questions just put by Mr. Hall, a member of the committee, and your answers thereto."

The WITNESS. At the filing of our defense there, there were no papers or documents of any character that I recollect put into our defense making any such plea or claim. I think that the attorneys in their argument in court maintained that the court could not or should not grant an injunction while the Government suit was pending. In other words, that valid patents should not be assailed by others that the Government itself had branded as being fraudulent.

Q. And was not that the purpose for which the record of the proceedings before the Interior Department was obtained and put in?

Mr. HALE. I insist upon my objection. The witness has said he is not a lawyer, and his statement of what the lawyers did would not be admissible evidence.

The WITNESS. I will answer the question. As to making any particular defense——

Mr. RANNEY. Will the reporter add to that question that I put it in view of the questions put and allowed to be answered by Mr. Hall.

Mr. HALL. The total immateriality of this question is in the fact that this committee would presume that a Federal court could be influenced by the fact of the pendency of a suit of that kind, and on a mere order of the Secretary of the Interior would not go into the merits to see how it could be competent.

Mr. RANNEY. I insist upon the question.

Mr. HALE. It is wholly incompetent as to what his purpose was.

The CHAIRMAN. I think that the question was asked in connection with the use that was intended to be made of this printed record which is alleged to have been mutilated. In that view it would be competent, following the examination of the gentleman from Iowa.

Mr. HALL. The question of Mr. Ranney is predicated upon the idea that the book put in in that form, as it was used, would have been a fraud upon the court. I say it is impossible that it could have been a fraud upon the court.

Mr. RANNEY. I did not put any question in regard to a fraud upon the court.

The CHAIRMAN. My opinion is that the question is competent in view of the previous examination. I do not think there is any objection to it. Let the question be read.

The question was read by the reporter as follows:

"Q. And was not that the purpose for which the record of the proceedings before the Interior Department was obtained and put in?"

The WITNESS. My answer is, positively, no, because Mr. Lamar, at that time, when that record was gotten up, had not given any decision.

Q. When you produced the record and put it into the case, as you have stated, and as you have shown by the record you did produce in New Orleans, Mr. Lamar had given his decision, had he not?—A. When we filed our record of defense he had, but we had nothing in that defense relating at all to the making of any such plea. That was made, as I stated before, by the attorneys in their arguments.

Mr. RANNEY. That is all.

The CHAIRMAN. I want to call your attention to a matter——

The WITNESS. Wait one moment, Mr. Chairman. It is necessary to make an explanation about this. Mr. Ranney is trying to confuse all you gentlemen, I think, in regard to this fact. He is talking about two separate, distinct records. This one here [indicating] was published in Washington, and then there was an equal amount of matter printed in New Orleans. That portion printed in New Orleans was not published until after Mr. Lamar had given his decision, but all of this matter [indicating]

was printed long before Mr. Lamar had given any decision. You understand in our record there the matter is all bound together. If it went down into this record without explanation, it would be very confusing to anybody not understanding the circumstances.

By the CHAIRMAN:

Q. I want to call your attention to a matter in that connection. I show you from what appears to be the record of the papers upon the part of the defendant, I take it, in the New Orleans case, what purports to be an affidavit made by you on the 9th of January, 1886. State whether you did make this affidavit [handing the New Orleans record to the witness].—A. Yes, sir; that is my affidavit.

Q. Is that the affidavit which accompanied this Interior Department record?—A. That is the affidavit covering this Interior Department record, or so much of the Interior Department record as it related to.

Q. I will read it and let it speak for itself. Was it with this affidavit, or by means of this affidavit, that you got before the court there the affidavits which had been made and submitted to the Secretary of the Interior?—A. Yes, sir.

The CHAIRMAN. I will read the affidavit, if there is no objection.

Mr. RANNEY. You do not want to put the whole record in, do you?

The CHAIRMAN. Of course not.

Mr. RANNEY. I want to call the attention of the committee to one fact connected with that when you get through.

The CHAIRMAN. I have no objection. But putting in this affidavit does not necessarily carry with it all the other papers in the book. This affidavit is very material.

Mr. RANNEY. I shall not object if the whole record is printed; but I want to call attention to a fact connected with it when you are through.

The CHAIRMAN. This is an affidavit made in the suit of the American Bell Telephone Company and others against the National Improved Telephone Company and others, and reads as follows:

Affidavit of W. Van Benthuyzen.

[Circuit court of the United States eastern district of Louisiana. American Bell Telephone Company *et al.* vs. the National Improved Telephone Company *et al.* In equity, 11,150.]

STATE OF LOUISIANA, *Parish of Orleans*, ss:

W. Van Benthuyzen, being duly sworn, deposes and says:

That, to the best of his knowledge and belief, the printed matter contained in the following 431 pages are printed from certified copies and are exact copies of affidavits, exhibits, and documents presented and used before the honorable the Secretary of the Interior in the matter of sundry petitions to the Attorney-General to bring suit in the name of the United States to annul Letters Patent No. 174,465 and No. 186,787 granted to Alexander Graham Bell.

That all and singular the matters set forth and contained in said printed pages, in so far as the same reports (purports) to be verified by the oath of the respective affiants named in the said affidavits; that the same are, as he verily believes, true and exact copies of the said several affidavits and statements under oath made, exhibited, and filed in said proceeding before the Secretary of the Interior, and that the matters therein contained are true, as he verily believes; that all and singular the documents and copies of records therein contained are the same that were exhibited and presented to the said Secretary of the Interior or properly attested or admitted copies of the original thereof.

That as to all copies of contracts therein contained the same are, as he verily believes, true copies of said contracts; that as to all copies of prior publications about and concerning telephony, prior knowledge and discovery of the art by other persons, contained and set forth in said printed pages, that he verily believes the same to be true and exact copies or true and exact translations from the original books, pamphlets, and publications in which the same appeared in the different publications and printing, as therein stated and set forth, are true and exact dates of such publication in the printed works.

W. VAN BENTHUYSEN.

Sworn and subscribed to before me, at New Orleans, this 9th day of January, 1886.
[SEAL.]

GEORGE W. CHRISTY,
Notary Public.

Mr. RANNEY. Connected with that book, if you do not want to use the whole of it, notice this fact—

Mr. HALL. Is this in the form of an interrogation?

Mr. RANNEY. I call attention to the fact if you do not want to print the whole of it—

Mr. HALL. It seems to me that it is scarcely the thing at this time to make remarks and observations—

Mr. RANNEY. You need not put what I say in the record.

Mr. HALL. I do not want your remarks to go into the record, because I think that is an improper way of presenting the case.

Mr. RANNEY. I want to put such remarks in the record as I think material. The chairman has put in a part of the record.

The CHAIRMAN. The members of the committee will proceed in order.

Mr. RANNEY. I desire to make this offer, and to have it now go onto the record. I desire to put in the affidavit of Mr. Adams as used in the Interior Department, and the book called the compilation (he put in a part of it); then to put in the affidavit of Mr. Neipher used in the Interior Department on the part of the applicants there, and then to show that in the record, of which a due copy was made in print and put into the case in New Orleans, Mr. Adams's affidavit, with the book or compilation with it, was put in, and the affidavit of Neipher (which says what I have stated, that he and Adams had made an instrument corresponding to the figure 7 instrument, and that it would talk) was left out.

Mr. HALL. I would like to have that statement of Mr. Ranney's read over again so as to see what it amounts to.

Mr. EDEN. It amounts to this: that a point is to be made in this investigation by attempting to show improper conduct in the suit at New Orleans—something that we have nothing to do with.

Mr. HALL. My recollection is that Mr. Ranney introduced both of those affidavits the other day. Of course if that has been done, it is perfectly proper to introduce them whenever he wants to. Will the reporter please read that offer?

The reporter read as requested.

Mr. HALL. I object to it in that form. I do not make any objection to the affidavits. I am willing to have the affidavits introduced one by one, and presented in regular order in the record; I have no objection to that. But this method of introducing evidence with a stump speech I do object to, and I object to this commenting on the evidence.

Mr. RANNEY. With no disrespect to the gentleman, as his remarks have gone onto the record, I want to say a word in reply. I believe that there is no stump speech in my proposition. If any gentleman has made a stump speech, it is the one who is in the habit of making them. As far as I am concerned, the remarks on both sides may be stricken out.

The WITNESS. I think as a representative of that company there at the time, I have a perfect right to say and to have it go down there on the record that it is none of their business what we did in those cases.

The CHAIRMAN. These affidavits, if there is no objection, will be considered as put in evidence.

The WITNESS. The court was the proper party to pass upon the question. They knew what was right, and they snubbed Mr. Storow about that.

Mr. EDEN. The Adams book is not going in, is it?

Mr. RANNEY. Yes, that part of it.

Mr. EDEN. I shall object until I see it.

Mr. RANNEY. Then let the chairman rule on it.

Mr. HALL. There is only one way of proceeding in this matter, and that is the papers ought to be introduced separately.

Mr. RANNEY. What is there to rule on?

Mr. HALL. There is nothing to rule on.

Mr. RANNEY. I put the books in under a formal offer.

Mr. HALL. I understand that the gentleman from Massachusetts offers the Neipher affidavit and the Adams affidavit. There is no objection to those.

Mr. HALE. All the matters relating to the New Orleans suit ought to be kept out.

The CHAIRMAN. I agree with you.

Mr. RANNEY. I understood that the chairman had ruled on the question I made and shut it out. My friend, Mr. Hall, voted with the majority to keep it out, and yet he proceeded, when he came to inquire, to put the same matter in, and I did not want it to go in without objection.

Mr. HALL. That is unjust to the gentleman from Iowa.

The CHAIRMAN. The New Orleans matter was introduced on the examination of Colonel Young.

Mr. RANNEY. I know it was.

The CHAIRMAN. If objection had been made then my view would have been to exclude it, but as there was not, I yielded.

By Mr. HALE:

Q. I want to ask you one question. In the two interviews that you had with Mr. Garland in regard to the bringing of this suit, in which he declined, as you say, to have anything to do with it, did he say anything to you on those occasions, or either of them, about going to any other officer of that Department and talking with him about it?—A. Not a solitary word.

Q. He did not refer you to Mr. Goode or to any one else on the subject?—A. No, sir. I never knew that such a thing could be done.

Q. Did he intimate that there was anybody else about the Department who might bring the suit for you or have charge of it?—A. He never mentioned a word about that. I never thought it was possible for the Attorney-General to do such a thing—that he could refer such a question to anybody else until it was done.

Q. You remember that Solicitor-General Goode finally brought the suit. Did he refer you in any way to Mr. Goode or to anybody else about the Department for information?—A. He never said a word about such a thing, and I did not know that Mr. Goode could do it until I heard that he had done so.

The CHAIRMAN. I believe that is all.

The WITNESS. Are you through with me?

The CHAIRMAN. Yes, you are discharged. Mr. Robinson, of New York, who was referred to in the testimony of one of the Rogerses, perhaps both, is present and desires to be heard by the committee.

Hon. WILLIAM E. ROBINSON then came before the committee and was duly sworn.

By the CHAIRMAN:

Question. I understand that you have prepared and desire to submit a written statement to the committee?—Answer. I do. It contains all I know about the matter, and it will be briefer than an examination. I am ready to submit to cross-examination afterwards.

The CHAIRMAN. As the witness has difficulty in hearing, if there is no objection, he will be allowed to read the statement he has prepared.

The WITNESS. Some three weeks ago I saw my name mentioned in the papers in connection with this investigation, and shortly after I wrote this letter and addressed it to the chairman of the committee. I will read it:

BROOKLYN, *March 23, 1886.*

DEAR SIR: I have been absent from the city for a few days, and only on my return have I seen the testimony taken before your committee, in which it is stated that I had accepted some stock of some kind from Mr. J. W. Rogers, and had offered a resolution in the House of Representatives looking to the appointment of his son, J. H. Rogers, as electrician of the House.

As to the stock, near the close of the Forty-seventh Congress, in the early part of 1883, Mr. J. W. Rogers called at my rooms in Washington with some papers which he wanted to leave with me, including some poetry on Ireland, which he had written. I think he said the poetry was interesting and that the other papers were of no value except as a contribution to the waste-basket. I was too busy at the time to examine them. He did not say what they were and we had no further conversation about them. He soon left and has never spoken to me on the matter since. What came of them I do not know. I have not seen them since nor did I ever think of them afterward. I supposed they were of no value. I never had then or before or since any talk with him about accepting stock or becoming a director in any company. I have never received any notice to attend any meeting of stockholders, or indicating that I was a stockholder. I never accepted nor agreed to accept either orally or in writing any stock of any kind from him or from any one else, and during my entire service of six years in Congress, I never accepted nor agreed to accept anything of any value, real or nominal, beyond my legal salary, for anything I ever did or tried to do as a member of Congress.

As to offering the resolution, I will say that I made it a rule that any American citizen has a right to have his petition or wishes, if respectfully worded, presented for consideration in Congress. Some time during the first session of the Forty-eighth Congress it was represented to me, by whom I do not now remember, that young Mr. Rogers, who had been appointed electrician of the House on the recommendation of Professor Henry, and other eminent men, had been removed on party grounds, and a paper was handed to me to present to the House, but only for reference to the Committee on Public Buildings and Grounds, that they might consider the propriety of restoring him to the position from which he had been unjustly removed. This was more than twelve months after the visit of J. W. Rogers to my room, which I had then long since forgotten. Without any thought of praise or reward or even of thanks from any one for this very slight and proper service, and as a mere act of right and justice, which I had frequently done in similar cases, I offered it without hesitation, and it was referred to the committee for such action as they might deem proper. I took no thought of it afterward, and did not even speak about it to any member of the committee. I can't see that my action in this matter is open to any unfriendly criticism.

I am willing, if your committee so desire, to appear before you and to be examined.

Very respectfully,

W. E. ROBINSON.

Hon. CHARLES E. BOYLE.

The CHAIRMAN. Does any member of the committee desire to interrogate the witness?

By Mr. MOFFATT:

Q. Who requested you to offer the resolution you speak of?—A. I have stated in the letter what is true, that I cannot now recall who it was. I took no thought of it; it was of no importance; I had nothing to do with it, only to move that it be sent to the Committee on Public Buildings and Grounds, and I took no thought or responsibility for it.

Q. I have seen it stated somewhere that you did so at the request of General Johnston. Does that refresh your memory in regard to the matter?—A. No, sir; I would have remembered it if General Johnston had spoken to me. Although slightly acquainted with him, if I had heard his name in connection with it I should have remembered it. If the committee will allow me I will say that it was probably Dr. Rogers who requested it, though I am not sure. It was a year after the other transaction, or more. I looked at the date of it in the record before I came in here.

Q. Do you recollect saying to Mr. Talcott, the present electrician of the House, that General Johnston suggested this matter to you?—A. I do not remember that anything was said to him. If the committee chooses to get all I know upon it, I will state this: A friend of mine in the House stated that I was interfering against some clever person, and that I ought not to take any part in the matter. I replied to him, "I know nothing about it; it goes before the committee; I have no responsibility for it, and no interest in it whatever." I do not remember the name of the person in question; I think the gentleman who is reporting in the House is in some way connected with it, but whether he was present or not I do not know.

Q. Do you know Mr. Talcott, the present electrician of the House?—A. The only thing I know concerning the electrician of the House is, there is a reporter (whose name I do not remember and never knew distinctly, although I am intimate enough with him to speak with him) who sits on the right-hand side of the Speaker, at the opposite end of the desk from where the Associated Press reporter sits, and he was present when I spoke on this occasion. What his name is I am not sure; whether he was present or not I do not know. I know him as a reporter in the House.

By Mr. HANBACK:

Q. Did the poetry and the papers come to you in the same envelope, or how were they delivered to you by Mr. Rogers?—A. The only thing I remember about it is that I was getting ready to go out, when he came into my room and said he had some papers that he wanted I should look through. He said, "There is a paper there that will please you; it is about Ireland." I said, "I am too busy now;" and he laid it down on my desk, I think, or he was opposite my desk, and there were a great many papers there, and whether he left it there or took it again or what became of it I do not know. They were not in an envelope; they were in his hands. I saw something about poetry, and, I think, "Ireland" on the title page of the poem. That was all the notice I took of it as he held it before me.

By Mr. MOFFATT:

Q. Are we to accept this statement you have read as being given under oath; is it a true statement?—A. I swear that that is true, according to the best of my recollection and belief.

Mr. EDEN. I move that the committee adjourn until 12 o'clock to-morrow.

The motion was agreed to, and the committee adjourned until Friday, April 16, 1886, at 12 o'clock.

WASHINGTON, D. C., *Friday, April 16, 1886.*

The committee was called to order at 12.35 p. m.

The CHAIRMAN. I have requested some of the members of the Baltimore Company to be present this morning, and I see they are here.

Mr. BRADLEY T. JOHNSON. Mr. Chairman, I have an application which, with the permission of the committee, I would like to make as counsel for the Washington Telephone Company before I am sworn as a witness. On my attendance here under the subpoena of the committee, on Monday, I was shown the report of the examination of Mr. Thomas H. Gardner, who is the secretary of the Washington Telephone Company. Mr. Gardner is not a lawyer, and could not be expected to protect the rights of the company in the way I should have done had I been present; and that examination took a scope and a breadth that I am satisfied was permitted on the part of the committee through inadvertence. Therefore, with the permission of the committee, I make this application to the committee:

As counsel for the Washington Telephone Company, I respectfully ask that this

committee expunge from the examination of Thomas H. Gardner, heretofore had before the committee, all the questions and answers that relate to the business, records, transactions, or stockholders of the Washington Telephone Company, except where such questions and answers refer to any relations, whether as counsel, stockholder, or otherwise, which now exist or may have existed between that company and any person who is now connected with the executive, legislative, or judicial departments of the Federal Government.

I make that application on the law that is quite familiar to the gentlemen of the committee, that it is not competent for this committee, or the House which the committee represents, to make any examination into the private affairs of any citizen who is in no way connected with the matter under inquiry. This Washington Telephone Company, of which I am counsel and also president, is now defending a suit in the city of Baltimore against the American Bell Telephone Company. That suit has been going on since the 16th of last July. It has involved labor and expense, and while there is nothing in the proceedings or the records of the Washington Telephone Company that might not be exposed to the public in any manner, yet I do respectfully protest to the committee that I do not desire to have any examination of its papers and records that will involve the placing of those papers and records in the proceedings of this committee so that they will become a part of a permanent record.

I had determined in case I was examined in this cause to make the suggestion to you and to say that while I would decline to give any testimony with regard to the private business affairs of the Washington Telephone Company, I would submit all the papers, all the records, the list of stockholders, and everything referring thereto, to you individually, as an evidence of my good faith and as evidence that there is nothing in them that comes within the purview of this investigation. That has been rendered unnecessary by the examination of Mr. Gardner that took place on Monday. Therefore, I ask the committee to pass that order and to expunge from the records of this committee everything relating to the business, the stockholders, the proceedings, the transactions, and the relations of counsel to the Washington Telephone Company, except so far as the testimony relates to officers now connected with the Government. I want to draw the line exactly where the law draws it, as I understand it.

Mr. OATES. I suggest to you the preparation of notes of the objectionable parts of testimony which you propose to cover by your motion.

Mr. JOHNSON. I will state that that is just what I have done. I now present to the chairman a copy of the record containing the testimony of Mr. Gardner, on which I have indicated those parts of his testimony that ought to be stricken out, according to my view.

Mr. EDEN. Mr. Chairman, I would suggest that probably this matter ought to be considered in executive session.

The CHAIRMAN. Do you make a motion to that effect?

Mr. EDEN. I will make a motion to that effect. [After consultation in an undertone with associates on the committee.] I am not particular about it. I will withdraw the motion.

Mr. JOHNSON. I would like to make the remark that if there is to be an argument had on the subject I desire to be heard on the law question. I do not think it is necessary to have any argument, however, as the gentlemen of the committee are lawyers and are perfectly familiar with the line drawn by the Supreme Court of the United States in regard to these examinations. My application is made under the decision of the Supreme Court of the United States in the case of *Kilbourn vs. Thompson*; under the law as there laid down, according to my understanding of it.

Mr. HALE. You do not propose to press the matter to a conclusion now?

Mr. JOHNSON. Oh, no; I submit the matter to the committee; but if there is to be any argument on the subject I would like to be heard on the law part of it; that is all.

Mr. RANNEY. We can hear that some other time.

The CHAIRMAN. You have indicated the parts you desire stricken out.

Mr. JOHNSON. Yes, sir; I have marked out the parts I do not think are germane to this inquiry.

Mr. RANNEY. Mr. Millard is not here. He was here when the examination was had, and he should be present when any action is taken on this application.

BRADLEY T. JOHNSON was then sworn and examined.

By the CHAIRMAN (Mr. Boyle):

Question. Are you in any way connected with the Washington Telephone Company?—Answer. I am the president and counsel of the Washington Telephone Company, and I am a director in the Washington Telephone Company of Maryland, which is a licensee of the Washington Telephone Company; and counsel for the Washington Telephone Company of Maryland, also.

Q. What are the territorial limits of the license of the Washington Telephone Com-

pany of Maryland?—A. Well, Mr. Chairman, I don't want to make any hypercritical objections, but the business of the Washington Telephone Company of Maryland, as far as I can observe, has nothing to do with this inquiry, or very little of what is in the record about it.

Q. I supposed you would raise the question and I only wanted to bring it up. You have examined the resolution, have you?—A. I have examined the resolution. I would like to have a copy of it, though, if you please.

Q. You will find it in the first part of the record. You will observe by the terms of the resolution that after providing for the appointment of a committee the resolution proceeds to state that the committee is directed to make inquiry into any expenditures on the part of the Government incurred relative to the rights of the Bell and Pan-Electric Telephone Companies to priority of patents.—A. Yes, sir.

Q. "Said inquiry to include all organizations and companies which have sprung from the Pan-Electric Telephone Company, or for any other purpose?"—A. Yes, sir; "And also to make full inquiry into the issuance of stock known as the Pan-Electric Telephone stock, or any stock of any other company, companies, or organizations springing out of the Pan-Electric Telephone Company, to any person or persons connected at the time of such issuance with either the legislative, judicial, or executive, departments of the Government of the United States."

Q. My question, so far as it relates to the territorial extent of your company, I presume, would not of itself be objectionable; although if you are of that opinion we will consider the question.—A. Well, I haven't the slightest objection in the world to answering it, but I don't want to start it, because then it will be difficult to draw the line. That company's license covers Virginia, West Virginia, Maryland, the District of Columbia, and Delaware.

Q. Is there any person who is in any way connected with the Federal Government who is a stockholder in your company, to your knowledge?

Mr. RANNEY. That should appear by the record, should it not?

The CHAIRMAN. Not necessarily.

Mr. RANNEY. How can you prove who are the stockholders unless you do so by the record which shows the action of the company in the issuance of stock?

The CHAIRMAN. There is no rule of law requiring such evidence to be confined to the record.

Mr. OATES. Perhaps the fact that there was no Federal officer connected with the company would be a reason for objection to the introduction of the record.

A. I state that there is no person, to the best of my knowledge—

Mr. RANNEY. Pardon me one moment, Mr. Witness. I respectfully submit that I cannot consent to the witness being allowed to swear on that subject, because I do not think it is proper, if he is to take the position that he will refuse to produce the books. The question is one that should not be asked unless the books are to be produced. If it is merely preliminary to his being asked to show the stock book, the stock certificates, and all the records of the company, I will not object to it. My objection does not apply, if the question is to be followed by the books themselves. But it seems that the witness proposes to decline to produce them; and, in that view, I cannot consent to his testifying to what must certainly be shown by the books themselves.

The CHAIRMAN. That would not affect the question of the competency of this evidence. The question raised by the gentleman from Massachusetts [Mr. Ranney] is as to the kind of evidence required to prove the fact whether any present stockholder in the corporation is connected with the Federal Government. If it were a question arising between the corporation and the stockholder with a view to fixing liability upon the stockholder or upon the corporation, that kind of proof to which Mr. Ranney refers might be required; but for the purposes of this investigation, to ascertain simply the conduct of a Federal officer, it certainly cannot be required that the books of the corporation shall be produced to prove that that officer is a stockholder; at least that is my view of the question as a legal question.

Mr. RANNEY. You may ask this gentleman whether he knows of his personal knowledge any one who holds a certificate.

The CHAIRMAN. That is all I have asked.

Mr. RANNEY. Your question is broader than that. You asked his opinion whether they are stockholders.

The CHAIRMAN. I ask him for no opinion. I ask him, as the president of the company, the simplest question of fact that could be put to a witness, whether any such men are stockholders.

Mr. EDEN. Of course there will be a more particular examination afterwards as to any person who may be named, to ascertain whether that person is a stockholder.

The CHAIRMAN. Of course. The question as to the production of papers, with a view to affecting the testimony of the witness, will arise afterwards, provided this question is competent.

Mr. RANNEY. I will say that if I may be allowed to test his testimony by reference

to the books, I am not particular about my objection; but if the witness is to answer in that way after what he has said, and if he declines to let us see whether the books do not show otherwise, then I insist upon my objection.

The CHAIRMAN. It might become a question as to our power to compel the production of the books of the company.

Mr. RANNEY. That may be; and if we have not the power to compel a witness who declines to do so to produce the best evidence he should not be allowed to state what that evidence would show without producing it.

The CHAIRMAN. That would be true if there was a rule excluding oral testimony to prove a fact of this kind; but there is no such rule.

Mr. RANNEY. I make the objection that the record is the best evidence of the ownership of stock; what the books themselves show. If it were left to oral testimony there might be subsidiary facts to which the witness would testify. For instance, he might be asked if he has ever seen a certificate in the hands of any one, or if he has ever delivered any certificate. Under your general question a man might swear to what he saw fit in regard to a matter of this kind, and if he was implicated might say he did not propose to give us the best evidence.

Mr. OATES. It occurs to me that if the books of the company are not relevant, if the witness says there is no Federal officer interested, then to produce those books in evidence to ascertain that fact would be to introduce evidence illegally for the purpose of fishing after legal evidence.

Mr. RANNEY. You do not claim that the books are illegal evidence, do you?

Mr. OATES. If there is no Federal officer connected with the company, I do.

Mr. RANNEY. Suppose I should claim, in the first place, that you cannot prove the existence of a corporation by parole in that way. We would stop right there. That is illegal evidence. If you want to prove the existence of this corporation you must put in the proper proof of it.

Mr. OATES. There is already proof of the existence of this corporation; it has been proved several times.

The CHAIRMAN. I remember very well that in trying an important case recently I made that same objection, without very much success.

Mr. RANNEY. You have remained of the same opinion still, haven't you?

The CHAIRMAN. I was never very strongly of that opinion, but I did the best I could.

Mr. RANNEY. I am sorry you urged a thing you did not believe.

The CHAIRMAN. I think for the purposes of this examination it is competent for the witness to state his own knowledge on the subject, if he has any knowledge.

Mr. RANNEY. I only want to say, as I have already said, that I do not object to the inquiry; but I claim that the books should be here that I may see who owns stock in that company.

The CHAIRMAN. That will arise afterwards. I will complete my statement. I was not through.

Mr. RANNEY. If he declines to produce the books I shall move to have his oral evidence on the subject stricken out.

The CHAIRMAN. It is competent for the purposes of this examination to allow the witness to state, from his own knowledge, whether any officer of the Federal Government is or is not a stockholder in the Washington Telephone Company.

The WITNESS. As president of the Washington Telephone Company I sign every certificate of stock that is issued; and no certificate has ever been issued to anybody connected with the legislative, executive, or judicial departments of the Government.

Q. Was not Mr. Holton —

Mr. RANNEY. I object to that, because he is now testifying as to what is in those books.

Mr. EDEN. He is testifying as to what he did.

The WITNESS. I testify as to what certificates I signed.

Mr. EDEN. I suppose he certainly has the right to do that.

Mr. RANNEY. I do not care to discuss it; I have heard what he said, and I have made my objection.

The CHAIRMAN. The chair thinks the objection is not well taken.

Q. Was not Mr. Hart B. Holton, who was a member of the Forty-eighth Congress, a stockholder in the company?—A. No, sir.

Q. Was he not a director?—A. No, sir.

Q. Was he not one of the defendants in the suit of the Bell Telephone Company against your company?—A. He was put in the suborganization in the city of Baltimore as a director in that organization, but he never qualified or connected himself with that organization.

Mr. RANNEY. You will admit the value of the record in that connection, will you not?

The CHAIRMAN. Yes.

Mr. RANNEY. And yet yesterday the record was ruled out, on an inquiry of mine, by your own ruling.

The CHAIRMAN. I think not.

Mr. RANNEY. You ruled that I could not prove what was in the record at Pittsburgh, because that was not competent evidence.

The CHAIRMAN. I adhere to that ruling. The effect of my opinion this morning, as stated, is that the books of a corporation are not the only evidence, and are not essential evidence to prove who are the stockholders of a corporation.

The WITNESS. Mr. Chairman, I do not mean to testify that Holton was a defendant or is a defendant in the suit in Baltimore, because I have no recollection about that. I do testify that he was originally put in as a director in the Baltimore company, but never qualified himself by the purchase of stock, or connected himself with that company in any way. I am not prepared to testify what was on the record there which the gentleman (Mr. Ranney) refers to.

Mr. RANNEY. I want to say that I do not propose to object to this series of questions, because the chairman puts his questions and then rules on them; and of course he will sustain his own question.

The CHAIRMAN. Yes; I expect to do that; but the committee, you know, might overrule the chairman.

Mr. RANNEY. We won't calculate the probabilities on that, although there is strength in numbers. I don't want to keep suggesting objections.

The CHAIRMAN. No, sir; it is not worth while to object to the same point. This matter has been ruled on and acquiesced in, and that ought to be the end of it. It is not worth while to remark upon it, if there is no objection.

Mr. RANNEY. I wish to say here on the record that I do not waive my objection to questions of that kind. I wish it to appear in the record, as I have already stated, that I do not waive the point. I think it is worth while to have that statement in, with all respect to the chairman.

Mr. OATES. There is a rule that no man waives anything by his silence here.

Mr. RANNEY. The rules of the House will govern us when we get there, and not the rules of the committee.

The CHAIRMAN (to the witness). I had a copy of the docket entries in your Baltimore case, but I do not find it among my papers.

The WITNESS. I thought I had a paper here that would assist you, but I have not.

Q. Mr. Holton does appear as one of the defendants. [Referring to paper.]—A. I have no doubt that paper shows it. I do not know Mr. Holton by sight, I think. I certainly never have met him in a business connection, and therefore it is very natural that he may have escaped me if he was there. He was not connected with the company at all. He had nothing to do with it.

Q. I see Mr. Holton is one of the defendants named with a number of others. Have you any knowledge of his connection with the Pan-Electric Telephone Company, the Washington Telephone Company, or the Washington Telephone Company of Maryland?—A. I know he has no connection with the Washington Telephone Company. I do not know of any connection with the Pan-Electric Telephone Company. I know that he was originally selected as one of the directors of the Washington Telephone Company of Maryland, and I know that for certainly a year he did not comply with the conditions of membership, and never came in. I never saw him at a meeting, and my impression is he has gone out entirely.

Q. Was Mr. Holton a member of the Forty-eighth Congress, to your knowledge?—A. He was; yes, sir. This is the Forty-ninth. He was a member.

Q. Do you know by what means he was brought into the Washington Telephone Company of Maryland?—A. I do not.

Q. You say he was selected as one of the parties?—A. Yes, sir.

Q. By whom?—A. I probably had better make a little explanation to you about that. The Washington Telephone Company was organized under the law of Tennessee in 1884, and it struggled along in its attempts to put its enterprise before the public until some time in 1885. Then it was concluded it was better to get a number of people of property and capital in the city of Baltimore and turn over the Baltimore business to a local company. If you will give me that memorandum and allow me to refresh my memory about the names of the persons, I will tell you who they were. [Examines paper.] The Washington Telephone Company created the Washington Telephone Company of Maryland by a license, and it was organized under the law of the State of Maryland. William T. Biedler, Levi Witz, Hart B. Holton, Samuel Henry, E. J. Henkle, and Bradley T. Johnson were selected, I think, as the original incorporators. Anyhow, it was intended that they should go in as the original directors and organizers of that company. Mr. Biedler was made president, Mr. Witz was made treasurer, Dr. Henkle was made secretary and manager, and Bradley T. Johnson was made the counsel. Mr. Holton never was at one of the meetings, and never had any connection with the company that I know of. Answering your question directly, I will say that he was brought in by these gentlemen who were attempt-

ing to organize the subcompany, because he was a man of property and wealth, and a liberal and enterprising man, and it was supposed he would contribute the necessary funds to promote the interests of the company there.

Q. Had his position as a member of Congress anything to do with his selection?—

A. None in the world, sir; a Republican member of Congress from Maryland don't amount to a row of pins in the way of influence in the promotion of a company. He is a very good man in every respect. He stands exceedingly well. He is a good business man with good credit and I would like very much to be associated in business with him, but being a member of Congress did not help him at all.

Mr. HALE. Dr. Henkle says he was not then a member of Congress.

Mr. RANNEY. I think you qualified your remark by saying a Republican member of Congress had no influence.

The WITNESS. I don't care to be drawing distinctions just now.

Mr. RANNEY. I understood you to say so.

The WITNESS. I did say so and I still say so, if you want it that way.

Mr. RANNEY. I do not want it any way.

The WITNESS. I meant to rectify or correct my statement just now. I forgot that this Congress commenced on the 4th of March, 1885. Mr. Holton became connected with this company after his term as a member of Congress had expired. When he was brought into this enterprise he was no longer a member of Congress. That fact escaped me.

The CHAIRMAN. The gentleman from Massachusetts [Mr. Ranney] may examine the witness.

The WITNESS. Mr. Chairman, will you allow me to make a statement about my connection with this Government suit before the member from Massachusetts begins to cross-examine; or do you want to confine the examination just where it is?

Mr. RANNEY. Do not call it cross-examination, if you please, because it is all direct.

The CHAIRMAN. It is all direct and all cross.

Mr. RANNEY. Yes.

The WITNESS. I did not know that.

The CHAIRMAN. As I understand you, your position is that your company is not in any way involved in this inquiry, because no officer or member of Congress is in any way connected with it.

The WITNESS. But my company was involved in promoting this Government suit.

Mr. EDEN. We are directed to inquire about anybody taking part in the bringing of that Government suit.

The WITNESS. I was one of the actors in getting up the Government suit, and therefore I do not want to go off the stand without stating it.

Q. I will ask you the question, then, although I do not know enough about it to pursue the examination in detail. Did you have anything to do with the institution by the Government of the suit against the Bell Company?—A. Yes, sir. I will make a chronological statement, with the permission of the committee, and I think I can confine it directly to the points you want to know about. I will do so as far as I am able, and if I go beyond the point I shall be very happy to be corrected. In June, 1884, I was applied to to act as counsel for the Washington Telephone Company and as one of the directors; and I agreed to do so. Shortly after that I was asked to become the president of the company. That would put me in a position of responsibility that I did not choose to assume without further examination, and I came here and examined the telephone and found it was a good instrument; a better instrument than the Bell telephone. At that time I could not hear with the Bell telephone, and I could hear through the Rogers instrument perfectly well.

I then examined the law for myself and I came to the conclusion that the Bell claim was a claim that could not be supported in law, and that the Rogers claim was a claim that could be supported by a proper investigation and adjudication. Then I agreed to become the president of the company. The company promoted its business to the best of its ability, but always on the theory that it had no perfect title until that title was passed upon by the Supreme Court of the United States. Therefore I conducted the business so as to keep the stock off the market. No stock was ever sold. No member of the company ever sold any stock or got any profit out of the stock, with two exceptions. Mr. Gardner was allowed to sell a hundred and fifty shares of stock, being a poor man and obliged to have something for his support; and another man was allowed to sell some stock also, and he got something for that. I tried to get a suit with the Bell Company, and in December, 1884, our directors appointed Mr. Browning as a committee to see the agent of the Bell Company here to have some understanding by which a litigation might be had and the rights of the two companies might be brought to a legal determination. Mr. Browning reported that they said they would not disturb us until we got to work pretty thoroughly, and that then they would go forward. That was in December, 1884.

I was at that time in consultation with Colonel Young, all the way through this

period of time, and we concluded that if the Bell Company would not attack us, we would attack the Bell Company. As early as February, 1886, I advised the bringing of a suit. They said they had a good case where the Bell Company was molesting them in Tennessee. They had never interfered with me in Maryland at all. However, on the 3d of July, 1885, they published a notice in the two Baltimore daily papers, the Sun and the American, notifying the people that we were infringing the Bell patents and that people who used our patents would be sued. I published the next day, in the papers of the 4th of July, a reply to their notification, telling the public that we would go on transacting our business, and if the Bell Company did not immediately bring suit against us, we would bring suit against the Bell Company. I also addressed them a letter by the registered mail, of which this is a copy:

BALTIMORE, *July 10, 1885.*

THE AMERICAN BELL TELEPHONE COMPANY
(By Thomas N. Vail, General Manager):

The inclosed notice, which was published in the Baltimore Sun and American of July 3, is a libel of the rights of the Washington Telephone Company, for which it proposes to hold the American Bell Telephone Company responsible.

We therefore require you to begin appropriate legal proceedings without delay against this company in order to make good your claim of right, or we shall take such steps against you as are necessary for the protection of ourselves and our customers.

This company has over one hundred instruments in use, and has been using telephones under the Rogers patent for more than a year. It has advertised its business extensively and has been openly transacting it over three States, as has been well known to your agents and managers. If you will bring a suit, or decline to do so, be pleased to refer us to your counsel in this city.

The WASHINGTON TELEPHONE COMPANY,
By BRADLEY T. JOHNSON,
President and General Counsel.

The reply of the Bell Company to that letter was to bring a suit in Baltimore on the 16th of July. On that suit being brought in Baltimore on the 16th of July, they procured an order *nisi* for a hearing on the matter of a preliminary injunction on the 15th of September. I wish to make this explanation, because some other gentlemen have confused you with reference to the dates, which are somewhat material here. On the 15th of September the action was to be set down for a hearing on motion for an interlocutory injunction. At the same time the Pan-Electric Company, acting in concert with me, had brought the suit in Tennessee against the Bell Company to enjoin them for a slander of title out there. Just about that time occurred this Pennsylvania suit, and Young went to Pittsburgh to get some explanation as to what was going on there. He came back and told me these people had a lot of models and a lot of information about it, and it was of vital importance for us to get possession of those, in order to use them at the hearing in Baltimore on the 15th of September.

Q. To whom do you refer when you say "these people?"—A. Van Benthuyzen and the New Orleans people. I had never known any of them then and had never heard about their company then. I want to speak respectfully of the gentlemen, of course. In consequence of that I came on here to Washington about the 1st of August to meet Young, who was to meet Van Benthuyzen, and we were to see if we couldn't make arrangements to get possession of the models of the New Orleans company or the Pittsburgh company for use in our hearing on the 15th of September. When I got down here I found that they were discussing the question about a suit being brought by the Government. They reported that they had seen the Attorney-General, who had refused to do anything about it; because he was connected with the Pan-Electric Company he would have nothing to do with such a suit.

By Mr. RANNEY:

Q. When was that?—A. That was about the 1st of August, sir. I have to rely on my memory a little, as you can understand. I found a statement that Wilbur made his affidavit on the 30th of July. I got here after his affidavit was made, and saw his affidavit; and that is the way I fix it as about the 1st of August. I am satisfied I am correct about that. I had never heard of any Government suit before. It was new law to me. They said that they could start it under the theory that an act of Congress had been passed which gave such permission. It turned out that the act of Congress had not passed, and that we had to fall back upon the general proposition. I discussed it with Mr. Briesen, of New York, who was an exceedingly bright patent lawyer, well informed on the general subject of patent laws. That was the subject under consideration. I was perfectly satisfied as to the competency of the Government to bring such a suit, and relied on that. The discussion lasted two days, or possibly three days.

After I got here they had another interview with the Attorney-General, I think, and

they came back to me and reported that Garland refused to have anything to do with the matter at all. I supposed the matter was reasonably plain that if there was a public right involved the Attorney-General had no right to interpose his private interest to prevent the prosecution of a public right, and we had a right to have the suit brought; not to have the suit brought by our own counsel and at our own expense. I made it very clear from the very beginning of my conversations and consultations with the gentlemen, that if the suit was brought at all it must be brought by the public, at the public expense, and controlled by the counsel for the Government alone; and that private counsel and private interests were not to be parties to it. I left them then with the understanding that I was to prepare an application—

Q. When?—A. About the 3d of August. I live only about an hour from here, and would come over and stay an hour or so. I was here, backwards and forwards; but I think I am perfectly accurate in stating it was the 3d of August when my interview with them terminated with the understanding that there was to be a common basis of action. Briesen was to draw up an application to the Attorney-General to have a suit brought by the Government to vacate the Bell patent, and to forward it from New York. I was to draw up an application in Baltimore. The people in Tennessee, Colonel Young and Colonel Gantt (whose acquaintance I made then for the first time), the counsel for the Pan-Electric Company, who had brought the suit in Tennessee, were to forward an application from Tennessee, and Mr. Van Benthuyzen and his counsel were to forward an application from New Orleans. With these four or five applications coming to the Department of Justice I had no doubt that in some way the matter would be worked out to have a suit brought.

That terminated so much of the matter. I did not prepare my application for Maryland, because it was the month of August, and it was the only vacation I had, and I had to prepare for our defense in the hearing on the 15th of September. I would like to say that as soon as the suit was brought against us in Maryland, which was on the 16th of July, I employed Stirling, who was then the district attorney, and John P. Poe, my former law partner, in the case with me; and I subsequently employed two gentlemen, Morrison and Bond, who had special knowledge on the subject of telephone contentions. I employed Stirling because he had been in that court for eighteen years and had special knowledge of Federal practice in patent cases, and he has been my friend since we were at college together. Whenever I have anything of particular importance in the Federal court I am more apt to employ Stirling than anybody there. I have had some practice in the Federal courts myself. Poe I employed as a matter of course, because we have been connected intimately, in business and otherwise, for twenty-five years.

The case came on for hearing on the 15th of September. I could get nothing at all about the Government suit. I was forced to the defense of this Baltimore hearing; and the Government suit, as a matter of course, would be a prodigious relief to us, and therefore I was naturally very anxious to have it brought. I was writing to Gantt & Patterson, who were the counsel of the promoters of the suit in Memphis, and I got the assurance from them that the bill was being prepared. My time got down so close that I had to communicate by telegraph. I believe I got assurances in the early part of September that the bill was about being filed. I did not know then whether it would be filed in New Orleans or in Memphis. I came over here on the 10th of September, and on the 10th of September I got a telegram from Gantt & Patterson stating that the bill had been filed. My pressure was for the bill to be filed as soon as possible, so that I could get a certified copy of it to use in Baltimore. I got a certified copy of that bill on the morning of the 15th of September as I went into court, so I just barely had time to read it before I went into court. I believe that explains to you all I know about it.

Oh, I was afterwards applied to when the case came back to the Interior Department, and filed a formal application on behalf of my company before the Interior Department to have suit brought. That you will find in this record, which I see you have got here. You will find the application of my company there. I did not attend that hearing. It was a very laborious one, and I had something better to do. I did put myself on record as to my views about the law and the proper relations of myself and my company to this application. I would like to give it to the committee as what I think—

Q. As a contribution to the law?—A. No, sir; it is utterly impossible for any man to make any contribution to this law. There is so much of it that nobody can add anything original about the telephone law and the telephone suit; but I want to show precisely the view I had about the Government suit. That was the record I made in my argument to the Department in order to have the Government suit brought. That, I think, is all I know about the Government suit, the relation of my company to the Government suit, and my own relation to the Government suit.

By the CHAIRMAN:

Q. When did you say Stirling was employed?—A. Immediately on the suit being brought, which was the 16th of July. There was some little delay about the service

of the writ. It was not served very promptly, and I may have employed him as late as the 20th: but I employed Stirling before I came here to Washington and had any conference on the subject of getting the models from the New Orleans company to use in my case in Baltimore, and I employed him before I heard of any Government suit, or had the faintest suspicion of any Government suit being brought. That is what I want to make clear.

Q. Was he employed because of his position as district attorney?—A. No, sir; not at all. I thought it was reasonable to think, in July, 1885, that a man who had been appointed district attorney by Grant in 1868 would not remain district attorney very long. That was the inference I had in my mind about it.

Q. Is he still district attorney?—A. Yes, sir; he is still district attorney *sub modo*; his successor is appointed, but has not been confirmed. Mr. Stirling is a very good lawyer, a man of honor and good reputation, and I have known him for many years.

Q. Did Mr. Stirling present this certified copy of the Memphis bill to the court, or did you?—A. I presented it to the court, but after I had made my statement to the court Mr. Stirling got up, with the bill in his hand, to supplement my statement, and his remarks probably made more impression on the court than did mine. I remember that I complained afterwards to Mr. Dickerson that in the stenographic report of the proceedings it appeared that Mr. Stirling, United States district attorney, did this and did that, whereas, in fact, he had nothing more to do as district attorney than you had; he appeared there as an attorney employed by my company.

Q. Where is it stated that Mr. Stirling was district attorney?—A. I will tell you in a moment. Very properly, the Bell Company have a full stenographic report made of all their proceedings and printed. They had printed a very accurate stenographic report of what occurred at that allocution on the 15th of September, and I have several copies of that report. On that occasion we applied for time; we insisted that we could not prepare ourselves, and the court gave us until the 25th of November to prepare. On the 25th of November we went into court again, and the matter was continued over. Now, this report of the proceedings of that meeting on the 15th of September states, as you will see, that Mr. Stirling, the United States district attorney, exhibited the bill. That is exactly the fact. Mr. Stirling did exhibit the bill, and he was United States district attorney, but as district attorney he had nothing whatever to do with it.

Q. In other words, I understand you to say that he did not appear for the United States?—A. Oh, not at all.

Q. Was the United States a party to that proceeding or brought into it in any way?—A. Not at all. The United States had nothing whatever to do with it. Some years ago I had a great suit over there in which the Chesapeake and Ohio Canal Company was interested, and some of these gentlemen who are reporting these proceedings reported that case, and in that case I employed Mr. Stirling, I think, in 1880. That case struggled along for two years, involving an immense amount of property and very delicate and troublesome legal questions.

Q. Did you have any intercourse with any officer of the Government with regard to bringing a Government suit?—A. I certainly never saw Mr. Garland about it one way or the other. I have a recollection that I went to Mr. Goode's office one day and said to him, "Has Senator Harris been here?" He said he had. I asked him, "How long has it been since he left?" He said it had been five minutes, or ten minutes, or what not. "Well," said I, "will you allow me to ask you this question—I don't know whether I ought to ask the question—has a suit been ordered in the telephone case?" He said it had been, and I walked out, and that is all I ever heard about it at that time.

Q. Do you recall what day that was?—A. That must have been, I would say, in the early part of September. I think I was away from here during the month of August; I think I was in Pennsylvania during the greater part of that month, probably nearly all except three or four days that were cut off by those conferences.

Q. Can you fix the date more accurately?—A. No, sir; I could not do any more than that. I am satisfied that it certainly was in the very first part of September. I have seen a paper, introduced formerly in the testimony, that said I had information on the 3d of September; it may have been, therefore, that very day. I knew that the suit had been ordered directly it had been ordered.

Q. Can you state what led you to make inquiry of Mr. Goode?—A. Oh, yes; I knew that, after our interview and our pressure to have the suit brought, the application was subsequently to be renewed to the Solicitor-General, but I couldn't tell you when I knew that. I suppose I knew that when I came here; I do not suppose I knew it until I came here. I was in conference pretty much all the time with Colonel Young about the cases, but I do not think I talked to anybody else about them.

Q. Was there anything said in that interview about applying to the Solicitor-General?—A. Not a word.

Q. When was it suggested that application should be made to the Solicitor-General?—A. I never heard of it at all until application had been made.

Q. Had you any information early in September, about the time you applied to the Department, that led you to believe that the application would be made at or about that time?—A. I rather think I had information from Colonel Young about the time that application would be made; I would not be willing to commit myself positively, but I rather incline to think that was the occasion of my visit here to find out, so as to govern myself in regard to the Baltimore suit. I rather think that that was the cause of my visit, to see Colonel Young and get information on that subject.

Q. Did you expect to meet him here?—A. Yes, sir.

Q. Did you meet him here?—A. I have no doubt I did.

Q. Did you receive your information from him while he was here or while he was in Memphis?—A. I got the information from him while he was here. I did not get the information from him that the suit would be brought. I got the information from him that application was about being pressed to have suit brought. I could not tell you where I got the information that suit was to be brought. I suppose the first information I had on that subject was what the Solicitor-General himself told me, and I suppose that was about the first information that anybody got. That was in the early part of September, and the suit was not really brought until about the 8th or 9th of September, and it was that delay that was giving me such uneasiness about my suit in Baltimore, and I was pressing them in Memphis to hurry up and send me a copy of the bill.

By Mr. HANBACK:

Q. Let me ask you a question right there, so as not to bother you afterwards. What was the occasion of your uneasiness? Did you want to hold your suit in abeyance to this suit?—A. I had no doubt that if the United States intervened it would probably prevent the court from granting a preliminary injunction. You perceive that a preliminary injunction would come down on me with only fifteen days' notice, and shut up my business, and leave us to struggle along for a year or so, preparing our case for final hearing; and my belief was that if I could get a copy of that bill in the Government suit at Memphis I could stop the issuing of the preliminary injunction in my case in Baltimore. It would not stop any final hearing, of course.

By the CHAIRMAN:

Q. I show you what purports to be a report of the proceedings at the time of the hearing of the motion for a preliminary injunction.—A. That is it; that is what I referred to. You see it states there that Mr. Stirling, United States district attorney, appeared as one of the counsel for the defendants. Mr. Storrow furnished me some copies of that report.

Q. That is what you referred to in your previous statement as the statement made by the Bell Company that Mr. Stirling, United States district attorney, appeared?—A. Yes, sir.

The CHAIRMAN. That is all I care to ask at present.

The WITNESS. I think my memory is pretty accurate. You perceive from this report that I called the attention of the court to the United States bill; Mr. Stirling did not do that at all. People get suspicious and suspect everything around there; that is probably not unnatural, but that is the way it was brought up. I filed the bill and pressed the United States bill on the attention of the court as a reason for a continuance, and Mr. Stirling, by way of fortifying me, said what is there in that report. He did not bring the bill into the case at all.

Q. You say you received a certified copy of the bill that morning as you went into court?—A. This report does not say so. I said so just now, and I think I was mistaken.

Q. I mean that you stated it in your testimony here. It appears that the certified copy of the Memphis bill was filed in the Maryland case on the 15th of September.—

A. That was on the morning of the hearing. Then I was right about it.

The CHAIRMAN (to Mr. Ranney). You can proceed with the examination.

By Mr. RANNEY:

Q. I would like to put a question or two if you will answer them?—A. I will do so with pleasure.

Q. I understand you to fix the date that you came to Washington and had the first interview with Casey Young and the other gentlemen you met here, as being subsequent to the time when the Wilbur affidavit had been taken?—A. Yes, sir.

Q. That appears to have been taken on the 31st of July. Was it on the same day or on the next day?—A. I wouldn't say that. I say that when I came here it had just been completed, and I think it had been completed the day before I came here, for it was sworn to, and it was shown to me when I came here.

Q. If it had been completed on the 31st of July, it would have been the 1st of August that you were here?—A. Yes, sir. I suggested the duplication of the affidavit. I said, "Have you got another copy of this paper than that one?" They said they

had not. I said it was too important a paper to have only one copy of it, and I said, "Make half a dozen copies and get him to swear to them."

Q. They told you that they had been to see the Attorney-General when you first came here?—A. Yes, sir.

Q. And you say while you were here they saw him again?—A. While I was here they saw him again.

Q. How do you know that?—A. They told me so.

Q. Do you recollect who told you?—A. I would get over here on the train from Baltimore at 11 o'clock, and go right straight to the Ebbitt House. When I got there Colonel Young, Major Von Briesen, of New York, and Mr. Van Benthuyzen either came in after I got there or had just come in right straight from the Attorney-General, and said they had been to see him again to press him about the suit, and he would have nothing to do with it.

Q. They went to see him again?—A. Again, yes.

Q. Did they say they had been twice?—A. This was the second time. When I came here first they told me that they had had an interview. This conference lasted two or three days—on the 1st, 2d, and 3d of August; that is my idea of the dates. On the first day of my coming they told me about this fruitless interview. The second day when I came they had just had an interview when they came in. I think they came into the room after I got here from Baltimore, and they told me they had just come from the Attorney-General's office. If you ask me who told me so, I say all of them—Van Benthuyzen, Young, and Von Briesen.

Q. Did you understand that they had been there twice, and once after you got there?—A. They went once after I got there.

Q. Then it must have been once after the 1st of August?—A. I think so.

Q. Do you recollect whether it was the same day you got here that they represented that they had been there, or what day?

The WITNESS. Do you mean the day I first got here?

Mr. RANNEY. When you first got here?

The WITNESS. I couldn't say that.

Q. You cannot say what?—A. I cannot say whether they had paid their second visit on the first day I got here, or whether they paid their second visit on the second day I came over.

Q. But it was paid while you were here?—A. Oh, undoubtedly.

Q. Then that must have been after the 31st of July, if you got here the 1st of August?—A. Yes, sir.

Q. Did you enter your name on the book at the Ebbitt House when you got here?—

A. I couldn't say that; I very rarely do that; I only do that when I want to leave an address.

Q. You did not stay over night?—A. No, sir. I sometimes put my name on the register, as an address, so that I can be communicated with in case my Baltimore office sends me a telegram.

Q. You do not remember whether you did in this instance?—A. I do not remember.

Q. How many different days did you come over?—A. I came over from Baltimore certainly on three different days.

Q. What conferences did you have here, and with whom?—A. The parties to the conferences were Mr. Van Benthuyzen and Mr. Huntington, representing the New Orleans company, and Colonel Young and Mr. Gantt, who were the Memphis counsel in the case; and the conferences were about the telephone litigation in all of its forms. My particular part of the conference was pressing on them the absolute necessity of their joining me in the defense of my suit on the coming 15th of September.

Q. In that interview did you express to them your views or advise that the suit should be brought in the name of the Government, at its own expense and entirely under its own control, and that no counsel connected with the association should have anything to do with it?—A. Yes, sir.

Q. Did they agree with you or dissent?—A. They did not take that view. They had the opposite view exactly.

Q. Were you cognizant of that written agreement being made between Mr. Van Benthuyzen and Mr. Young during those days?—A. No, I never heard of it until I heard of it here in the testimony.

Q. They never communicated to you the original agreement they entered into?—A. No, sir; I knew that Colonel Young and Mr. Van Benthuyzen were making some agreement about the co-operation of their companies in the defense of what they considered their common rights, but what the agreement was I did not know; I knew nothing about the details of that.

Q. They did not communicate it to you?—A. No, sir.

Q. During those days did you meet Senator Harris?—A. I did not see Senator Harris until—no, sir; he wasn't at any one of those meetings at all. I saw him in the Ebbitt

House. I am trying to identify time and place, but I did not have any conference with him, and I did not see him in any conference.

Q. Identify the time and place, if you can.—A. The place was the Ebbitt House; the time was in those three days of August.

Q. You cannot tell which one?—A. It was toward the latter part of them; whether the second or third, I could not say; certainly it was not the first.

Q. Did you have any conversation with him about the suit?—A. Oh, yes.

Q. About the Government suit?—A. Well, I couldn't say that. Senator Harris was the active man of the Pan-Electric Telephone Company; Mr. Young was the lawyer, and had been attending to the law part of the Pan-Electric Telephone Company. I had been pressing both Young and Harris to give me assistance in the Baltimore suit, and my conversation with Harris was to force him to intervene in the Baltimore suit, and take the burden of the fight from my shoulders.

Q. Did they consent to it?—A. No, sir; they did not.

Q. Did they at all before the hearing?—A. Yes, sir; Gantt agreed to come there, and Young agreed to come.

Q. At what time did they agree to join in the defense?—A. They agreed at that time; when I left them in the early part of August, 1885. It was with the understanding that Gantt and Young would both come to the hearing on the 15th of September, and were to bring with them these New Orleans auxiliaries; but to be perfectly frank about it it was not such an agreement as if you were to tell me positively you would do so; it was only an agreement that they would do so if it was possible.

Q. That was while you were in Washington?—A. That was while I was in Washington. The understanding was that if it was possible to make arrangements, they would come; but it was not such an agreement that I could rely on it, and I did not rely on it because I made my own dispositions in regard to the case.

Q. When did you get information that they would defend it at all?—A. In the early part of August both Young and Gantt said that if it was possible they would come and assist me at the hearing on the 15th of September, but that hearing was adjourned to the 25th of November. I personally pressed Young to come on, and Gantt also, but with reference to Colonel Gantt, I had from him an answer that circumstances, domestic, probably, prevented him from leaving home. But Young positively agreed to come on. That would be prior to the November hearing.

Q. Did they appear at all?—A. No; they did not. You want to be perfectly fair with me, no doubt; I take it for granted you do.

Q. Certainly.—A. On the 25th of November there was no hearing at all.

Q. You mean November, do you?—A. Yes, I mean November.

Q. I mean prior to that, at the hearing on the 15th of September, had you come to any definite arrangement or conclusion as to whether they would appear with you or not?—A. No. They promised me they would come if they could, but there was no such understanding that I could rely on it, and therefore I made my own disposition for the case.

Q. In the record of the Washington Telephone Company put in here by Mr. Gardner was a report from you, if I recollect rightly. It is already in the record.—A. That is exactly what I want to be permitted to strike out.

Q. Your report was to the effect that an arrangement had been made whereby there was no necessity for selling that stock which had been reserved for the purpose of sale to enable you to get money to conduct the suit.—A. In the first place, I object to the question; in the second place, the hypothesis is incorrect; there is no such statement in the record of Gardner's testimony.

Q. Let us turn to it. My recollection is general about it, and I may be in error. My associate will look it up. As I recollect it you made a report, after the vote had been passed on that subject, whereby their stock was to be held or confiscated—if I may use that word—for the purpose of sale to procure money to carry on the suit, and then the record says in substance that it becomes unnecessary, because another arrangement had been made. If I recollect aright, that was the last of August or the 1st of September.—A. Yes, sir; I object to stating anything about my report.

Q. You said that an arrangement had been made. What was the arrangement?—A. Mr. Ranney, I object to testifying about any arrangement with my counsel. I haven't any idea of you getting out of me anything which will be useful to the Bell Company. I have a suit pending with the Bell Company, and I don't propose to tell you anything about my arrangements with my counsel or any one else.

Q. I do not propose to go into your relations as counsel and client. We know perfectly well what the rule of law is on that subject. But I am now inquiring as to the record of the official action of the company.

Mr. EDEN. What date?

The CHAIRMAN. I do not find that indorsement.

Mr. RANNEY. You will find it at the bottom of page 518 of our record.

The WITNESS. I have it:

"The CHAIRMAN. Yes; I find an indorsement on this paper as follows: 'Report of

General B. T. Johnson, made to the board of directors, September 10, 1885; not acted upon because of satisfactory provision otherwise made.”

Q. Now, where is the copy of the record put in on that point?

Mr. EDEN. That was the agreement of counsel.

The WITNESS. Yes.

The CHAIRMAN. On what page is the report?

The WITNESS. The report is not in here at all.

The CHAIRMAN. You will find a paper there signed by you.

The WITNESS. Oh, yes; that is September 10.

Q. That was an indorsement on the report?—A. That was the indorsement on the report itself.

Q. That indorsement was made by Mr. Gardner, if I recollect rightly.—A. Yes, sir. That is exactly what I ask you to strike out. That record has no business in this testimony, and it is not right that the committee should be informed in that way about my affairs and my company.

Mr. RANNEY. In the last item at the bottom of that record there was a statement about which Mr. Gardner was examined, that another arrangement had been made and the vote about the stock was not to be carried out.

The WITNESS. What is that, Mr. Ranney? It is on page 518 at the bottom; that was read by the chairman at that time, and I just now read it from that place in your record.

Mr. HANBACK. The indorsement is as follows:

“Report of General B. T. Johnson, made to the board of directors, September 10, 1885; not acted upon because of satisfactory provision otherwise made.”

The WITNESS. What record do you mean—the report?

Mr. RANNEY. No, sir; the official report, the book. He was asked what the arrangement was and why he did not record the whole of it.

The WITNESS. Now if you will direct my attention to the page I will understand it.

Q. I will ask you this question: He was examined by Mr. Millard or myself, I forgot which; but independently of that, I will ask you this: Before that meeting of September 10, 1885, had there been an arrangement made with the Pan-Electric Company or their counsel or officers in regard to that matter?—A. None. I decline to answer that question.

Q. Why?—A. Because it is not within the scope of your inquiry. It is beyond the power of the House to compel me to answer any such questions.

Mr. RANNEY. I would like to have the letter of Casey Young of about the 25th of August, 1885, which was put in here by Mr. Gardner. Mr. Gardner produced a letter from Mr. Casey Young of about that date. While they are finding that—referring now to the record which is before the committee where the vote of the directors was recorded in relation to its not being necessary to sell the stock because other arrangements had been made—I understand you to decline to answer whether you had made such other arrangements. I decline to give you any information about it at all, because I have not put any record into this case and its production here was utterly unjustifiable and contrary to law. That is the position I take.

Q. Leaving that for the present, for the committee to pass upon the question hereafter whether they will try to compel you to answer, I suppose you have reference to a decision that leaves us somewhat impotent in that regard.—A. I refer to the decision of the Supreme Court of the United States; that decision is not new law at all; it was decided in Massachusetts before the Supreme Court rendered its decision. I know exactly the power of this House now, I think.

Q. You decline to answer?—A. I do; that is right.

Q. I will leave it for the action of the committee hereafter.—A. That is right.

Q. It is true, then, as I understand you—this is the basis of another inquiry—that you were very desirous of getting the action of the Government to bring suit?—A. I was.

Q. For use in your suit?—A. Yes, sir.

Q. The Pan-Electric Telephone Company, in their arrangements with you, as a subordinate company springing out of it, were under obligations, as it appears, to protect you and defend your suit, were they not?—A. I decline to answer that. You have got nothing to do with my private arrangements with any person or company in the world.

Q. We already have it in proof.—A. Then don't ask me, because, certainly, if I had been here you never would have gotten it, I think.

Q. You do not deny that you had been endeavoring here in a personal interview with these parties to get them to do that? You have already sworn to that.

The WITNESS. Sworn to what?

Mr. RANNEY. That you were trying to get them to do that.

The WITNESS. To do what?

Mr. RANNEY. To come in and assume that defense, or help to make it. You have sworn to that.

The WITNESS. Oh, yes.

Q. Why are you willing to swear that you were endeavoring to get them to do a thing, and then deny what agreement you did make in regard to it?—A. For the simple reason that it is utterly impossible, in the course of your examination, to draw the line on you all the time. You are all the time getting a little more than you are entitled to. I ought not to have answered the first question at all, and I shall not answer the second.

Q. Probably if I had asked the first question you would not have answered that, but the chairman asked that.—A. There may be something in that.

Mr. RANNEY. The letter to which I referred seems to be printed on page 532. The original was dated at Memphis, July 21, 1885:

MY DEAR SIR: I am just in receipt of your favor of 18th of July, in reference to the suit brought against us by the Bell Telephone Company in Baltimore. I would come or send our leading counsel, Colonel Gantt, to Washington at once, but I must wait until I can arrange for other persons with whom we have recently become associated to meet me there. I will write to these parties to-day, and ask them to let me know, by telegraph, when they can meet me in Washington, when Colonel Gantt, or myself, will come and make arrangements for defending the suit. I think we have such combination now made as will assure our success. I will write to General Bradley Johnson this evening.

Yours, very truly,

CASEY YOUNG.

Q. Did he write to you?—A. Yes, sir.

Q. Will you be kind enough to produce the letter?—A. No, sir.

Q. When did you receive it?—A. I must have received it very shortly after that date, July 21; I can't tell you the date.

Q. You had received it before that action was taken by your board of directors which is already in evidence.—A. There is no action of my board of directors in evidence, Mr. Ranney.

Q. Put in by Mr. Gardner?—A. The committee will take it out again, I think.

Q. I have read it from the record here; I quote this extract from it.—A. So I perceive.

Q. I do not want to press matters in detail if you say that generally and in detail you will not answer.—A. I say in general, in detail, and specifically that I will not give you any information about the private affairs of my company or my private arrangements with them.

Q. Or the corporate affairs?—A. Either corporate or personal.

Q. Your declination is to giving any information?—A. Any information at all except it relates to members of the Government.

Q. If you make your declination comprehensive, I will not go further into details until the committee act upon it.—A. That is right. That saves time.

Q. It is true that on the 15th day of September, 1885, the Baltimore suit, which was one where the Bell Telephone Company sought to restrain your company in a preliminary injunction, or interlocutory, or whatever you call it, was set down for hearing?—A. Yes, sir.

Q. You were anxious to get that Government action before that time, were you not?—A. Yes, sir.

Q. And you had various correspondents, as you stated in answer to Brother Boyle—you will pardon me if I refer to that—whom you were trying to hurry up to send on the papers?—A. I beg your pardon; I lost that.

Q. You had correspondence in relation to that suit; you were anxious to get a Government suit and have the proceedings in the Government suit?—A. I wanted the Government suit brought so that I could get a certified copy of the bill on the 15th of September.

Q. You were hurrying the matter up so that you could get it?—A. Yes, sir.

Q. By correspondence?—A. By correspondence.

Q. When the court assembled on September 15, the proceedings of the Government were presented there to the court and urged as a reason why the court should not grant the preliminary injunction. You have been shown by the chairman the printed report of the proceedings, with the remarks made by all of you before that court?—A. Yes, sir.

Q. Taken down by a stenographer and printed?—A. Yes, sir.

Q. You see by that that the proceedings were had at Baltimore, Md., September 15, 1885, on a motion for preliminary injunction; that the appearances were, for the complainants, Charles J. M. Gwinn, E. N. Dickerson, and J. J. Storrow; for the defendants, Bradley T. Johnson and Mr. Archibald Stirling, United States district attorney. It appears that you made the first speech, and undoubtedly made a good one, general; I do not care to read it.—A. Thank you. It is a very good speech, if you will read it, and the committee would abide by it.

Q. We are glad to get you in print in that shape, for it seems you refuse to answer otherwise. On page 13 of those proceedings I find that Mr. Stirling, United States district attorney, makes some remarks, and that I will ask to be put in evidence.

The following are the remarks of Mr. Stirling referred to:

"Mr. STIRLING, United States district attorney. If your honors please, I have only a few words to say in regard to one branch of the points that General Johnson makes. This proceeding in Tennessee, so far as the bill of the United States is concerned, is of course a proceeding, as far as I know of, which is rare.

"Mr. DICKERSON. I should think so.

"Mr. STIRLING. It must be treated, however, as entitled to absolute bona fide consideration. My brother thinks it strange that the Attorney-General of the United States, who, he admits, has authorized it should spend the money of the United States on a bill which he says contains so many allegations which were disposed of in other cases; but such is the fact, and it is also the law that nobody but the United States can set afloat a proceeding the object of which is practically to attack the validity and existence of a patent. A dozen judges may decide it good. It may be void in a particular case, as to a particular defendant, and those privy to him; but when the United States files a bill, and a patent is decided void, it is void against all the world. Now, the very strangeness of the proceeding strengthens that legal bona fides that a court must give to a bill of the United States. Now, as to the averment of jurisdiction. The bill alleges that it is a Massachusetts corporation and is conducting, as it undoubtedly is, holding the monopoly of the Bell patent—conducting business all over the United States; that it is present in the State of Tennessee by its officers and agents conducting its business. Now, I cannot see why, if, by the provisions of its charter, as the bill alleges it has authority to do business in other States, and as matter of fact is doing business in the State of Tennessee, has an agent in that State, sells its telephones in Tennessee, collects its royalty, and the agent reports to the headquarters—I do not see why it cannot be sued there.

"Now, the United States bill contains the same allegations, and while it does contain a great many allegations that have been raised in the other cases in regard to the fact whether Bell was the inventor or not, it charges a specific fraud against the people, that a fraudulent proceeding was carried on in the United States Patent Office in the obtaining of that patent; and the United States has alleged boldly that one of its own officers committed a fraud in the issue of the Bell patent. Now, it does strike me that, so far as a preliminary injunction is concerned, it is a valid objection to a preliminary injunction if, since these other decisions, the United States has filed a bill alleging the patent to be void, alleging it to have been fraudulently obtained, and asking the circuit court of the United States to declare it void; that it is an absolute bar to an injunction preliminary, unless there were circumstances to show that the infringement was bald and fraudulent and plain, and the injury irreparable. Now, that it is not bald; that is bona fide conduct on the part of the defendants; that it is a bona fide defense; that it has a large business; that there is no proof of irreparable damage, is manifestly good ground why a preliminary injunction should not issue, because that is in the sound legal discretion of the court.

"The filing of the bill by the United States to set the patent aside as void would not prevent the complainants conducting the cause and bringing it to an issue undoubtedly, unless the other matter was first decided. It does strike me that when this proceeding is filed to set aside the patents, that unless something is shown to the court, it must be treated as the act of the United States; and as long as that is pending in that way to declare the patent void, the court ought not to exercise its discretion against a bona fide business and grant a preliminary injunction. As I say, there is no evidence of irreparable damage. Now, suppose before your honors arrive at a decision upon this cause, the circuit court of Tennessee should set this patent aside. That would absolutely bind this court and every court in the United States, unless it was subsequently upset by the Supreme Court. Now this did not exist in any action tried in New York, Massachusetts, or Pennsylvania, and it does seem to me to attack the validity of this patent in a form and in a mode of action which is an absolute bar to the proper exercise of legal discretion in granting a preliminary injunction."

I suppose you have no objection to putting in the remarks of the court?—A. Well, I don't care very much about the court on a preliminary motion in that way. It is the order that does the work.

Q. The result of that was, I see, that the court granted a restraining order?—A. No, sir; it did not.

Q. It continued the one already granted?—A. No sir.

Q. It has been stated here that you were under injunction?—A. The report of the Bell Company makes that statement, and I find it continually reiterated. It is not true. The court, on that hearing on the 15th of September, granted a restraining order, restraining my company from enlarging its business, but allowing it to continue in the then existing business.

Mr. RANNEY. I do not go into the scope of the order.

The CHAIRMAN. Does not that appear in this report?

The WITNESS. I do not know.

Mr. RANNEY. It is in the record.

The WITNESS. It has been very frequently stated. It was stated in the annual report of the Bell Company, published in the Scientific American, that we were put under a restraining order.

Mr. RANNEY. I will read it:

[In the circuit court of the United States for the district of Maryland. In equity. The American Bell Telephone Company *et al.* v. Pan-Electric Telephone Company *et al.*]

The motion for a preliminary injunction came on to be heard on this 15th day of September, 1885, and the defendants stating that their proofs were not ready and asking for further time: thereupon, it is by the court ordered that the defendants serve copies of their proofs on the complainants' solicitor on or before the 15th day of October, and the complainants shall thereafter file their affidavits in reply, if they desire so to do, and that the said motion for a preliminary injunction be heard on the 2d day of November, 1885, and that meantime an order issue restraining the defendants until the said hearing, and the further order of the court, from extending or increasing their business by taking new subscribers or customers, or using any telephone instruments except those now in actual use, or that may be necessary to replace those now in use.

HUGH L. BOND,
Circuit Judge.

THOS. J. MORRIS,
District Judge.

Mr. EDEN. It did not restrain you, but refused to enlarge you?

The WITNESS. Yes, sir.

Q. Have you ever had a final hearing in that case?—A. No.

Q. That suit is still pending?—A. That suit is still pending on a motion for a preliminary injunction.

Q. Did you have it heard in November?—A. We did not have it heard in November. In November I went into court and offered to let them take an injunction, reserving to myself leave to move to dissolve. The gentlemen on the other side did not want it in that form, preferring to let it stand. So then it was passed for the 25th of January for a hearing. Before that time I was notified by the gentlemen on the other side that they were not prepared to go on.

Q. So that the suit stands in that position with this order still in force?—A. Yes, sir.

Q. And the court declined to heed your request as to the effect or what you claimed to be the effect of the Government suit?—A. I don't think they did. On the contrary I think that is exactly what is the matter now. I haven't got the faintest idea of an injunction issuing with that suit pending.

Mr. RANNEY. On page 21 of this report of the proceedings in Baltimore on September 15, 1885, I see the following:

"The COURT (Morris, J.). We think you had better allow an unrestricted restraining order to issue, and take as much time as you want.

"Mr. JOHNSON. An unrestricted restraining order don't amount to much, but it closes up the business. We prefer to have a limited time.

"The COURT (Morris, J.). If it don't amount to very much, we think it had better issue.

"Mr. JOHNSON. Well, it amounts to a good deal to the people who use the telephones.

"Mr. DICKERSON. We can supply them.

"Mr. JOHNSON. You can supply them at \$100 a year. That is what we are objecting to. We propose to supply them at a less price."

The WITNESS. That is our business.

"Mr. DICKERSON. And take our property."

The CHAIRMAN. Is this to go into the record?

Mr. RANNEY. It may go into the record, but I am simply calling his attention to it to refresh his recollection about it.

The WITNESS. Will you be kind enough to refresh my recollection sufficiently to enable me to know what this has to do with the officers of the Government owning telephone stock?

Mr. RANNEY. I have to read it all together to get at the final result of it, simply to refresh your recollection, not to go into the record.

"The COURT (Morris, J.). We will issue a restraining order, and you take as long as you please."

Q. That was the result of it, and as it is there, is that your recollection?—A. There is no doubt about it. It is not my recollection, but there is the copy of the record.

Q. I observe it does not appear from the certified copy of the clerk here (I looked at it hastily) at what time the appearance of Mr. Stirling, the United States district attorney, was entered on the docket of the court.—A. I could not tell you that. As likely as not that record that you hold in your hand is defective. It is in this respect: Among the counsel present were Messrs. John P. Poe, and Morrison and Bond; they were also present at that hearing, but their names are not in the report.

Q. Do you mean the judges?—A. No, sir. In that report you have there, it shows that Mr. Gwinn, Mr. Dickerson, and Mr. Storrow were representing the Bell Telephone Company, and that Messrs. Johnston and Sterling represented the Washington Telephone Company. The fact is that Messrs. Johnston, Sterling, Poe, Morrison, and Bond, represented the Washington Telephone Company.

Q. Is that Mr. Bond you speak of a son of Judge Bond?—A. I decline to answer that question; it has an offensive imputation in it.

Q. I do not mean it, but simply for identification. I did not mean any implication in my question. Was the Mr. Bond you refer to a son of Judge Bond; I ask that simply for identification.—A. He is a member of the firm of Morrison & Bond, of Baltimore.

Q. On my statement that there was no implication or wrong intended, are you not willing to state whether he was a son of the judge?—A. No, sir; I am not. I have to stop you somewhere, and I might as well stop it right here.

Q. Do you decline answering me after my statement that I did not intend anything wrong by it?—A. Yes, I decline to answer the question. There must be an end to this thing some time or other.

Q. You say you had nothing to do with the application before the Government in respect to a Government suit at this hearing?—A. Yes, sir; I did have a good deal to do with it. I said that I did not attend personally at the hearing and did not argue the case orally. But I filed an application in behalf of my company, requesting that the suit be brought by the Attorney-General, and that went in due course to the Department of the Interior. I attended during the hearing several days and filed a printed brief, of which I have given a copy to the chairman of the committee.

Q. With whom did you confer during the hearing?—A. I will give you two answers to that. In the first place I did not confer; in the second place, I object to answering the question.

Q. And still answer it?—A. Yes, sir. I do not want to make points when there is nothing in them.

Q. I only desire facts material in this case.—A. You have no right to know what consultation I had with my counsel in my case.

Q. I have not asked you what you said to them.—A. But you wanted to get at the question of a conference.

Q. I wanted to know if you participated in that hearing before the Commissioner?—A. I participated to the extent of having filed an application in behalf of my company to have the suit brought. When the case was before the Secretary of the Interior I attended there a number of days. Instead of arguing the case orally I furnished a printed argument. That is my answer.

Q. Did you share any of the expenses of the hearing?—A. I will answer that question in this way: I decline to answer the question, and tell you no.

Q. What is that?—A. I decline to answer your question, and tell you no. That has nothing to do with this case. I do not choose to have the imputation made upon me by answering the question in that way.

Q. I did not mean anything of that kind. The imputation will be in your answer and not with the inquiry.—A. I had nothing to do with the expenses; I had my own business to attend to and left that to others.

Q. Were you present, and did you hear Colonel Young state to the Commissioner whether the Pan-Electric Telephone Company were there appearing?—A. Please state that over again.

Q. Were you present when Casey Young said to the court, or to any one, whether the Pan-Electric Telephone Company were there appearing in that hearing?—A. I cannot remember that. I have heard Colonel Young frequently say that the Pan-Electric Company had nothing to do with the promotion of the Government suit. Whether he said it to the Secretary of the Interior or not I could not tell you; I do not remember.

Q. You have heard him say so, have you?—A. Yes, sir.

Q. I simply want to know whether he did not state when you were there, to the Commissioner, that he appeared for some individual, and that he was not there—that the Pan-Electric Company was not there at all.—A. I cannot remember. There is a full report of the proceedings before the Commissioner, and if you will furnish that to me I will tell you whether I heard it or not.

Q. I haven't it, but I thought you might remember.—A. No, sir; I do not. All these proceedings were reported verbatim, and there are printed copies in existence.

Q. You handed us a brief of yours in relation to the right of the Government to bring a suit. Have you another copy of that brief, and can you favor me with one?

(The witness handed the document in question to Mr. Ranney.)

Q. Was this the one you presented before the Interior Department, or did you present any?—A. Yes; I did. I just told you that I presented one.

Q. Did you make your argument orally or simply present a printed brief?—A. I don't know whether you forget what you ask or not, but I have certainly told you that I made no oral statement but presented a printed one.

Q. I was thinking of something else and did not hear you. You appeared for your company?—A. I did.

Q. Pardon me for putting one question: I want to know if you are acquainted with Attorney-General Garland?—A. I am.

Q. How long have you been acquainted with him?—A. I will swear to twenty-five years, and I do not know how much longer.

Q. Had you called upon him since he had been in office in relation to this matter?—A. Never.

Q. How long had you been acquainted with Mr. Goode, the Solicitor-General?—A. I think I have known Mr. Goode intimately twenty-two or twenty-three years. I have an idea that I can locate him as far back as that.

Q. Do you know whether he was aware of your being interested in any wise in these companies?—A. You ask me do I know; no, I do not know.

Q. Did you ever talk with him about it?—A. Not that I remember.

Q. Your name had been published in the newspapers, and it was a fact well known, was it not?—A. Yes, it was notorious. It was well advertised in the papers here in Washington and in Baltimore.

Q. And you have been acquainted with Mr. Goode how long?—A. I voted for Mr. Goode for Senator once, about two or three hundred times; I have forgotten when. I think I can locate him back about as far as 1863. I have known him a long time, and known him exceedingly well. I have known Mr. Goode for a long time, if that is what you mean, and very well.

Q. How long have you been acquainted with Secretary Lamar?—A. I have been acquainted with Secretary Lamar more than fifteen years.

Q. Intimately?—A. Very well, indeed.

Q. It has been stated somewhere—A. I am very glad that you are giving me such a very delightful set of associates, but what that has got to do with the telephone case I do not know.

Q. I do not mean to make any implication about it or to cast any reflections.—A. It is no implication on me. I am happy to know those gentlemen. They have been friends of mine for a long time.

Q. I am sure it is no implication on them.—A. I think not.

Q. I do not know but what you and Mr. Lamar are related by marriage in some way. It has been so stated in the newspapers somewhere.—A. Don't you believe anything that you see in the newspapers about this case. They will mislead you for dead certain.

Q. That is the reason I am asking you.—A. Don't you believe a word of that. Mr. Lamar is a Georgia man and I am a Maryland man. I have no connection with him, either direct or remote, and have no affinity or otherwise.

Q. And are not connected by marriage?—A. No, sir; I am not connected by marriage.

Q. I saw something of that kind in the papers. Pardon me for asking it. Do you know that he knew that you were connected with this stock in any way? I make no implication about it.—A. I think if he has been bribed by stock he ought to be impeached; and I think that is a legitimate inquiry. If you want to impeach the members of the Cabinet, I want to assist you in every proper way.

The CHAIRMAN. The fact that General Johnson appeared with a written brief before Secretary Lamar is shown in the record.

Q. I did not know that that disclosed your interest as a stockholder. It discloses your relation as counsel, but I am not aware that it discloses the fact that you were active in the Pan-Electric Company.—A. I was never connected with the Pan-Electric Company.

Q. Or one of the children of that company?—A. No, sir; nor one of the children of that company. This is an independent offshoot of its own.

Q. You purchased your right under the Pan-Electric Company?—A. Oh, I know; and if you will look at the record you have there of what we call the telephone case before the Secretary of the Interior, on page 22, you will find the petition of the Washington Telephone Company, dated Baltimore, October 12, 1885, to the Attorney-General of the United States, and signed by myself as president and counsel of the company.

Q. Of that telephone company?—A. Yes, sir.

Q. So that the Commissioner was aware of that fact?—A. I do not think it is quite fair for me to state that. I should be very loth to state that he knew a great many things that are printed in these books. No; I will not state that.

Q. We have imposed on us a disagreeable duty of inquiring into certain actions of officials.—A. Well, I do not know about that. Mr. Lamar knows me perfectly well, and has known me for a long time; I know Mr. Lamar exceedingly well. Whether Mr. Lamar knew I had any interest in telephone stock or in a telephone company, I could not tell you to save my life. I never exchanged a word with him on the subject. He knew I was counsel for the Washington Telephone Company because I appeared before him as counsel.

Q. And he knew that you were president of that company?—A. I do not know that.

Q. Didn't you represent that company?—A. I say it is not fair to hold Mr. Lamar to a knowledge of all the facts printed in that book. They are voluminous, and I do not know that he read all of them.

Q. I want to get at the facts first, and then it is a matter of judgment as to what we suppose he might do.—A. Well, I appeared before Mr. Lamar as counsel of the Washington Telephone Company, and he knew that.

Q. Am I in error? I understood you to read there just now that you presented a petition which was signed by you as president of the company?—A. Yes; that was in the paper. I do not know Mr. Cleveland very well; I have had a little acquaintance with him and a very agreeable one.

Q. With whom?—A. With Mr. Cleveland, the President. I thought you wanted to inquire about my range of acquaintance, and I wanted to assist you.

Q. I do not think that a proper remark. Have you observed that this matter referred to us does not embrace the President at all?—A. I thought it did.

Q. Did you?—A. I think if you will read the resolution you will find that it embraces the executive department distinctly.

Q. At any rate, you will observe that I did not put any inquiry about the President to you.—A. No, sir; I had not observed it.

Q. But since you have mentioned his name I will venture to make inquiry whether you have ever had any interview with him in relation to this Government suit before it was brought?—A. None in the world, before or since.

Q. You stand in this relation, I suppose, now: that the prosecution of this Government suit you desire to have begun, because of its bearing, in one respect, upon your company, do you not?—A. I have two relations to the Government suit; one of them is, as a citizen of the country, desiring to see a fair trial and a proper adjudication of the rights of the Bell Company to its patents. In my opinion, as a lawyer, the Bell Company claims more than it is entitled to, and that claim should be set aside after proper investigation, if it is found to be so. That is one relation I bear to it. The other is my relation to this company as counsel. I want to see them succeed, because if they do it lets me out.

Q. And, thirdly, I suppose, because of your relation to it as director and stockholder?—A. Undoubtedly. It is not a matter of patriotism with me at all, this Washington telephone business.

Q. You think the vacating of the Bell patent under the Government suit would relieve your company of that restraining order which now exists, and of the dangers attending the pending suit, do you not?—A. Yes, sir; I think so.

Q. And you understand that a success in that would be a large benefit to your rights, or the rights of your company?—A. That is what I think.

Q. And give you such a monopoly as the patents which you have would secure to you?—A. No, sir; it would not give to me any monopoly at all. It would throw open the whole field of telephonic investigation and invention to the public.

Q. Do you mean it would destroy the Rogers patents under which you are operating?—A. On the contrary, the Rogers patents would secure to him that which he patented, no more or less. It would not give any monopoly, because there are fifty different telephones.

Q. It would not give a monopoly if that patent would secure it to you?—A. It would give him the right to the instrument which he purports to have invented.

Q. And would secure you against any claim of infringement as against the Bell patent?—A. No; that does not follow.

Q. If you should destroy the Bell patent, there would not be any longer a claim that you were infringing it, would there?—A. No; if the Bell patent were invalidated *in toto* of course there could be no infringement of the Bell patent.

Q. I have interrogated you in regard to all that I deem material. Oh, you have spoken about a Mr. Holton. I would like to know whether he was a member of Congress at the time he was united in that company, and I would like to know the date of your purchase from the Pan-Electric Telephone Company of your interest in the Rogers patent.—A. Now you are speaking of the original Washington company.

Q. I am now speaking of the interest which your subordinate company got. You

purchased your interest from the Washington company?—A. No, no; the Washington company was formed upon a license from the Pan-Electric Company, and the Washington company of Maryland was formed upon a license from the Washington company.

Q. What time did you secure your interest; when did you bargain and secure it from this Washington Telephone Company?—A. At what time did we do what?

Q. At what time did the company of which you were president in Maryland get the interest, or bargain for the interest, with the other Washington company? You are one of the grandchildren of the parent company.—A. No, I am the grandfather. You have not got it right yet. The Pan-Electric Telephone Company created the Washington company, and I am president of that Washington company. My Washington company created the Baltimore company.

Q. Are you connected with the Baltimore company?—A. No, sir; only as counsel and director. Now you want to know what kind of an assignment was made by the Washington company to the Baltimore company?

Q. Yes; I was in error. I was treating you as the president of the company in Baltimore and not in Washington. I see I was in error. Can you give us the date when the Washington Telephone Company, of which you are president, bought their interest from the Pan-Electric Telephone Company?—A. It was in May, 1885.

Q. Were the articles of association formed?—A. I hold them here; this is a copy; it is printed in the brief of the Bell Company, and I have no doubt it is correct. The articles of association were filed on the 15th of June, 1885.

Q. And Mr. Holton went out of Congress when?—A. On the 4th of March, 1885. The next Congress commenced on the 4th of March. I was in error when I stated to you that Mr. Holton was connected with Congress at that time.

Q. The chairman's allusion to him was the first allusion made to him in the committee; it opened there. I see in the list of stockholders in this telephone company, of which you are the president, the name of Mr. Gorman, who was a stockholder—I don't remember whether it was A. P. or A. J., but it looked more like A. J. Do you know any A. J. Gorman?—A. I object to your question, because it goes beyond the scope of your inquiry; but I will answer it; no. I may state that Senator A. P. Gorman was never a stockholder. I object to the question, and decline to answer.

Q. The book has been produced and exhibited to me, and I saw that his name was on the book as a stockholder.

The WITNESS. A. J. Gorman?

Mr. RANNEY. A. J. or A. P. Gorman.

A. It certainly is not A. P. Gorman, I am satisfied about that, because I sign the certificates of stock, and my attention would have been directed to such a name.

O. Our duty requires us to inquire into these things.—A. Oh, yes; I would examine the last man of them. But A. P. Gorman has none of the stock, and no other member of Congress or Senator or judge has any.

Q. What connection have you with the other company, the grandchild in Baltimore?—A. I am the counsel of that company.

Q. And likewise a director?—A. Likewise a director, but my connection with it is very perfunctory. I never attend the meetings, and have nothing in the world to do with it. I turned that matter over to the gentlemen who manage it, who are business men in Baltimore. I have other things to attend to. I am defending this suit, which is against them also.

Q. Do you know who are the stockholders of that company?—A. I do not.

Q. Do you know whether any member of Congress is a stockholder in it?—A. That is rather a tender sort of question. I will swear to the best of my knowledge and belief that no member of Congress ever has been a stockholder or is a stockholder now.

Q. It may be a tender sort of question, but it is one that we have the disagreeable duty of putting.—A. Oh, well, you ask me about a matter where I never have seen the stock-book or a certificate of stock that has been sold. Nobody has any connection with it who is connected with the Government that I know of. I never heard to the contrary.

Q. You do not have charge of the books?—A. No, sir; I never saw them.

Q. The day you called at the Department of Justice to see whether the Government suit had been brought, you have said was the 3d of September, if I remember rightly?—A. No, I did not say that; your memory is at fault. I said it was in the early part of September.

Q. Can you fix the exact date?—A. I could not.

Q. What occurred; whom did you see?

The WITNESS. At that interview?

Mr. RANNEY. Yes.

A. Goode.

Q. You mean the Solicitor-General and Acting Attorney-General?—A. Yes, sir; I mean Solicitor General John Goode.

Q. Was that the first time you had ever seen him on the subject?—A. The first.

Q. When you went there at that time you knew that an application had been made, then?—A. Yes, sir,

Q. When did you first learn that an application had been made?—A. I have an idea that some time during the month of August the application was prepared. When it reached the Attorney-General's Office I do not know, and the only way I had of knowing was by applying to the Solicitor-General.

Q. What time in August did you say that you first learned about it?—A. I did not say any time in August at all. I got an idea some time in August that the application was being prepared to forward to the Attorney-General.

Q. How early in August did you get that idea, if you can tell?—A. I would say the latter part of August.

Q. Can you tell how you learned that?—A. I got it partly by telegraph, partly by letter, and partly by verbal communication with Colonel Young. My correspondence about that time was tolerably voluminous. It was cut into about three weeks during the month of August when I was away from telegraphs and matters of that sort. So if you will take three weeks in August out of it when I had no communication with anybody on the subject at all, it may aid you; but the rest of the time my whole time was occupied with the telephone business. I did nothing else but pursue it.

Q. When you went there, what occurred between you and Mr. Goode?—A. I asked Mr. Goode if Senator Harris had been there. He said he had. "Well, do you know where he has gone?" "No; he has not been gone away from here ten minutes." "Well," said I, "will you allow me to ask a question; I am quite uncertain about the propriety of it, but I will ask you, and you can answer it or not. Have you passed any order about bringing a United States suit in the matter of the telephone?" He said "Yes." I said "Good morning," and walked out.

Q. You say you asked if Senator Harris had been there. Did you expect that he would go there?—A. Yes, sir.

Q. What led you to ask the question whether he had been there?—A. I expected to meet him there; I think I had an appointment. I came and inquired for him, and somebody told me he had gone there, or else I had an appointment to meet him there, I cannot tell you which now. But I expected to meet him there.

Q. Did you come to Washington for the purpose of seeing him?—A. I think not. My impression is that I came here for the purpose of meeting Mr. Casey Young, and still pressing for their assistance in the hearing on the 15th of September. I would not like to be tied to that. If I thought about it some more I would have a sharper recollection.

Q. I would like to get your recollection on the point as to why you expected to meet Senator Harris at Mr. Goode's or the Attorney-General's Office?—A. I expected to meet him there about this identical question. I knew that the determination had been to press the suit again on the Government. I came down here in the early part of September, the 1st, 2d, or 3d, for the purpose of conferring with the gentlemen on that subject. As I have said, some arrangement had been made to forward these applications to the Government to bring the suit, and I was informed that the Tennessee application, and probably the New Orleans application had gone, or would go forward, and I came down here to see what had been done about it in pressing it to a conclusion. When I came down here, I was either informed that Senator Harris was going up there to see Mr. Goode in the morning on the subject, or else that he had gone there, and I followed him there, one or the other. I went there for the purpose of uniting with him in pressing the matter upon the Solicitor-General to order the suit to be brought.

Mr. RANNEY. That answers it, I believe.

The WITNESS. I think so.

Q. After the 3d of August, 1885, when you left—subsequent to that and before this time when you came to Washington, as you state—had you been in correspondence with Mr. Casey Young?—A. Well, Mr. Ranney, that is a little hard to answer. A correspondence implies the answering of letters. I have written Colonel Young numerous letters, and he did not reply to them. I have an idea that he was at Hot Springs, Ark., on account of his health. I did sometimes get an answer out of him, but infrequently. I would not like to dignify it by the name of correspondence.

Q. Did you get any letters from him during that time?—A. I think so, but it is hard to say; I will say I did not.

Q. Have you looked to see?—A. No, sir; I have not.

Q. Did you get any letters from Colonel Gantt during that time?—A. I got letters from Gantt and Patterson; I cannot say I ever got letters from Colonel Gantt alone; my letters were from Gantt and Patterson. Now you are trying to fix a time during the middle of August—

Q. No, between the 3d of August and 3d of September, if that was the date?—A. Yes, sir; during that time I think I got letters from both Young and Gantt.

Q. How many, do you think?—A. I could not tell you that; not very many; infrequently.

Q. Will you be kind enough to produce what you did receive?—A. I will not.

Q. I mean those relating to this Government suit, not any private correspondence; and let the chairman see what relate to it and what do not. I do not care to look at them. We have had a rule here, to avoid disclosing private matters, to let the chairman first examine the letters.—A. I will do so.

Q. All the letters you received?—A. All the letters I received relating to the Government suit, about my knowledge and connection with the Government suit, and Colonel Gantt and Colonel Young's connection with it.

Q. Have you copies of your replies, of the letters you wrote?—A. I think I have; I don't think there is any doubt about it.

Q. Will you be kind enough to produce them?—A. I will furnish you copies of all the correspondence relating to the Government suits.

Q. Do you know of Casey Young going to Pittsburgh early in July?—A. Yes, sir.

Q. How did you know of it?—A. He told me so.

Q. When and where?—A. On his way there.

Q. He came first to Baltimore to see you?—A. I think so.

Q. Did he have a conference with you before he went?—A. I think so.

Q. Did he say anything then about a Government suit?—A. No, sir; he did not. I never heard of the Government suit until the 1st of August.

Q. Did he say what he wanted to go to Pittsburgh for?—A. Yes, sir.

Q. What?—A. To see the trial going on there and to get such information as to the progress of the litigation as might be of service to us in our suit in Baltimore and Memphis.

Q. Did you see him after he returned from there?—A. Yes, sir.

Q. You testified to seeing him at a subsequent date; how soon was that?—A. You will have to assist me about that. When was the Pittsburgh suit; what date?

Mr. RANNEY. The Pittsburgh suit was ended, so far as the proceedings were concerned, if I remember right, on the 10th of July.

The WITNESS. No, sir; the Pittsburgh suit was before that. Have you the record of it here? Well, anyhow, Colonel Young came to Baltimore, and, if I recollect correctly, he spent a day or two with me in Baltimore, looking up some of the law about this case. From there he went to Pittsburgh to see what could be done with these people in getting their assistance in the general contention against the Bell Company. He reported to me the result of his investigation by letter. I did not see him personally until I met him here in the early part of August. I then met him here by appointment for the purpose of meeting the New Orleans people and seeing if we could not get some common action.

Q. Be kind enough to produce the letter he wrote you reporting his action at Pittsburgh.—A. No, sir; I will not.

Q. You will not do it?—A. No, sir; I will not.

Q. Had you any knowledge of the application which Mr. J. W. Rogers, or one of the two Rogerses, made to the Department of Justice on the 24th of May, 1885, for a Government suit?—A. No, sir.

Q. Did you ever have any?—A. I never heard of it.

Q. Not to this day?—A. I heard of it subsequently. I saw it in the newspaper that he said he had made an application.

Q. Had you any knowledge of the application made by Mr. Van Benthuyzen to the Department of Justice on the 12th of July, I think it was?—A. Not until I came to the Ebbitt House, about the 1st of August. That was the first I heard of it.

Q. You heard it there?—A. Yes, sir.

Q. From whom did you hear it?—A. I heard it from the party together; Mr. Von Briesen may have said so, and Mr. Van Benthuyzen may have said so.

Q. Do you remember what they said about it?—A. I object to that question and decline to answer it, and then I will go on and answer it. Mr. Van Benthuyzen said he had been very badly treated at Pittsburgh and intended to have that judge impeached, and then he was going to have suit brought by the United States Government to overturn the Bell patents, that he had proved by a man named Wilbur that the patent had been obtained by fraud upon the Government, and was going on that line; that he had an affidavit of Wilbur.

Q. Anything else?—A. He then said that he had made the application to have the Government suit brought; that it was in accordance with an act that had been passed by the last Congress; that after it passed the House it had been stolen from the files of the Senate, and never had been reported; that in consequence of that he had withdrawn his application from the Department of Justice, because an examination of the law by Mr. Von Briesen had shown that the application must be made to the district attorney, and must be forwarded by the district attorney to the Department of Justice. Therefore he had gone back again to take a fresh start through some district attorney.

Q. You remember that, do you? Who was present when that was said?—A. I could not tell you.

Q. Did he tell you how he learned that it had been stolen?—A. No, sir; he did not state that.

Q. As I understood Mr. Van Benthuyzen—I will call it to your attention so as to be sure about your recollection—it was not until late in September that he learned about its being stolen?—A. Well, I cannot help that. I never heard of the law before. I never saw a copy of it, and never heard it discussed except at that meeting in the early part of August.

Mr. RANNEY. That, I believe, is all I desire to ask you.

By Mr. EDEN:

Q. You have stated that you would produce some correspondence between yourself and Colonel Young relative to the bringing of the Government suit?—A. Yes, sir.

Q. You will produce the letter that he wrote you from Pittsburgh relative to the result of the trial there?—A. Yes, sir.

Q. Was there anything in that letter as to the Government suit?—A. No, sir.

Mr. RANNEY. One moment, if you please. I object to that question.

Mr. EDEN. I am not asking for the contents of the letter.

Mr. RANNEY. I ask the ruling of the Chair on the question. If the witness declines to produce a letter at first, I make the objection that it is not competent for the gentleman to ask him what is in it or what is not in it.

Mr. EDEN. I do not ask him what is in it. The witness states that he will produce the correspondence relating to the Government suit. You called out a reference to a letter from Colonel Young to him relative to his visit to Pittsburgh, and he declined to produce that letter. I do not ask him for the contents of the letter at all but what the letter was about, whether it related to the Government suit.

Mr. RANNEY. That is best shown by the paper itself. He said that he had a letter from Colonel Young reporting to him the result of that action, and it is that letter that I wanted.

The CHAIRMAN. It would be competent for the witness to state that the letter did not relate to the Government suit.

The WITNESS. I will examine my correspondence to-morrow, I cannot do it to-night, and I will give you copies of all my letters and of letters received by me relating to the Government suit. If this letter contains anything about this Government suit, you shall have it; if it does not contain it, you can't have it.

Mr. EDEN. That is all I want to know about it.

Mr. RANNEY (to the witness). You have said that letter of Colonel Young's reported to you the result of the interview—

Mr. EDEN. I object to the gentleman putting questions at this time. He would not permit me to ask a question after he had commenced his examination.

The CHAIRMAN. The gentleman from Illinois may proceed.

Mr. RANNEY. I will defer my question. I thought it was the most convenient time to put it now.

Q. You state that the latter part of August or the first part of September you were writing letters and telegrams, hurrying up the Government suit?—A. Yes, sir.

Q. Were any of those letters or telegrams directed to any public officers, or were they directed to other individuals?—A. They were between Gantt and Patterson and myself.

Q. Not between you and any public officer?—A. No, sir; none in the world.

Q. You state that you decline to give to the committee a detail of the private business of the company of which you are president?—A. Yes, sir.

Q. I ask you if you decline to give any business relation that that company may have or may have had with any public officer?—A. There is no business of my company since its organization to the present time in the way of contracts or purchases or privileges or stock rights that relates to any member of Congress or to any person connected with the legislative, judicial, or executive departments of the Government. There never have been and are none now. Therefore, I decline to give any details about my private business, because it has no connection with this investigation.

Q. Then you do not decline to give any information which relates to Government officers?—A. None whatever.

Mr. EDEN. That is all.

The WITNESS. I want to say about this Government officer business just this: I have a very clear view of the law, and so have you, gentlemen, that you have no right to examine about any antecedent public officers, or what they did. All that you have a right to examine into is the acts of existing officers of the Government. With that explanation I want to say that Mr. Casey Young was a stockholder in the company, but he is no longer a Government officer.

Mr. EDEN. Did he become a stockholder before or after he went out of Congress?

The WITNESS. Before he went out of Congress. I also want to say that in this inquiry Congress has no jurisdiction over Mr. Casey Young or myself, either.

By Mr. MOFFATT:

Q. I understood you to say that you appeared before the Secretary of the Interior at the last hearing?—A. I did—what do you mean by “the last hearing?”

Q. I mean when the ordering of this second suit was concluded upon.—A. Yes, sir.

Q. When did you first hear of the determination of the Department to bring a Government suit?—A. I never heard of it until it appeared in the Baltimore morning papers the morning after it was announced.

Q. You had no information about it until it was officially announced?—A. None in the world.

Mr. RANNEY. That letter of Colonel Young's, written to you after the interview that he had had with Mr. Van Benthuyzen at Pittsburgh reporting the result of it as you stated, I will thank you to produce, so that we may see what it contains, or that the chairman may.

The WITNESS. Well, if it contains anything about a Government suit you shall have it. If it does not—and I will be the judge of that—you shall not have it.

Mr. RANNEY. You understand me; that was before any Government suit was brought.

The WITNESS. I know it was.

Mr. RANNEY. And the other correspondence I have spoken about, some of which you have declined to produce, from Tennessee, not connected with the Government suit as brought, but relating to a matter of business.

The WITNESS. I do not propose that this committee shall examine my private correspondence with counsel or others to find out whether I have anything in my personal private correspondence; that is worse than a general warrant.

Mr. RANNEY. You know what the rule is. We have said if there is anything private, any matter not pertaining to this inquiry, we will let the chairman, in whom we have confidence, look at it, and say whether it is or not, so as to protect you.

Mr. HALL. I do not understand that any rule of that kind has been adopted by the committee. Mr. Casey Young in one case said that he would consent to it.

Mr. MOFFATT. It has been an informal rule and understanding.

Mr. EDEN. I understand that General Johnson will produce every letter relating to the Government suit, and that dispenses with that rule. I do not ask him to produce his private letters.

Mr. RANNEY. I will embrace in my request, if you are willing to produce the letters, those which relate to and which preceded the Government suit, in reference to the getting of a Government suit?

The WITNESS. I am in so much doubt about it that I have great doubts as to whether I have any such letters at all; and if I had any such letter I would not produce it. I really cannot tell until I examine my papers what I have got.

Mr. RANNEY. I am making a distinction.

The WITNESS. I understand; you want to read all about it.

Mr. RANNEY. Mr. Eden's request was only for letters written since the suit was brought. I care more for those which were written prior to the time the suit was brought.

The WITNESS. Well, you will not get them from me.

Mr. RANNEY. If you will decline generally to produce them it will save time.

The WITNESS. I do decline to do so. You cannot issue a general warrant like Lord Halifax, and rake up all my letters for six months.

Mr. RANNEY. I want those letters relating to the proceedings which led up to it. I don't care for those which were written subsequently.

The WITNESS. Exactly.

By the CHAIRMAN:

Q. You stated that you were anxious, in the latter part of August or the first part of September, with relation to the bringing of the Government suit?—A. Yes, sir.

Q. Is that what you intended to say?—A. Yes, sir; I was anxious to have it brought.

Q. In the latter part of August?—A. Yes, sir; I will say the latter part of August or the early part of September.

Q. My recollection of your former answer was to the effect that it was after you knew that the Government suit was ordered that you became anxious to have the bill filed.—

A. There are two distinct matters. First, I was anxious to have the Government suit ordered, and then after it was ordered I was anxious to have it brought. I was anxious to have it ordered between the 1st of August and the 1st of September, and then when it was ordered I was anxious to have it brought so as to get a copy of the proceedings to use in our suit.

Mr. HALL. Let me make an inquiry for information. Mr. Ranney is anxious that you should produce certain papers written and received anterior to this order for the Government suit, which led up to it, as he expresses it, and I understand you decline to produce such letters.

The WITNESS. Yes.

Mr. HALL. Do you decline to produce any letters written anterior to that time which relate and refer to the obtaining of the Government suit, if there be such?

The WITNESS. No. Let us understand each other. Now, Mr. Reporter, we will have this thing plain. I propose to examine my correspondence from the beginning of this litigation with the Bell Company up to the time of the hearing in Baltimore, which was the 15th of September, and all my correspondence with any one relating to the procuring of a Government suit, and submit it to this committee. I do not propose to submit any other correspondence of any kind whatever.

Mr. HALL. The other correspondence that does not relate to that you regard as private and confidential?

The WITNESS. I do not say that it is not within your power to inquire into it; but I have tried to draw that line, and I think it is clear.

By Mr. RANNEY:

Q. Are you willing to bring here all the correspondence you have had with Casey Young or Gantt and Patterson relating to the proceeding which you took about the 1st of August, 1885?—A. No, sir; I will bring you nothing here at all except such letters as I have received from other people relating to the Government suit.

Q. You are not willing to bring them and submit them to the chairman for his inspection?—A. No, sir; I am not. I have not the slightest objection to bringing all my correspondence and show it as one gentleman would show it to another; but I won't show any paper to any member of this committee as a member of the committee. I will show it to Mr. Oates there, whom I know, or to any other gentlemen of the committee, as one gentleman would show it to another; but I will not do it under the process of a committee.

By Mr. EDEN:

Q. That is, you mean your private correspondence?—A. Yes, sir.

The CHAIRMAN. Well, the line is drawn.

The WITNESS (handing a copy of his brief to Mr. Ranney). I will contribute something further to the literature of this subject.

Hon. E. J. HENKLE, then came before the committee and was duly sworn.

By the CHAIRMAN (Mr. Boyle):

Question. Are you a stockholder in and an officer of the Washington Telephone Company?—Answer. I am a director in the Washington Telephone Company, a stockholder in it, and the general agent of it.

Q. Are you in any way connected with the Washington Telephone Company of Maryland?—A. I am a director in the Washington Telephone Company of Maryland, and its secretary, and am general agent for that also.

The CHAIRMAN. I do not know why you are subpoenaed here.

The WITNESS. I am sure I do not.

Mr. EDEN. You are under subpoena, are you?

The WITNESS. Yes, sir.

Q. I will ask you whether you know of any officer of the Government, in any of its branches,* who is in any way connected with either of these companies.—A. No, sir; none to my knowledge, and I know pretty nearly all of them.

The CHAIRMAN. I have nothing more to ask.

By Mr. RANNEY:

Q. You are secretary of that local company in Baltimore?—A. Yes, sir.

Q. Probably it was on that account that you were summoned then. I would like to have you produce the record of the directors and stockholders of that company, and the stock book, the stock ledger, and stock certificate book.—A. I was requested in the subpoena to bring books and papers of the company, of the telephone companies I am connected with, relating to any transactions with Government officers, any branch of the Government officers. I did not bring any books or papers, because there is nothing in any of them which relates to any Government officer.

Q. Do not your books show who the stockholders are?—A. Our books show, in regard to the Maryland company, who the stockholders are. I will say this, that there are no stockholders; no stock has ever been sold, and the only stock that is held is held by the corporators and directors of the company.

Q. Who are they?—A. The corporators under our general law are the directors for the first year. We are in the first year of our existence.

Q. Be kind enough to state who they are.—A. Mr. Biedler, Mr. Witz, Mr. Henry, General Johnson, and myself. Mr. Holton was one of the incorporators, but never attended a meeting, and resigned some time ago.

Q. Are you not willing that the committee should see the directors' books, or the

list of stockholders on your books, and the certificates issued, if there are any; are you not willing to produce them so that we can see them for ourselves?—A. I am willing to state on oath the fact that there has been no stock issued except to the parties I have named, and that none has been issued to any Government official.

Q. You were organized under the Washington Telephone Company?—A. Yes, sir.

Q. Your company was joined in that suit in Maryland?—A. Our company was included in the suit; yes, sir.

Q. You are one of the companies embraced in this restraining order then?—A. Yes, sir.

Q. Who were your counsel in that suit?—A. General Johnson, Mr. Stirling, Mr. Poe, and Morrison & Bond; the same who represented the Washington company.

Q. Mr. Stirling is one of them?—A. Yes, sir.

Q. Did you make separate defenses?—A. No, sir.

Q. You will pardon my ignorance, but I will ask you whether or not you are a member of the bar?—A. No, sir; I am a member of the medical profession; I am a doctor.

Q. You did not appear then personally in the suit, and had nothing to do with the proceedings in Maryland?—A. No, sir; I had only that general interest that others concerned in the company had.

Mr. RANNEY. I do not see that there is anything more I care to inquire about.

Mr. OATES. I move that the committee adjourn until 12 o'clock on Monday. I desire to say, before the motion is put, that I was informed a little while ago, through a third party, that Attorney-General Garland desires to appear before the committee on Monday.

Mr. CASEY YOUNG. I would like permission of the committee to take away the stock-book that I brought here, if the committee has no further use for it.

The CHAIRMAN. You may do so, if you will return it when we want it.

The motion of Mr. Oates was then agreed to, and the committee adjourned to meet on Monday, April 19, 1886, at 12 m.

WASHINGTON, D. C., *Monday, April 19, 1886.*

Committee met pursuant to adjournment, and (at 12 o'clock and 45 minutes p. m.) proceeded to examine Attorney-General Garland as follows:

The CHAIRMAN. This committee has been informed, Mr. Attorney-General, that you desire to appear before it to-day.

Mr. GARLAND. Yes, sir; I understood that there has been occasion to mention my name before this committee, and I thought I should like to say something about myself.

Q. Will you be sworn?—A. Yes, sir. [The oath was administered.]

Q. If you prefer you may make your statement in narrative form, or, if you desire it, I will proceed to examine you.—A. I am entirely subject to the convenience of the committee in that respect.

Mr. EDEN. I suggest that if it suits the convenience of the Attorney-General that he go on and make his statement.

The Chairman put the question whether or not there was objection to hearing the statement of the Attorney-General, and there being no objection, the witness proceeded to make his statement, as follows:

The WITNESS. On the 8th of October last I made a statement to the President and Cabinet in reference to the Pan-Electric Telephone matter, which statement he gave to the newspapers for publication. I desire, Mr. Chairman, to submit that to the committee and reaffirm it, and ask that the clerk or stenographer take it down.

Mr. RANNEY. It is already in the Record. (See page —.)

The WITNESS. In reaffirming that I wish to make two or three explanations of it. Some time in February, 1883, before Mr. Cleveland was ever mentioned by anybody for President, and before I had been mentioned by anybody for Attorney-General of the United States (I had been mentioned once as attorney-general for the Confederate States, but not for the United States), Mr. Atkins, the present Commissioner of Indian Affairs, met me and stated that he knew of this invention, the Rogers invention, and he believed it to be an invention of great utility if properly handled, and one in which there could be money made, and signified to me that he had been looking at it with other gentlemen—I believe he mentioned the names of Mr. Harris, Dr. Rogers, and J. Harris Rogers.

When I afterwards spoke to Mr. Harris—and when I say Mr. Harris, I refer to Senator Harris—he said that he desired me, being a poor man like himself, to enter this enterprise. I talked with Mr. Atkins some time about it, and told him I had never undertaken to make any money at anything but law and poker; that I always lost at

poker, but sometimes won at law, but I was willing to go into this thing if he thought it offered any good inducements. We then separated. The next day Senator Harris spoke to me about it in the Senate, and I made substantially the same response to him. In a day or two thereafter—not more than two days—Senator Harris, Mr. Young, General Johnston, Mr. Atkins, and myself, met Dr. Rogers and son at their residence, and I was there introduced to Dr. Rogers and his son. That was the beginning of my acquaintance with them. We had one or two meetings there after that, and we talked over these matters, and agreed upon the general idea which the committee has already heard, and a lot of these gentlemen went to New York to promote the organization.

I left here on the 11th of March, for my home. I remained here just one week after Congress adjourned, for the purpose of this organization. Congress adjourned on the 4th of March (Sunday), and on the following Sunday (the 11th), I left. Inasmuch as the organization has been detailed to you in full by Mr. Young and Senator Harris, General Johnston, and others, I suppose it is not worth while for me to go over it. This is all prefatory to the statement that I submitted to the President.

In another part of that statement, in reference to the gentleman who called upon me to bring the suit, either the latter part of July or the first of August, I will not say which, but that it was about that time is impressed upon my memory because of the fact that we were all getting ready, the President and Cabinet, to go to attend the funeral ceremonies of General Grant in New York, which took place on the 8th of August. In this statement, as I was about to say, I alleged that the Pan-Electric Company applied to me. That was an inference; it was not a fact. No name was mentioned to me when these gentlemen came in, namely, Colonel Young, Colonel Gantt, Mr. Van Benthuyssen, and Mr. Von Briesen—and I stated in this letter to the President I did not recall the latter gentleman's name, and I did not recall it until recently. As the gentlemen came in they were introduced to me by Mr. Young, except Mr. Gantt, of Memphis, whom I had known a long time before. The other gentlemen Mr. Young introduced.

Mr. Von Briesen started to talk, to the effect that he wanted the use of the name of the United States to test the validity of the Bell telephone patent. That I refused at once, and told him I could not entertain the proposition. He presented the case with a good deal of positiveness and energy, and appeared to get somewhat mad about it. I did not get mad. I do not do that generally, and then I do not think a public officer ought to. I inferred that it was the Pan-Electric Company which was interested for these reasons: Mr. Young came with the company, although he did not do any of the talking, and I knew him to be the treasurer and secretary of the company; and then I had received a letter, about May, 1885, from Dr. Rogers, requesting, as one of the stockholders of that company, suit to be brought. Coupling these facts together I took it for granted that it was the Pan-Electric Company, though that was merely an inference, as no name was mentioned. That is all the explanation I wish to make now in regard to that statement.

When I got the letter of Dr. Rogers, in May, 1885, I did not answer it, nor did I treat it as an official letter. I simply treated it as a personal letter, for the simple reason that I knew Dr. Rogers did not have the authority from the Pan-Electric Company to ask that this suit be brought. I knew that General Johnston was president and Mr. Young was secretary of the company, and if application had been made on the part of the company, if coming from the company, the request would be made in their names; therefore that remained unanswered as a personal letter. I did not put it on file at all. On the 14th of July I received a letter, dated the 12th of July, from Mr. Van Benthuyssen, written from New York, in which he stated that, in pursuance of an act of Congress, passed at the last session, "I request a suit to be brought to test the validity of the Bell telephone patent, and I allege first, second, third," and so on. Then at the bottom he had signed his name as president of the National Improved, or Improved National, Telephone Company; I do not know which.

Mr. Van Benthuyssen asserted in this letter with some degree of positiveness that an act of Congress had been passed empowering the Government to bring such suits. I had heard that before, and had made searches without finding the act, but this letter was peculiarly well written and well worded, and had evidently been written with great care, and I therefore took it for granted that, notwithstanding the search I had previously made for some act of that sort, I referred the letter of Mr. Van Benthuyssen to the Interior Department, and wrote Mr. Van Benthuyssen that it had been so referred, where it should have gone in the first instance. I heard no more of that letter, and never saw it until Mr. Lamar returned it with the other papers last January to the Solicitor-General, and I asked for the search to be made to see if the letter was there, and see if I was mistaken as to its contents, and I found I was correct. My clerk found all the letters there, and with the balance of the letters of inquiry before the Interior Department.

Now, following on the application to bring suit after I referred Mr. Van Benthuyssen's letter, which was on the 14th of July, I set to work to examine with all the care

I could into this question and to discharge my full duty in reference to this matter, because I knew as a matter of course other applications would follow, although I had no intimation of it. In looking through all the authorities that I could muster, I came to the conclusion that I could not only not order that suit, but that I could not properly in my own conscience make a reference of it to any person, although there are precedents where the Attorney-General has made reference to the Solicitor-General when such questions have come before him, and you will find these precedents in this paper here. So that when Mr. Young and these gentlemen came to make this demand I had fully examined the question and determined that I could not and would not touch the matter under any circumstances. I never intended to touch it; and when I referred the Van Benthuyzen letter to the Interior Department, I did it because he spoke with such great particularity and positiveness that this law was in force, and although I could not find it myself, I thought, as you gentlemen know sometimes happens, it might be stuck on some appropriation bill, which would require a good deal of search to find it, and I thought may be this would come along in the same way.

Now, in reference to this question of law which Mr. Van Benthuyzen referred to, I have seen something stated in the papers about it. I do not know whether anything of this kind occurred before the committee or not. There was a law of that sort pending before the Senate—I mean a law giving authority, or making it obligatory on the Attorney-General or somebody else to bring suit in cases of this sort—and the only notice I ever took of it, or had of it, I think was at the instance of Mr. Platt, chairman of the Committee on Patents of the Senate. I was never a member of the Committee on Patents and never attended a meeting of that committee, and Senator Platt came across to my seat with this bill in his hand, and said, "Old fellow, you are my retained lawyer, although I have never paid you anything. I would like you to tell me all about this. Give me your opinion of this bill," and did I know anything of it.

After I looked at this intended law I said to Senator Platt, it has become a matter of practice here and has been sanctioned for some time, and I do not think it is a law which would do any good; I do not think it necessary. That was all the notice I ever took of it, and I never thought of it again until I became Attorney-General, and these people referred to it, and Mr. Van Benthuyzen's letter recited the fact that it had become a law, and then I referred this letter to the Interior Department. Now, I do not recollect the date of this thing, as it sort of dances through my mind, as I paid little attention to this matter. I do not think I have read a hundred and thirty lines of what has been in the papers about this matter. There was another gentleman whose name I did not recall until the other day. I do not know whether he has been before you or not, but I recall the name of Mr. Humphreys. He came to me some time last fall, I think it was, and spoke about bringing a suit against the Bell Telephone Company. He made his statement standing right across the table from me, and I thought he was going to jump over on me every moment, so earnest and emphatic was he in his statement. I do not know whether he has been before you or not.

The CHAIRMAN. He has not.

The WITNESS. I told him I would not bring suit or should not hint it. He insisted that I should bring suit, and said that he thought it was a hardship upon him, that because I was in another company and was interested that his rights had to be surrendered or ignored.

Mr. OATES. What company did he represent?

The WITNESS. I think the Globe. He was here and was very persistent and urgent about bringing the suit, and he got mad because I would not do anything in the matter, and we parted not with mutual respect and admiration.

Mr. RANNEY. What was the date of this interview Mr. Humphreys had with you?

The WITNESS. Early in the fall, I think, but I am not so sure about it. I notice in the debates in the House Mr. Reed put a question, which, upon its face, is not an improper question. He said that if I gave an opinion that there was no conflict between the Bell telephone and the Pan-Electric telephone, why was it I could not act. I gave that opinion, and will refer to it after awhile, and upon the face of that opinion, without going any further that is a very pertinent question. I was counsel of the Pan-Electric Company, besides being a stockholder, and while I gave an opinion that there was no conflict, yet the Bell people claimed a conflict; they sued the company on account of conflict to stop them from putting up their telephones, and having been counsel, under the statute I was disqualified from acting as against a rival company.

I saw in the Post a statement, probably coming from Senator Vest, about a statement that I could have given an opinion about the validity of the Bell telephone. Now, I wish to say I never gave anybody an opinion or never expressed any as to the validity of the Bell telephone patent. I never looked into it and never examined it, and I had no impressions about whether it was illegally or fraudulently issued, or whether it was a good patent or not. The opinion I gave was in substance that—

The CHAIRMAN (interposing). I think it is in the record.

A. (Continuing.) Was simply that the Pan-Electric invention of Rogers did not infringe; that it was an improvement upon telephones; that it was patentable, as we say in the law, different patentability which has been a recognized principle from the time of the old Morse telegraph down to the present time.

Q. Do you care to refer to that opinion now?—A. Not unless the committee wish it.

By Mr. OATES:

Q. That opinion was given in answer to Mr. Myers, was it not?—A. In answer to Mr. Myers's request, and that was the only opinion I recall as giving. Now, while I was counsel for the Pan-Electric Company and a stockholder in it, I was very derelict in attending its meetings. I do not think I attended exceeding three or four of the meetings, and for the two reasons: First, they were generally fixed at a place inconvenient to my residence and inconvenient for me to attend, and secondly they were held at night, a time that I hardly ever leave my residence. I had taken a cold in 1883, when this company was formed, which settled in my throat, and that operated against my attending these meetings. I have not fully recovered from it yet and I rarely ever go out of my house after night, and very nearly all law business of the company was transacted by Senator Harris and Mr. Young. Very often they drafted papers which they brought to me for examination, and I examined them and approved or made alterations or suggested changes or alterations, as the case might be.

I recollect also that on one occasion Dr. Rogers himself sent me some paper in reference to Governor Brown's or Mr. Looney's interest. I looked over the papers and replied that they were ample, and even more extended than I would have drawn them, but that they covered the whole ground. Very often they came to the Judiciary Committee room to bring me papers to look over. Some statements have been made, I understand, that there had been meetings of the board there. That is a mistake, but a natural mistake, and I will explain it to the committee. When Mr. Garfield came in as President, the committees were reformed, and Mr. Edmunds was made chairman of the Judiciary Committee of the Senate. He told me he desired me to have a chair in that committee-room, and to make it my place of business, to make it my office; I told him I would take it with pleasure, but feared I would be in his way. He said not at all, and I accepted his very kind offer, and afterwards I was there more regularly than I now am in my present office. My constituents and clients and my creditors often came there to see me. In fact that was my place of business, and in that way this mistake may very well have been made. Senator Harris and Mr. Young and the Rogerses often came there in reference to this matter, because there was where I was and every one having business with me knew I was to be found there when I was not at my home. I never attended a meeting I am satisfied after the Presidential election of 1884. I know I never attended one after the inauguration of the President in March, 1885. I think that the gentlemen who belong to the committee will corroborate that without any trouble. Senator Harris and Mr. Young used to say hard things to me because I did not attend, and sometimes used very strong language.

Now, in reference to the suit that was brought in Tennessee, I had fixed to leave here on the 27th of August, to take the entire month of September at home. The balance of the cabinet officers had either gone away or fixed a time for going. I told the President when I went on the 7th of August to New York that I would leave on the 27th for my home, unless something happened to keep me here. When that date came I left that night. I have always found that September is the best month to be out of Washington if one is going out at all, and then we have a game law in Arkansas that the deer do not get ripe until September, and I wanted to shoot deer, as I have done out at my place for the last eight or ten years.

I left here the night of the 27th of August. Mr. Goode had gone to catch a man up in Canada and bring him back here. He got back, I think, about the middle of August, but I am not sure as to the exact date. I saw him two or three times and talked generally about matters and things. I never said anything to him about this application having been made to me, because I would not have known exactly what to say if I had talked to him about it. If I had said, "Mr. Goode, if this application comes to you you cannot grant it," that would not do, because I was interested in a rival company, and it would not be just to them. If I said, "Mr. Goode, you must grant this application," that would not do, because I was interested in the company that would be benefited by the suit, and it would be asking the Solicitor-General to grant the application in favor of the company in which I was interested. For these reasons nothing transpired between us about it. I never talked any more about it; I did not tell these gentlemen to go to Mr. Goode or anybody else. I supposed they would hunt their remedy if they thought they had any.

To resume where I left off. I spent the month of September in the woods and came back to Little Rock on the 27th of September on my way back here. When I arrived at Little Rock I got a dispatch from the New Orleans Times-Democrat, saying that

some of my friends in the newspaper line wanted to know if I had granted the name of the United States to bring suit against the Bell Telephone Company. In reply I said I had not granted the name, and did not know of the use of any such name. That was the first I heard about it. From there I went to Saint Louis and spent a day with my sister-in-law and got here the morning of the 1st of October. I had not all this time heard a word about it except from this dispatch from the Times-Democrat, and when I went over to pay my respects to the President, he told me they were talking a good deal about this matter. He questioned me in reference to it, and I told him all I knew about it. I then made this explanation I have spoken of to the President and Cabinet and he gave it out for publication, as before stated. I never opened my mouth to Mr. Goode about it, because as Solicitor-General under the statute, which you will find in my statement to the President, he is perfectly independent of me. I have no more control of what he does in my absence or during my disability than I have over you gentlemen in Congress.

In the reorganization of the Department of Justice, in the bill prepared by Mr. Cushing, he put it upon the ground of interest or disability on the part of the Attorney-General that just such a person as the Solicitor-General was needed. Take, for instance, the last thirteen or fourteen days that I have been in bed, Mr. Goode has acted in his capacity as Solicitor-General and also as Acting Attorney-General in my absence, and I do not know what he has done, and I have no control over what he has done. He becomes Assistant Attorney-General in my absence by virtue of his office.

It was not worth while for me to talk with Mr. Goode, because he would have to act upon his own responsibility and upon his own sense of duty. I have thought no more about it than about anything else, and I have never to this day spoken about that suit, or the one now alleged to be pending in Columbus, Ohio. He has talked with me in reference to the manner and way of employing and paying counsel who have been retained by the Government, but that simply came before me in the usual channels of business of the office; that is the *modus operandi* in the Department. I do not know what is in the bill. I have never read the bill that is said to have been prepared and filed. I never saw the papers transmitted from Mr. Lamar's office, on which the suit is predicated in the Department of Justice. I never talked with Mr. Lamar or either of the gentlemen who sat with him on the trial of this matter, and I have abstained from talking to any person or persons coming to my Department. Whenever they brought the subject up I have declined to talk upon it, and I have even declined to talk with the President about the matter.

One gentleman in Mr. Lamar's Department, Mr. Montgomery, assistant attorney-general for the Interior Department, is an old schoolmate of mine, and he was appointed to his position through my efforts, and I think it is proper to state that because of his friendship and acquaintance with me he declined positively to sit in the case.

Mr. RANNEY. Was he in your Department at the time of this hearing before the Secretary?

The WITNESS. He is in my Department, assigned to the Interior Department. He is assistant attorney-general for the Interior Department. He was requested to sit in this case, as I understood, and declined to do it because of his old acquaintance and friendship for me, for fear that this might be construed as an interest that he had in the matter. Now, I do not know that there is anything else I have to state. I will state, although I suppose the treasurer and secretary have already stated that, all I know in reference to the payment of assessments from the different members, and what has been received from them.

Mr. RANNEY. That is all in I believe. I do not care much about that.

The CHAIRMAN. Is that all you desire to say?

The WITNESS. I do not care to say anything more. I will simply state this, however. I have seen now and then some references to Senator Garland being the recipient of a block of stock by way of a gift. Of course the committee knows there is no gift about this. We paid our assessments and organized the company, when we all expected to make something out of it legitimately. There was no more impropriety in it, or objection to it, than there is to gentlemen sitting in Congress holding railroad stock, wood-pulp stock, stock in the Seal Fur Company, and holding positions as presidents of railroads, and all that. I have, ever since I have been in the Senate, been going to the Supreme Court and arguing there cases and making money out of them. I believe we all do it. I believe I have met you there.

Mr. RANNEY. I have always been ready to do it.

The WITNESS. Of course. It is a legitimate business, and as for looking for legislation upon the subject, nobody ever dreamed of any such thing. There could not be in the nature of things legislation asked for touching this matter. It was simply a party of impecunious gentlemen who took hold of this invention to make something out of it, and it is regretted by all of us that it did not pan out better. If it had ever come before Congress for legislation most assuredly I should not have voted on it.

This brings up another matter which I probably would have forgotten. At the time I wrote the letter of introduction of Dr. Rogers and his son to Mr. Cox and Mr. Hewitt, which I did very sincerely and cheerfully, I regarded them as very competent men in that line, and without stating in that letter what the purpose of it was, my recollection is, though I am not positive as to that, there were these two things spoken of. First, that young Mr. Rogers desired to be put in the electrician's office up here at the Capitol, and that I was very anxious for him to be put there. I think that was one of the purposes of that letter. Another was that we wanted to establish these telephones in the two houses of Congress or some convenient place, and I saw Mr. Clark about both of these matters, both about putting Harry in the electrician's office and also about putting telephones there, and I also had some talk with Mr. Edmunds about it. It was alleged to be a very good thing to have them there, and it struck us so. We debated the thing and talked about it a good deal, and one of the great advantages, as Senator Harris remarked, was that when Mr. Garland got up and made a prosy speech, that he could go down town and hear it through the telephone, and not be compelled to sit in the Senate and listen to the speech. This argument for the placing of the telephones up here struck me as being a very good one, and I was in favor of it.

By the CHAIRMAN:

Q. Did I understand you, Mr. Attorney-General, to state you had no acquaintance with the Rogerses prior to March, 1883?—A. February, 1883. Never until then. I was introduced to them at their house, I think, on Four-and-a-half street.

Q. You say you did not regard the arrangement made by which these patents were to be put into a company and you assigned an interest as a gift?—A. By no means.

Q. Will you please state what was your view of the transaction?—A. In that respect?

Q. Yes, sir.—A. Well, five or six of us got together, organized, and formed a company, and we issued our assessments to carry on the organization—assessments for its expenses. I think the first move was that we gave a note for \$1,000, but I think Mr. Young could be more specific about that, as he was treasurer. Then we paid from time to time \$50 apiece, or something like that, as it was required of us.

Q. Did you regard the Rogers inventions, which were the basis of the formation of your company, as having any market value at that time?—A. None at all.

Q. What did you propose to do in order to give these inventions a market value?—A. To have them supplied and erected in different places, and their use afterwards, which would give them a market value.

Q. Did you contemplate that your official position would enable you to be of advantage to the enterprise?—A. None in the world. If I had been a private citizen I would have done better for it than if in office.

Q. Was that view of the case ever suggested between you and your associates?—A. Oh, not at all.

Q. Did I understand you to say that you had departed for your home prior to the New York meeting?—A. Yes, sir; I think these gentlemen left about the 9th or 10th of February, and I left on Sunday the 11th, if I am not mistaken as to date; I know it was Sunday I left.

By Mr. HANBACK:

Q. Do you refer to February or March?—A. March. I should say after Congress adjourned; only the gentlemen who went to New York left the 9th or 10th of March, and I left on the 11th.

By the CHAIRMAN:

Q. Prior to your departure had any arrangement been made for the capitalization of this company to promote this invention?—A. No, sir; that was done afterwards, according to my recollection; I am pretty sure it was.

Q. Did you know when you parted with these gentlemen whether it was fixed at a million or five millions?—A. No, sir; it was not agreed upon at all, if I recollect distinctly.

Q. Do you regard that matter of capitalization as of any consequence?—A. I do not. We talked of it there, but I do not think we considered it a matter of importance, but rather a matter of our discretion afterwards.

Q. At what time did you return home on that occasion?—A. In the fall.

Q. How soon after leaving here in March?—A. I came back, moving my family here early in September of that year (1883), to put my children at school, as the schools all opened early in that month, and I remained here right along until Congress adjourned next summer (1884). I had never brought my family here before then.

Q. Between these dates, March, 1883, and September, 1883, had you any active connection with this company?—A. No, sir; I got a letter from Senator Harris with what purported to be a copy of the agreement at New York, and that is all I ever heard of it or saw about it from the time I left, in March, until my return in September—

Q. I have gone through the minutes of this company, and I find that you attended only two or three meetings.—A. Yes, sir.

Q. That accords with your own recollection, does it?—A. I have already stated in my testimony here to-day that I attended not over three or four meetings; I will not be sure, but I think not more than that.

Q. Prior to your departure in March, 1883, had any arrangement been made with a view to incorporating your association?—A. No, sir; although we talked of it. Everything was in doubt; everything was in uncertainty until these gentlemen, or some person went to New York, and everything remained unchanged in the mean time.

Q. I notice that it has been stated in the papers that the articles of association, I believe—that is what they are called in our State, and I suppose the same term is used elsewhere—were prepared by you?—A. The articles of association that were prepared in the following fall after I came here were prepared by me. But I do not know now; I am not positive—others will tell you as to that—whether they acted upon or changed them. We were in a great deal of trouble here about the laws of the different States.

Q. Have you any recollection what States you had in view when you prepared the original articles?—A. Yes, sir; we had the State of New Jersey and the State of Tennessee in view, as I recall. I have not referred to the articles before coming here, and have no memorandum with reference to the same.

Q. If Tennessee was preferred to New Jersey, do you recall the reason for it?—A. No, sir; I do not. I do not remember, unless as I have it running through my mind that possibly something was said as to the requirement of paying up a certain percentage.

Q. A bonus?—A. Yes, sir; bonus. I think most of the States required 5 or 10 or 15 or 25 per cent. of the capital stock paid up.

Q. Do you know whether there was any requirement of that kind in Tennessee?—A. I do not know now. I do not think there was.

Q. Was there anything said as to the character of the services which you were to render to the company; I mean when you became associated with these gentlemen originally?—A. Only that I was to render services in the capacity of an attorney when they organized and elected their officers. They consulted me as their attorney.

Q. And your fees were to be settled in the future, were they?—A. No fee was ever fixed or mentioned, and none paid, and no fees have ever been demanded.

Q. You say these articles were prepared in November, 1883?—A. I think it was November, or October possibly; I will not be sure as to that; some time in the fall of 1883.

Q. At that time were you not still a Senator?—A. Yes; I was still a Senator.

Q. And had any suggestion been made then of the nomination of Governor Cleveland for the Presidency?—A. If there ever had I never heard of it.

Q. And were you making any effort at that time to secure any cabinet position in the event of the success of any candidate?—A. None at all.

Q. Did you expect, by your connection with this company, to benefit it in any way by reason of any official position which you might have or secure?—A. No, sir; I had no idea at all of it then; I had no more idea of it than I had of attempting to jump into the Potomac River with a mill-stone around my neck; it was simply the association of five or six very inpecunious men who wanted to better their condition.

Q. General, do you recall any discussions in the company in regard to putting stock upon the market?—A. No, sir; I was not present at any meeting in reference to that. All I know about that is what I heard from other members, who can tell you all about it. I heard, of course, that it was agreed that none should be put on the market, and when this conclusion was reported to me I thought it a good idea.

Q. What reason was given for not putting stock on the market?—A. We did not care about putting stock on the market until we were satisfied that we had got the invention permanently established. We did not try to boom the business, or to scatter the stock out around the country. I never heard of the company trying to do it.

Q. I see by your letter to Mr. Cox and Mr. Hewitt, dated January 13, 1884, introducing Messrs. J. W. Rogers and Son to those gentlemen, you state that the object in view was to have young Rogers appointed to the position of electrician?—A. I have not seen the letter since I wrote it, and my recollection of it is that the letter mentions no particular purpose of introducing these gentlemen.

Q. I will read it, but the stenographer need not take it, as it is already in the record. It is on page 217 of the printed record. [The letter was read.]—A. My recollection is back of that, as I stated awhile ago, and I recall that young Mr. Rogers and his father wanted him to be appointed to the office of electrician at the Capitol, and I think we all did, I know I desired it to be done, and then we wanted to get out the telephones, if we could. We wanted to place telephones in the House and Senate.

Q. What was your purpose in having your telephones put in the Capitol?—A. Well, it was, of course to give them publicity, and for use there, to show that they would work.

Q. And was that designed to have any influence with members of Congress?—A. Not at all, because we had nothing before Congress, and there was nothing intended by the company to be brought before Congress.

Q. Did you expect to be benefited by the appointment of young Rogers as electrician?—A. Not at all, sir. If that had been the view of it I should not have recommended him, because it would have taken his time from our own work. I regarded him as being a scientific young man, a young man of good promise, and I was willing and wanted to see him helped, and it is not natural to suppose that I would have recommended him for a position that would have taken him from the line of his work and experiments as an electrician.

By Mr. RANNEY:

Q. Would not you consider it advantageous to your company—did you not consider it any advantage to your company to have him introduce your telephones here? Did not you state as much?—A. I misunderstood the question if I did. The question, as I understood it, was whether or not it was any advantage to the company by his being an electrician here. I stated in reply that I considered it an advantage to have the telephones in the Capitol, but it would be a disadvantage to take so much of his time from us if he were employed in duties outside of his profession; that it would rather be a disadvantage all through. I considered him a deserving young man, and evidently a young man of considerable scientific acquirements, and I wanted to advance him as much as I could.

By the CHAIRMAN:

Q. Would his appointment have advanced the interests of your company?—A. It would not, because his appointment would have placed him in the line of a new duty under Mr. Clark, the Architect of the Capitol, and I think he went to Mr. Edmunds about it, and it was concluded not to do it.

Q. Did Mr. Edmunds have any interest in any way in the matter?—A. He was President *pro tem.* of the Senate then.

Q. And the application was made to Mr. Clark, the Architect of the Capitol?—A. Yes, sir; and he had a conference with Mr. Edmunds who was then President *pro tempore* of the Senate, and that is why Mr. Edmunds's name is mentioned. All these matters are done either under the direction or somewhat under the supervision or control of the President of the Senate.

Q. In the course of your practice, Mr. Attorney-General, have you had much business connected with litigation respecting patents?—A. I do not think I ever had a patent case in my life, and in investigating that matter, and if you will observe the language I used to Mr. Myers, it was entirely upon the question whether the Rogers invention was an infringement of the Bell patent.

Q. I have the opinion here, and if you care to hear it I will read it. The stenographer need not take it, as it is already in the record. (The opinion was read, to wit: Mr. Garland's letter to, and reply of, Mr. Myers.)—A. They called upon me for an opinion, and I stated at the time I wrote that, as some gentleman of the company was probably pressing this matter, or somebody else was, that they had better employ what we call an expert lawyer in these matters, and to have him examine and report upon it. My recollection is, though, independently, as I was not, of course, at the meetings, as I said before, but my impression is that they did employ Mr. Marble, I think is the name, former Commissioner of Patents, and he gave an opinion. I was unwilling that they should take my opinion in a matter of that sort and act upon it. I never had a patent case before.

Q. You have stated that you have made no examination of the Bell patent, as I recall your testimony.—A. That is upon its legality; its validity as a patent.

Q. Did you ever examine into this question of fraud?—A. Never at all; I never examined into it.

Q. I speak with reference to its having been obtained by fraud; if you ever gave an opinion as to its regularity?—A. If I did I have no impression of it, because I never looked into it at all.

Q. You stated also, in the opinion you gave, that in your judgment the Pan-Electric invention was not an infringement of the Bell patent?—A. The idea attempted to be conveyed was that the Rogers invention was an improvement which was patentable itself.

By Mr. RANNEY:

Q. Did you recall at the time of writing the opinion that Mr. Bell claimed to have a patent upon what is termed his broad claim of the transmission of articulate speech by electricity?—A. I called that to mind, and my impression was that, so far as that

claim was concerned, it could not be upheld. Of course, I do not want to be drawn into a discussion of the Bell matter.

Q. That is not the purpose. I am not going into that, and I merely ask the question—

A. (Interrupting.) Because I never assailed the Bell patent and do not want to do it now.

Q. Upon what grounds do you put it that the Bell patent could not be upheld?—A. I will say to the gentleman from Massachusetts that I have no design to go into the controversy as to whether the Bell patent could be upheld.

The CHAIRMAN. I understood the Attorney-General to say that there was no design in giving that opinion to state whether or not the Bell patent was valid.

Mr. RANNEY. I do not see how this committee can decide as to the validity of the Bell patent.

Mr. EDEN. I did not understand that at the time the Myers opinion was given the Attorney-General claims that he knew anything of the merits of the Bell patent.

The WITNESS. The Bell patent claimed to have absorbed or rather to have taken possession of the whole field of electricity, and it is my opinion that that claim could not be upheld; that is about as near as I can state it.

By Mr. RANNEY:

Q. Did you give that opinion, knowing that fact at the time?—A. Yes, sir; that is, supposing that to be true.

By the CHAIRMAN:

Q. Had you had any previous conversation with Mr. Myers?—A. None in the world. I think Mr. Looney brought Mr. Myers to me. At least I think it was through Mr. Looney's agency he came.

Q. Was there any agreement between you by which the opinion was drawn out?—A. None at all. It was drawn out at his request, as he said he wanted to know. There were a great many people at that time coming to me about it. Senator McDonald, who was not in the Senate at that time, came to see me, and brought a gentleman from Indiana in reference to it. Mr. Vest came to me about it, and I do not know how many others. Mr. Myers said he wanted to have my opinion, and I gave it to him in writing.

Q. Did you know at that time for what reason he asked the opinion?—A. No, sir; I did not. I did not ask him why he asked it.

Q. Did you know that he was arranging or undertaking to buy certain territorial rights under your company?—A. I did not. Mr. Looney being a stockholder in the company, and a gentleman connected with us, and this gentleman coming through him, I made the examination.

Q. I believe that Mr. Myers did make a contract with your company for certain States?—A. He may have. I do not recall it now, however. I did not see or know of a great many of these things which did take place.

Q. The contract fell through, however. You have spoken of the letter from Dr. Rogers to yourself, dated the 24th of May?—A. I think it was about that time, sir.

Q. What disposition did you make of that letter?—A. I simply put it away as a personal letter. I did not put it in the official files at all, for the reason I have stated.

Q. Have you looked at it recently?—A. No, sir; I have not seen it since I got it, I think. It was the latter part of May. I will not be certain of the date of it. I suppose you have it in the record.

Q. Yes, it is in the record on page 220. I think it better to call your attention to it. The stenographer need not take this. (Letter of Dr. Rogers, dated May 24, 1885, read.) Do you recall the articles referred to in that record?—A. No, sir; I do not. I did not read them. I put them away with the letter.

Q. The letter just read is the one you speak of, is it?—A. That is the letter.

Q. Did you notice before the receipt of this letter the publication of the articles?—A. No, sir.

Q. Had you any agency of any kind whatever in procuring the publication of those articles?—A. No, sir.

Q. From the time of your introduction to Dr. Rogers until the receipt of this letter in May, 1885, had you much intercourse with him?—A. From the time of which?

Q. From the time of your introduction to him in February, 1883, to the receipt of this letter in May, 1885, had you had any intimacy with Dr. Rogers?—A. No, sir; none, except our occasional meetings during the time. I would meet the stockholders and occasionally Dr. Rogers when he came to the committee room to see me. I do not think I had seen Dr. Rogers up to the date of that letter for a long, long time; I do not know how long. I think I met him, probably, some two or three weeks before Mr. Cleveland was inaugurated.

Q. It was stated in the original agreement executed in New York that an executive committee should be appointed, consisting of three persons, and the power was given to that committee to levy assessments to an amount not exceeding \$150 upon each

member—I am now speaking from recollection of the agreement—and was it your understanding that your liability to an assessment was limited to \$150 in all?—A. No, sir; I never asked any question about it. When they came and asked for an assessment, I paid it if I had the money, and if I did not have it, I borrowed it. I paid several little assessments, and did not know that there was any limitation, and never asked anything about it. Mr. Young was treasurer, and he would either come to see me about it or send word that some money was needed—say, when \$50 or \$60 was required from each of us. I suppose, though, the papers would show; that the accounts of the treasurer would show it all.

Q. Do you recall the fact that Dr. Rogers was an applicant for appointment to a position in your Department?—A. Yes, sir; he was an applicant, I think, for what was called one of the assistant attorney's position. There are assistant attorneys-general and assistant attorneys. There were six of these assistant attorneys, and the doctor wanted one of those places, or the attorneyship for the District of Columbia.

Q. What are the duties of these assistant attorneys, and what are their powers?—A. Their duties differ. They are sometimes called upon to write opinions, to attend the different courts, the Court of Claims and other courts, to defend United States officers when they are sued or brought into court for any purpose. There are six of these assistant attorneys, with salaries ranging from \$2,000 to \$3,500 per annum.

Q. Do they act independently or under the direction of other officers?—A. They act under the direction of the Attorney-General, or of the Assistant Attorney-General, immediately over them. To answer that question correctly, they act under the direction of the Attorney-General, really.

Q. Did you make the appointment?—A. No, sir; I did not make the appointment. You see there were six of these places, and about six hundred applicants, I think, for them, though I will not be sure there were just that many, but there were not enough places to go around, however. "There were more pegs than holes," to use Mr. Lincoln's language. I did the best I could, however.

Q. Do you recollect the application itself; the written paper which was presented in the doctor's case?—A. I do not. I read it and looked at it, and filed it away. I noticed that he was very highly indorsed, and among the many thousands who had filed applications in the Department, probably none were more highly indorsed. I put it away with these other papers of applicants, and when I came to make my examination of the papers of these gentlemen, and made the appointments, the doctor did not happen to be one of them, and I never saw the papers after that. I think about the middle of October last he sent a letter up to the Department withdrawing his papers with a view, as I understood, to filing them for an appointment in some other Department.

Q. To go abroad, I think he stated here?—A. I think there is a memorandum in the office that shows that on the 19th of October he withdrew his papers.

Q. The papers have been produced here, and are in the record. They seem to have been signed by several of the gentlemen who were associated with you in this enterprise.—A. My recollection is—of course it will show for itself—that they were signed by Senator Harris, General Johnston, Mr. Atkins, and Mr. Looney, but I am not sure as to the latter.

Q. Had you had any previous conversations in regard to the doctor's application with any of these gentlemen?—A. No, sir. Senator Harris called on me on one occasion and said that he wished to present some papers with it. I said, "All right; they would be considered."

Q. In these cases, do you make the appointments yourself?—A. Yes, sir; these six appointments are made by the Attorney-General.

Q. Then you might have appointed him if you had wished?—A. Oh, yes; there was nothing to prohibit me from so doing. The six assistant attorneys in the Department now I appointed myself.

Q. Do you recall the fact of the application of Mr. Van Benthuyzen; I believe it is dated the 12th of July, 1885?—A. Yes, sir; I recall it; I spoke of it in my general statement.

Q. Had any other application been made to you for the use of the name of the United States in a suit of that kind, or prior to that time, by Dr. Rogers?—A. Those of Dr. Rogers and Mr. Van Benthuyzen were all. There were two up to that time. The Van Benthuyzen letter was received in my Department on the 14th; then I think it was either the last of July or the 1st of August that these gentlemen came on to see me. After that, again in the fall, Mr. Humphreys made application.

Q. Had you had an interview with Mr. Van Benthuyzen prior to the date of this letter?—A. I do not think I ever saw him in my life before he came in the office that day. Mr. Young introduced him.

Q. What date was that?—A. As I said before it was about the last of July or the 1st of August. If I should have to state positively the time, I should say about the last days of July. It was about a week or nine days before we went to General Grant's funeral, and that took place on the 8th of August.

Q. Had not Mr. Van Benthuyssen called upon you early in July?—A. If he had, I do not recall it.

Q. Had he not called upon you before he addressed this letter to you?—A. I do not recall having seen him until he came with these gentlemen. If you do not know such is the fact, I will state that from the 5th of March until the latter part of July I had a great many callers, and of course I could not recall them all.

Q. I do not know about your particular office, but I have some knowledge of the general rush about that time. You say you do not recall having had an interview with him before the receipt of that letter from New York dated July 12, 1885?—A. I cannot recall it.

Q. Had you had any conversation with Mr. Casey Young? Do you recall a meeting with Mr. Casey Young prior to that date upon this subject?—A. Mr. Young came to see me only once before that, if I recollect rightly, to present a paper for, or to say a good word in behalf of, somebody in Tennessee for some office. I did not see him any more until he came with these gentlemen in the latter part of July.

Q. This is the letter you have spoken of as having been referred to the Secretary of the Interior, and seems to have been referred on the 15th of July. Had you made any examination of the law prior to that time as to the right of the Attorney-General to authorize the use of the name of the United States in suits to avoid patents?—A. Do you mean the general law?

Q. Yes.—A. Yes; I had. I had made an examination of it. You are not now speaking in reference to my own connection with the Pan-Electric Company?

Q. Were you familiar with the practice prior to that time with reference to the use of the name of the United States for the revocation of patents?—A. I examined into the subject; yes, sir.

Q. And you referred this letter to the Department of the Interior. Did you understand that to be the proper practice?—A. Yes, sir. When I first went into office I had an application very soon thereafter to vacate a patent for lands, and there had been a good deal said about this. I had a pretty stiff time with Mr. Brewster about a proceeding of this kind when I was in the Senate, about a contested patent for lands in Arkansas in which my home was situated, and I went through the subject then. An application was made to me for a similar procedure, and I looked into it and found, as I stated in this paper to the President, that the precedent was to refer to the Department where the matter originated, although in some instances it had not been done. That was, however, the weight of the precedents, as we say in the law, and I thought it a safe one, and a very good plan to follow, or in the case of application made to bring a suit on a postmaster's or collector's bond, I referred it to the Department from which the matter came. I always do that.

Q. Do you make references of that kind to Departments for the purpose of obtaining information as to the facts of the case, or for advice as to the propriety or need of bringing suit?—A. As a rule, for their information upon the subject; what facts they may have in their Department, and for such suggestions as they may see proper to make in the premises; because they are presumed to have fuller information, by reason of their position in the matter, than my Department could have, or anybody outside could have. That is why the papers are referred.

Q. Is it the practice of the other Departments, to refer such matters from one to the other for the purpose of suggestions in regard to matters the head of that Department may have under his control?—A. Now, as I say, and I hope the committee will not misunderstand me, it has been done frequently without taking that course, but I always refer these applications, whether they be for the vacating of a land patent, or a patent for invention, or for anything else, and I think it a safer practice, and a more prudent one for all sides.

Q. You call a fact to my mind which was brought out in the course of this investigation, that is to say, this Arkansas case, in which you seem to have been interested.—A. Yes, sir.

Q. You said that you had a private interest in it?—A. Yes, sir; my own property at Little Rock was involved.

Q. Were you acting in that case as a party in interest or as attorney?—A. I acted in both capacities. Other people who were interested employed me as attorney. I acted for myself and other people, too.

Q. Did you give an opinion in that case that it was improper to use the name of the United States for the revocation of a patent?—A. I did not give any opinion; I simply appeared before Mr. Brewster, and told him that I thought the facts in the case did not justify the bringing of suit.

Q. That was a patent for land?—A. Yes, sir; and the case is pending now in the Supreme Court, and the inquiry is, What am I to do when it comes up for argument? It is like this. It comes up next term, and the question is whether I am to resign my position and attend to the case in my own behalf and in behalf of the individuals interested, or whether I am, as Attorney-General, to work for the other side—the Government side.

Mr. EDEN. Or surrender your rights?

The WITNESS. Yes; I merely state this to show that these things are occurring constantly, or very often.

By the CHAIRMAN:

Q. My recollection is that the previous statement made it appear that you had given an opinion at the time you interviewed Mr. Brewster that this power did not exist, or that it was improper to exercise it, and that this was not in accordance with your course in regard to the telephone suits. I will ask you if you did anything in that respect?—A. No, sir.

By Mr. HALL:

Q. Do you understand that the reference of questions of this kind is made to the other Departments for authority, or simply for information?—A. Simply for information and such suggestions as they may think proper to make in the premises, but the same are not binding or conclusive at all. It is what you would call "advisory."

Q. Then I conceive that if in a certain emergency in which proceedings were to be instituted, that the same could be done without waiting for that information?—A. That might be done. I do not dispute that, but in every instance coming before me, I refer the matter to the Department where the matter originates.

By the CHAIRMAN:

Q. Isn't that practice followed for information only, so that a party litigant may not go into court with the judgment of any Department against him?—A. I say so; but by practice it may be enlarged a good deal.

Q. It seems to me that in this very matter, when it was before the Interior Department, there was given an expression of opinion against the Bell Telephone Company which might have been avoided?

Mr. RANNEY. On the contrary, I understand the Secretary of the Interior took particular pains to say he did not decide it.

The WITNESS. I never read what he decided. I know nothing about his decision.

By the CHAIRMAN:

Q. Have you explained everything in reference to the interview that followed the presentation of Van Benthuyssen's letter, occurring some time about the 1st of August?—A. First of August or last of July. My better impression is that it was the last of July. It was about that time somewhere.

Q. Can you state your recollection of it in detail?—A. It is stated in that paper you have there, unless you want me to go over it again with my own explanation.

Q. You will favor us if you revert to it with your own explanations.—A. The gentlemen came into my office, headed by Mr. Young, and he introduced all of them. Mr. Gantt, who was in the party, I had known a long time in Memphis, and Mr. Von Briesen said, I think, "We have come to get the use of the name of the United States to test the validity of the Bell telephone." He did not mention who he meant by "we." He did not present any paper or application. I simply remarked, in reply, that I could not discuss it; I could not have anything to do with it. Then the question was put, with some little feeling, "Why cannot you?" I answered, "Because I was interested in a rival company, and a stockholder in that same company." Then some question was put as to the mode of procedure, and I declined to talk further. I answered that if I advised them as to the mode of procedure that it would commit me virtually as to the other question, and I said no more. Mr. Gantt or Mr. Young, I do not know which, said that the Attorney-General was right; that if he had made up his mind not to act in this matter he could not answer as to the method of procedure. They left, and I noticed that Mr. Van Benthuyssen was rather "ashy," as the saying is, and so was Mr. Von Briesen.

By Mr. RANNEY:

Q. What do you mean by being "ashy;" generally fired up?—A. Yes, sir; or much excited.

By the CHAIRMAN:

Q. Did you have more than one interview with Mr. Van Benthuyssen about that time?—A. No, sir; I do not think I ever had an interview with him after that time until he came here. After he was here, before the committee, he called to see me.

Q. I have a recollection of his saying that he called to see you a day previous, before Colonel Young and the others made that call upon you?—A. I do not recollect it if he did; he may have done so; there were a great many callers upon me about that time.

Q. Do you remember of Mr. Van Benthuyssen or Mr. Von Briesen making an application to you for leave to withdraw the letter which you directed to be filed in the Interior Department?—A. Yes, sir; I think it was Mr. Von Briesen. I think he came

and asked me if he could withdraw that letter. I remarked that I had no objection, but it was not in my Department or under my control, and I could not furnish it to him.

By Mr. RANNEY:

Q. Subsequently?—A. Yes, sir; afterwards. I think it was Mr. Von Briesen who asked if he could withdraw the letter, and I said I had no objection, but it was not in my Department, but in the Interior Department.

By the CHAIRMAN:

Q. Did he state any reason for desiring to withdraw it?—A. He said that he found that there was a mistake; that there was no such law. I am not certain whether it was Mr. Von Briesen or Mr. Van Benthuyzen, but my recollection leans to Mr. Von Briesen as the man, and I think he said he found no such law.

Q. And the application was based on the assumption that there was such a law?—A. His letter was prefaced in that way with considerable particularity.

Q. You say, then, he informed you that he learned there was no such law passed?—A. Yes, sir; and he said he wanted to withdraw the letter. I told him I had no objection, but it was out of my possession, as I had sent the original letter to the Interior Department.

Q. Do you recall conversations with any person connected with any of these telephone companies between that date and the date of your departure for Arkansas?—A. No, sir; and I believe that I may say the same with reference to any other date. That was the last telephone talk I had, and the thing went out of my mind after that as completely as if I had never devoted any thought to it until I got this dispatch from the Times-Democrat.

Q. At what time did you determine to make your trip home?—A. I determined about the middle of July, I think it was.

Q. And did not depart until the 27th of August?—A. Not until the 27th of August. I fixed on the 27th of August six weeks before I left.

Q. Did you make that fact known to the parties connected with you in these matters?—A. The officers of my Department and my chief clerk knew it; the President knew it, and my family knew it.

Q. Did you say in your general statement that the Solicitor-General was absent and returned about the middle of August?—A. Yes, sir; I think he returned about the middle of August. He went up to Canada in June and remained there about two months, getting back, I think, about the middle of August.

Q. Did his absence in any way affect your purpose of going to Arkansas, or affect the time of your departure?—A. Early in July I began to think he was not coming back for some time, and I went to Mr. Maury, who was the First Assistant Attorney-General, and told him that he would have to act in my absence if Mr. Goode did not return before I left, and that if he wanted to go off he had better go at once. He went down to White Sulphur Springs, and Mr. Goode got back eight or nine days before I left.

Q. Did you give any intimation to any person, whether connected with the telephone companies or not, that application might be made to Mr. Goode in your absence to bring this suit in the name of the United States?—A. Never in the world, and under the law it was not necessary for me to be present in such an event.

Q. Had you before the return of Mr. Goode, or at any time, had any conversation with him in reference to the application which had been made to you? Did you mention to him that that application had been made to you to bring suit?—A. After I came back.

Q. I mean before you went away?—A. No, sir; I never said a word to him.

Q. Between the date of his return and the date of your departure, did you have any conversation with him with respect to any application that had been made, or any probable application to be made?—A. No, sir; I never alluded to it.

Q. Did you have any talk with him about telephone matters at all?—A. I never mentioned telephone to him until I got back in October, when this suit was pending in Memphis.

Q. I suppose you are aware that it has been stated in the papers that your visit to Arkansas was arranged that you might be absent at the time when application was made?—A. No, sir; I never read anything in the papers about it except what the Post contains with reference to this matter.

By Mr. RANNEY:

Q. If you got your ideas from the Post, you got an erroneous impression. Whatever they have reported in reference to this matter they have reported wrongly.—A. I did not report that.

By the CHAIRMAN:

Q. That has been stated in the newspapers frequently?—A. Very likely; I have not read three hundred and thirty-three lines about the whole matter. I have heard a good deal about it.

By the CHAIRMAN:

Q. You say that your trip to Arkansas had no reference to this suit whatever?—A. No, sir, none at all; none in the world, because I had made up my mind to go there, and arranged my business six weeks before I left here. The Cabinet officers had all gone away, I believe, except Mr. Vilas and myself.

Q. Was it customary to give Mr. Goode directions or instructions as to what he should do in your absence?—A. Not at all.

Q. I believe you have stated that he was an independent officer, and acted according to his own discretion during your absence?—A. Yes, sir, just as independent as I am when I am here.

Q. Did I understand you to say that he acts as Attorney-General during your absence from the Department?—A. Yes, sir. In case of any disability upon my part, the statute says that he shall act as Attorney-General.

Q. Does he act in your stead while you are actually in the Department?—A. I may be there and still be disabled from working, and in that event he would act as Attorney-General. He would have to do it under the law.

Q. Notwithstanding your presence in the Department?—A. Of course, if I was laboring under disability, such as having an interest in the matter or physically unable to work.

Q. And if you had remained in the city of Washington, and this application had been made, and while you were in the office, would it have gone to you or to him?—A. Of course I expected these gentlemen, when I had declined to do anything in the matter when they had requested action, to go to Mr. Goode with it. I did not tell them what, in my judgment, they could do, or could not do, as I declined to do anything at all in the matter.

Q. And do you say that this practice is in accordance with the laws?—A. Yes, sir; and you will see that the precedents state, in the paper submitted by me to the President, something in this respect. Some of these papers were referred to the Solicitor-General, and some were not.

Q. And do I understand that your custom has been for some years past, for the past eight or ten years, to spend the month of September in Arkansas?—A. Yes, sir; for the past ten years, except, possibly, September of 1883, and before I came to the Senate it was my custom to be about that time, in the month of September, hunting at my place.

Q. How far is your place from the town? I see in the papers it is known as "Hominy Hill."—A. Yes, sir; Hominy Hill. The papers are right about that.

Q. How far are you from town?—A. I am about 15 miles from Little Rock, and 17 miles from anywhere else.

Q. Had you any communication with anybody while hunting at your place?—A. Only occasionally during the time I was there, and then when a gentleman or two came from Little Rock. I left word that no papers or letters, except from my family, should be forwarded to me. I would not have them on the place because I went there to be out of the way of papers and letters, and company. I instructed the chief clerk to send me no letters from the Department.

Q. Did you not hear through the newspapers, or in any way, of the bringing of this suit until your return to Washington?—A. I never heard a word until the 27th of September, Sunday morning, about an hour after I got to Little Rock. A man had started out with a dispatch to Hominy Hill and gotten lost, but found me afterwards at Little Rock and handed me this dispatch. I answered that dispatch as I stated in the paper, and heard no more about the matter until I came here the 1st of October and saw the President. He told me then that the papers had been *complimenting* me considerably on the matter.

Q. There seems to have been a suit brought in Saint Louis against the Pan-Electric Company, or a local company organized there under the Pan-Electric organization.—A. I know nothing about that, except this: They wrote to me or tried to get me to go and attend to that suit. I told them I could not go, and did not go. I never knew what became of it. I think Senator Harris and Mr. Young applied to me to attend to it.

By Mr. RANNEY:

Q. Did you write a letter about it?—A. I wrote a letter to Mr. Adreon there, giving a general idea about it, but I told him I could not go to the place, and did not.

By the CHAIRMAN:

Q. On page 319 of this record of testimony it is stated as November 10, 1884. The suit seems to have been brought by the Bell Company against the licensee of the Pan-Electric Company. I will read this to you.

The WITNESS. I have it here.

Q. Read it and see if it suggests anything that you would like to speak about.

Mr. OATES. That suit was not brought, was it?

The CHAIRMAN. It was a threatened suit

The WITNESS. I recall now something more about it. When the suit was brought, Senator Harris and Mr. Young wanted me to go there, and as it was impossible for me to go, I wrote this letter to Mr. Adreon, simply blocking out the character of the contest so far as the Pan-Electric was concerned, in a very indefinite way. I remember of them being anxious for me to go, and that I could not go, and wrote that letter for the purpose of them making out of it what they could.

Mr. HALE. What is the date of the letter?

The WITNESS. November 10, 1884.

By the CHAIRMAN:

Q. The Attorney-General's letter is dated November 10, and the letter of Mr. Adreon is dated the 13th. Was that application made to you by Colonel Young and Senator Harris as counsel for the Pan-Electric?—A. Yes, sir; they thought, I suppose, that it was incumbent upon me, as counsel for the company, to go down there and look after the suit.

Q. I see a letter from you to one H. Gardes, dated September 21, 1884, and written from Little Rock. Do you recall that letter?—A. Yes, sir.

Q. Who was H. Gardes?—A. He was a gentleman, if I recollect, who lived in New Orleans. He was a merchant there and he had lived in Arkansas. That letter was written from my place in the country and sent to Little Rock to be mailed. He was an old merchant in Arkansas, and I think after the war he went to New Orleans, and if I recollect that letter properly, he wanted to know about the Pan-Electric Company—the invention—and wanted my views and advice about it.

Q. That letter was written from Hominy Hill, was it?—A. Yes, sir.

Q. And dated at Little Rock?—A. Yes, sir; because that was the post-office from which it was sent.

Q. I will read it. (The letter was read).—A. That is to Mr. Gardes, is it?

Q. Yes, the Gardes letter. Do you remember how that letter was brought out?—A. Mr. Gardes wrote to me, and I think I answered his letter. He said that he and some of his friends were contemplating investing in this matter, and he desired my opinion. I knew Mr. Gardes many years ago.

Q. In what relation did he stand to any of these telephone companies?—A. None that I know of. I did not keep the letter he sent me. "He and some friends," I think, is his language. I speak from memory. He spoke of he and some friends looking into the invention which had been brought to their attention, and if it looked well he thought of investing in it.

Q. I find that a letter was written to the same gentleman by General Johnston on the 22d of September.—A. Very frequently gentlemen came to me here in this city to know about this matter, and I often referred them to Dr. Rogers and son, and sometimes to Senator Harris, as the men who attended to the minutiae, and they looked more into the details of this matter than I did. I do not know whether there were any records of that sort, but I think it possible there may be for I wrote some of that character.

Q. I will ask you the question whether at the time your name was mentioned in connection with the Attorney-Generalship any suggestion was made of any possible advantage to this Pan-Electric enterprise in case of your appointment?—A. Never in the world; I never heard it hinted; I never heard it suggested, and never dreamed of it myself.

Q. Have you in any case used or attempted to use your office as Senator or your office as Attorney-General to further the interests of the Pan-Electric or any other telephone company?—A. Never at all, sir.

Q. I understand that you say you have always regarded this as a legitimate enterprise?—A. Oh, perfectly, sir; perfectly. I could not see anything wrong in it, and do not yet see anything in it that should prevent a Senator or Member of the House from going into it.

Q. You say that there are other persons holding the same position that you held when you went into this who are interested in enterprises of this kind as stockholders?—A. Yes, sir. There are in the Senate and House railroad presidents, who are constantly called upon to legislate on railroad grants, and they are stockholders in roads that are interested in this legislation. There are others who have stock in seal fur companies, wood pulp, and I don't know what all.

Q. Did you ever undertake to legislate in respect to telephone companies?—A. No, sir, I never did. Never was as a lawyer in any way connected with them, but as a Senator, of course, I have spoken and voted on them and others.

Q. You are familiar with the procedure of courts, and I will ask you what is the practice of judges when questions come before the court in which they are interested. In the first place take cases in which they are interested as parties or as counsel.—A. As the saying is, they sit out; that is, they do not hear the case. The judge may be interested as a party or counsel in the case below; when it came up to the court above, to the Supreme Court, he would not hear the argument, and the other eight judges would have to decide the case. That course is very often taken.

Mr. RANNEY. That is a well-known practice.

The CHAIRMAN. My object in asking the question was to show that there would be some difficulty in filling judicial positions if persons largely engaged in practice, or who were interested in matters which might probably come before the courts for decision, were held thereby disqualified for office, or if they were bound to surrender their interests to qualify them for appointment.

The WITNESS. Yes, sir; it would be. Now, most of the States have a law giving authority to the governors to appoint special judges in cases where judges are disqualified from acting on this account; but here, in the Supreme Court, the judge sits out; he retires or steps aside; one case in point, I will remark, is that of Justice Matthews, who retired when, at the present term, a case came before the court in which he had been interested as counsel before his elevation to the Supreme Bench.

Q. A gentleman engaged in a judicial position is very likely to have been engaged at some time in important litigation; is not that so?—A. Oh, yes, sir; until they selected me for Attorney-General they had never selected a man unknown in the courts.

By Mr. RANNEY:

Q. In questioning you about these matters, I hope you will not consider my questioning you for any other purpose than to get at the facts in this case. I do not wish you to understand it in any other light.—A. Anything in the world that you will ask me, Mr. Ranney, I will be glad to answer.

Q. The chairman called your attention to the original contract here, and if I understand it, you regarded the stock you received in the light of a purchase, and not as a gift?—A. Not as a purchase. It is difficult to define it by any one word. If you state the facts I can tell better what it is. Six or seven of us formed the corporation. The invention had no utility at that time, and we formed and organized and levied assessments, paid them and issued our stock, and to the extent of the assessments being a consideration, you might call it a purchase.

Q. I wish to get your ideas of it. I understand the matter, and as it has been gone over a great deal, I do not wish to spend much time on it. Your associates—five of them—each owned a tenth interest in these patent rights, if I understand it?—A. Yes, sir.

Q. And it was all owned previously by the patentee, Mr. Rogers? Do you understand it so?—A. Yes, sir; that is, I think so, if I recollect well. However, Mr. Young or Mr. Rogers himself can tell you about that.

Q. And he not only conveyed what he had, but what he might have, so that you understood that each of the five associates had a tenth interest in such patents and in such improvements as he made?—A. Yes, sir.

Q. Now, do I understand that you paid the Rogers for that tenth interest directly to him, or agreed to do so?—A. No, sir; not to him directly.

Q. And all you did agree to do was to agree that all of you should be liable to an assessment. Let me get the exact language. "And it is also agreed," &c. I find this on page 10 of the record—and this part of that clause is the part I want to call your attention to particularly: "And any expense incurred for the doing of the same, may assess pro rata upon the members of the company to the amount of \$150 each, and no greater sum shall be assessed without authority from a majority of the members." Now, did you not understand that this assessment was to be made pro rata upon your five associates, and that Dr. Rogers was to retain the other fifth?—A. That may be, but I won't be positive about it. But you know that assessment was made from time to time beyond that. I think the assessment first and last amounted to about \$400.

Q. "But no greater sum shall be assessed without authority from a majority of the members." Now, what was made beyond that was to be paid pro rata by the parties in interest, was it not?—A. That is my understanding.

Q. And whatever you paid after that \$150, and whatever the others paid beyond that, was conditional, and went to the mutual benefit of all the parties in interest?—A. Yes, sir.

Q. And that went to benefit the interest you purchased as well as to benefit the interest of others?—A. Yes, sir.

Q. So that as a matter of fact I would like to know whether in that state of things you would not regard the transfer of one-tenth interest to you as a gift?—A. No, sir, I do not; because I am out about \$400, or not quite that, for my assessments.

Q. That was an assessment for the benefit of the company, was it not?—A. Yes, sir, and myself included.

Q. Yes and the selling rights you got back added more. I only want your ideas about it. From your examination you made of this and from the fact that you formed a corporation with a capital stock of \$5,000,000, and from these expressed opinions of yours you probably had a pretty good idea of this thing, I should judge?—A. Well, sir, I only examined the question simply as to the infrigibility, so to speak, of the two patents, of the two inventions. Now, as to the details of the work of the company and all that, it has been stated, I think, by Mr. Young and others. I gave very little attention to it.

Q. I see from your letter to Mr. Gardes, of September, 1884, that you say, "I have given much time and attention to it and my deliberate opinion is that it is one of the best inventions of the day. It is a decided improvement on everything in this line," &c.—A. The first part of that is based upon examinations we had made. It was pronounced by gentlemen who had seen and tested the invention that it was by far the best instrument known to communicate sound. The second part is based entirely upon the question of infringement.

Q. If you had not regarded it valuable I suppose you would have hardly paid your money into a corporation with an inflated capital?—A. I do not think I should put it in a corporation at all if I did not regard the enterprise as being of value.

Q. I did not suppose you would.—A. We had several examinations made by gentlemen who claimed to be experts.

Q. I see that General Johnston, on the 22d of September, writes in a similar strain. I will read what he says. [Portion of letter read.] I suppose that you were aware of the fact which he states there?—A. I do not know that I was aware of it in detail. He went himself, I think, down to Richmond to make a test, and I think he and Senator Harris went to New York and possibly Boston to test and exhibit the invention. I think General Johnston went down himself, although I am not sure about that.

Q. I see in your letter to Mr. Myers, which has been read to you, and which I shall not read again, you speak in it of having examined the question of infringement.—A. Entirely. That is really all I did. Its wording may have gone a little beyond that, but that is what it was intended to cover.

Q. But you would hardly write that without determining what claims were embraced in the letters patent of Professor Bell?—A. Of course the examination discarded the third or fourth claim of Bell, I forget which, which claim covered the entire field of electricity, so to speak.

Q. You are aware, I suppose, as a matter of course, that Professor Bell claims to have discovered the art or method of transmitting articulate speech by mean of electricity, and that the appliances are described in his patent.—A. Yes, sir.

Q. (Continuing.) The appliances that lay at the base of it?—A. That was either classified under the third or fifth claim, which, according to my reading of the decisions of the courts, could not be maintained. I do not want to give the reasons for my thinking so here.

Q. I do not propose to go into the investigation of the patents here. I do not think it within the scope indicated by the chairman; but if I understand the facts as I learned them from these records, Rogers did not invent the method of transmitting articulate speech by electricity. He did not claim to have discovered that.—A. I think not. He claimed to have made an invention by which that principle could be used, and which invention was superior to anything that had up to that time been discovered.

Q. Was not that an infringement of what is called the microphone?—A. No, sir; my recollection is now that it went beyond that, but I should have to look over my papers to tell that exactly.

Q. You did participate in the organizing of the corporation in New York. I have seen the articles of association drawn up in the name of New York, and the same has been altered to New Jersey in your handwriting?—A. I recollect that. I will state further that although I did not attend the meetings Senator Harris often had proxies to act for me.

Q. I see that you signed the agreement?—A. Yes, sir.

Q. I think the name New York has been changed in pencil to New Jersey in your handwriting?—A. That is, the changes are in my handwriting.

Q. Yes, sir.—A. That is so.

Q. I do not know whether you drew the original articles of association?—A. The original was not drawn by me, but I recollect this change in pencil was made by me.

Q. I suppose that the licensees under your company were to use your instruments only, and you did not convey to them any of your electrical patents?—A. That is my impression.

Q. And were you aware they were selling territorial rights to different parties?—A. Yes, sir; they were selling them to different localities; I do not remember now just where, as I did not keep an account of these matters.

Q. You were simply selling what you call a license to use your instruments within certain territories?—A. Territorial rights.

Q. And I believe your company was to furnish the instruments?—A. That is my impression.

Q. And you furnished the instruments.

The CHAIRMAN. I think in some cases the parties undertook to furnish them themselves.

Mr. RANNEY. But as a general rule, Senator, you furnished them to be used within certain territory. Were you aware that these contracts provided for the formation of

corporations, and that the parent company was to take their part in the stock of these corporations?—A. To be candid with you, I do not think I ever saw one of the contracts.

Q. You had nothing to do with that?—A. No, sir; further than to advise from time to time as counsel.

Q. How far did you really act as attorney?—A. To the extent of examining papers they brought me occasionally. They brought me a copy of this bill from Baltimore, upon which I wrote a letter to Mr. Colston, I believe. Dr. Rogers sent me the papers in which Mr. Brown and Mr. Looney were interested to examine. Governor Harris brought me papers about other matters.

The CHAIRMAN. Do you mean from Baltimore or from Philadelphia?

The WITNESS. Philadelphia, I meant to say.

By Mr. RANNEY:

Q. I see that you met them at your committee room. Did they meet you in your committee room?—A. We never had a meeting of the company in the committee room.

Q. I mean individuals with whom you transacted business?—A. Yes, sir.

Q. I do not mean to intimate they had an office in your committee room.—A. No, sir; they came there to consult with me and to talk over matters.

Q. Do you think of anything which you have not stated, where you acted as counsel or performed any service?—A. I do not remember any, sir.

Q. I see in your letter to Mr. Myers that you refer to certain cases that had been decided—the Dolbear—some three I believe.—A. Yes, sir; those cases decided in the districts.

Q. Were you aware that in all of these cases the court had maintained the validity of the Bell patent?—A. Yes, as against those competing, as I construed it.

Q. And in all those cases the question came up as to whether Mr. Bell was really the inventor of the method of transmitting articulate speech by electricity?—A. My recollection now is that these decisions simply went no further, as the Supreme Court has frequently said it could not go, than the simple one at issue as to the test between these competing or rival companies with the Bell.

Q. Please state whether in each one of these cases the question was not distinctly and directly raised and expressly decided that Mr. Bell was the inventor of the mode or method of transmitting articulate speech by electricity.—A. I will not be positive about that. I do not recall distinctly, but if such had been the case, with my view of the law, I should not have regarded it, as I believe the Supreme Court would have reversed it.

Q. Are you aware that Judge Lowell in Massachusetts in the Dolbear case, and the judges in Pennsylvania and New Jersey, likewise Judge Wallace, of New York, had sustained that patent?—A. No, sir; I did not so read their opinions to go to that extent. I simply read them as going to the extent of deciding as between these competing companies.

Q. That they were infringers?—A. Yes, sir.

Q. Are you aware that all these parties sued were infringers of the Bell telephone?—A. Oh, yes, as construed by the courts in those cases.

Q. Now, were you not aware of the trial in New York in the Drawbaugh case, when arguments were made by Senator Edmunds and others during the year 1884, and decided in 1884?—A. I was aware of it, but never saw the decision. The decision was never brought to my attention that I am aware. Pending the case Mr. Edmunds, in the committee room that I have spoken of, showed me the testimony as far as it had gone. It made four or five printed volumes, and I read a good deal of it, though I do not think I read the decision. But I saw and heard that Drawbaugh lost the case, and I have seen the case on the docket here in the Supreme Court.

By the CHAIRMAN:

Q. Was Mr. Edmunds interested in that case?—A. Yes, sir; he was attorney for Mr. Drawbaugh.

By Mr. RANNEY:

Q. The trial occupied two or three years. Are you aware that these cases which I have alluded to were pending on the docket of the Supreme Court here at Washington?—A. I cannot say I am aware of it. I heard it suggested but never looked at the docket to ascertain it as a fact. I saw it stated on the outside, but I did see the Drawbaugh case on the docket.

Q. Is it true that the real thing litigated in these cases was the question whether Mr. Bell invented the art or method of transmitting articulate speech by electricity?—A. I never understood it from the cases I read, according to my recollection, that the issue, as I understood it, was upon his broad claim of transmitting articulate sound

in that way, but rather upon the particular inventions in question being infringed by these competing companies.

Q. You are aware that the Bell company was suing and prosecuting alleged infringements, I suppose?—A. I knew that.

Q. And that it had been going on for some years?—A. Oh, yes.

Q. Were you aware that the Bell telephone patents had been obtained ten years and over?—A. The first telephone I ever saw was the Bell telephone up here in the committee room. Mr. Gardner Hubbard took me to see it. That was in 1878, I think.

Q. I think the letters patent are dated March, 1876?—A. It was there on exhibition in the committee room.

Q. I am not speaking of what you saw, but of the knowledge of the patent having been obtained that far back.

The CHAIRMAN. That was seven years before the formation of this company.

Mr. RANNEY. It is over ten years now.

Q. Were you aware, Senator, that in July, 1885, the Bell Company claimed that the company in which you had an interest were infringing?—A. Yes, sir; I guess so.

Q. There was a controversy in Saint Louis about it when you wrote the letter to Mr. Adreon, was there not?—A. Yes, sir; and in Philadelphia, too, I believe.

Q. In the western district?—A. Yes, sir; that is true.

Q. Were you not aware of the controversy that occurred down in Tennessee when circulars were issued and claims made?—A. No, sir; I had no information of that.

Q. Were you not informed of that?—A. I was not informed of that.

Q. If I understand you, Mr. Garland, the only interview that you recall having had with these parties, Mr. Van Benthuyzen, Casey Young, and others, was at the time which you have already spoken of.—A. Yes, sir; the latter part of July or August, I think it was.

Q. And you recall only one interview?—A. One interview.

Q. Are you positive as to that?—A. Oh, yes; as I said before, Mr. Van Benthuyzen, or his attorney, Mr. Von Briesen, came to me afterwards to withdraw that letter they had filed.

Q. You are positive there were only two interviews, one when Colonel Young came with Mr. Van Benthuyzen and Mr. Von Briesen, and—A. (Interposing) And Mr. Gantt.

Q. And subsequently you remember Mr. Von Briesen coming here to ask for the withdrawal of that letter?—A. Either Mr. Van Benthuyzen or Mr. Von Briesen.

Q. Are you quite sure that when this request was made for the withdrawal of the letter only one man came?—A. That is my recollection, that only one came. There may have been more, but of course, as I say, I was visited about that time by so many that I cannot recall very positively all the people who called.

Q. You have narrated the conversations upon this subject, first in your own way in a general statement, and then you repeated the same at the request of the chairman, but I will ask if in any of these interviews these gentlemen did not tell you what they proposed to do?—A. No, sir; because I cut the conversation short. I did not want to hear any more about it. I had explored the field to my satisfaction, and I found that I could not go into it directly or indirectly, and because I would not hear anything more about the matter I recollect that one of the gentlemen manifested a good deal of impatience.

Q. Who, Van Benthuyzen?—A. Well, he spoke of his interest being surrendered.

Q. Did he say anything to you about what the judge had done in Pennsylvania?—A. No, sir.

Q. Didn't he say that they had all been bought up?—A. No, sir.

Q. You spoke about his getting ashy. Do you mean that he fired up?—A. He said that his interest had been sunk out of sight because of my interest in a rival company. The conversation was a very short one, and if he said anything of that sort it escaped my mind entirely, because I had previously made up my mind to have nothing to do with the matter in any shape.

Q. Did Mr. Van Benthuyzen and Mr. Huntington call on you the day before the time you describe, and have an interview with you?—A. If they did it has escaped my recollection.

Q. And did you not then tell them you had decided to have nothing to do with it?—A. If I told them anything I told them that.

Q. Do you know a man by the name of C. P. Huntington?—A. No, sir; I know C. W. Huntington, of Boston, Mass.

Q. I think this is C. P.; C. W. I know myself.—A. If anything of that kind occurred I do not remember, because I had made up my mind to cut it short, and I did cut the interview extremely short.

Q. Then you have no recollection of Van Benthuyzen coming in twice?—A. No, sir.

Q. Do you not remember of their coming in and asking you to do what you had refused the day previous to do, when you said you would have nothing to do with the

matter? Do you remember their coming the next day and repeating the request?—A. I do not recall it.

Q. Do you think that could be so?—A. It seems to me I would recollect it. But if it did occur I do not remember it.

Q. Did Mr. Von Briesen say, in the interview held with you and Mr. Young and others, what course they would subsequently take?—A. They commenced to talk about the procedure in such cases, and I said "I cannot hear you upon that point any more than the other, and I am not going to make any suggestions." Then Mr. Young or Colonel Gantt, I do not know which, spoke up and said "Mr. Garland is right; he cannot talk of the case in any of its aspects after having refused to have anything to do with the matter."

Q. Do you recollect if they said that they concluded to start the procedure before the district attorney of Tennessee?—A. No, sir.

Q. You are sure they suggested no such thing?—A. They said nothing to me about it.

Q. In that interview, did either one of them tell you, or intimate to you, that they would change their course of procedure, and that they were going to go before the district attorney of Tennessee with the suit?—A. No, sir; if they did, I did not hear it.

Q. Do you understand that a district attorney has any authority for instituting a suit of this kind in the first instance?—A. Not directly.

Q. Does that come within the province of his duties?—A. Not under the law as I read it.

Q. It should come directly to the Department of Justice here, should it not?—A. Yes, sir.

Q. Did you ever hear of a case where a district attorney instituted a proceeding of that kind, before this case?—A. No, sir; not without permission of the Department of Justice first.

Q. And if they had mentioned that to you, as familiar as you are with this case, you think you would remember it, as I understand you?—A. I think I would remember that; but I will say that as soon as I found out what they had come for, I made up my mind to cut the interview as short as possible, which I did.

Q. Was it not in that interview that Mr. Von Briesen or Mr. Van Benthuyssen, I mean when Mr. Young and these other gentlemen were there, spoke to you in reference to withdrawing that application for suit, and did withdraw it?—A. No, sir; I think it was afterwards that they withdrew it. I am pretty sure of that.

Q. I am not questioning you upon this point for the purpose of testing your recollection, as a man can often be mistaken in reference to details. I will ask, do you feel confident that if any man came to ask to withdraw that application, or consent to withdraw it, he came alone?—A. I am pretty clear in that. You probably know that in calling upon the heads of Departments there are sometimes four or five men standing apart in the room who may come together, or there may be that number in the room each one of whom is interested in different business, and I only pay attention to the man who does the talking, and my impression is that there was but one person who came upon this business, though they may have been two, so far as I was concerned. I paid attention only to the one who addressed me.

Q. Was that application made some day before or subsequent to that date of this interview with Mr. Young and these other gentlemen?—A. It was subsequent to this interview with these four gentlemen, is my recollection.

Q. When they insisted upon your acting and fired up when you objected to do so, although you were Attorney-General, did you not say to them that I cannot act, and the proper man for you to apply to is Solicitor-General Goode?—A. I did not say that.

Q. If you felt it your duty to act in this manner, unless you labored under some disability, when these people insisted that you had a right to act as Attorney-General, and your knowing that in such event as the Attorney-General laboring under any such disability, that the duty devolved upon the Solicitor-General, would not the question naturally arise why did you not say so?—A. Yes, sir; but as I did not want to be concerned directly or indirectly in it, but having examined into the question on account of the Van Benthuyssen application and other applications before me, I had to make up my mind in reference to it, and I found from the precedents that it was not safe for me to say or suggest where they should make application.

Q. It seems to me that the proper remark for an officer to use when he is applied to by gentlemen who insist upon their right as citizens to have suit brought, when the officer applied to labored under a disability, would be for him or you at least to say under those circumstances, that there is an officer known as the Solicitor-General who acts while I am disabled from so doing.—A. There are precedents to that effect in the office, but all of these gentlemen who called upon me being lawyers, I supposed they knew their duty in the premises.

Q. And did not they say they would have to go to Mr. Goode?—A. No, sir; but they went out looking very mad.

Q. Did anybody get mad but Mr. Van Benthuyzen?—A. None of them seemed mad from what they said, but they all looked so.

Q. Was Casey Young mad?—A. Casey did not look pleased; he did no talking, however, but simply introduced these gentlemen to me.

Q. Did not he insist that the parties in interest had a right to such a suit in the name of the Government?—A. Mr. Young did not open his mouth after he introduced these gentlemen.

Q. You and Colonel Young have always been on good terms, have you not?—A. Excellent.

Q. You and he were interested in the same company as codirectors, and he knew that the application had been made by Dr. Rogers in May to bring suit, and did he never speak to you on the subject between May and the time of this interview?—A. Never; as I said awhile ago, he came to see me about a Tennessee appointment; he wanted some young man down there appointed to a position, and I never saw any more of him from that time until meeting these four gentlemen.

Q. I understand these parties remained here some days; did you see them again?—A. No, sir.

Q. And did they not call on you?—A. No, sir.

Q. They did not call on you; did you not call on them or either of them?—A. Neither of them; no sir. Now, I will say here that it is due to all sides in this matter, inasmuch as this thing has taken such a wide range, that after I declined to take any hand in the matter, a number of gentlemen, and some very prominent ones, wrote me letters—legal gentlemen—insisting that notwithstanding my connection with this Pan-Electric Company it was my duty to have brought this suit. Some of the most prominent men in the country wrote me to that effect. I should not think it proper to go into this if it had not been for the wide range this investigation has taken; I only state the fact to show the fires I was between.

Q. I object to the witness putting in other people's opinions. I will ask you if, inasmuch as you are interested in this matter, and therefore laboring under a disability, a man came to you to make application for a suit of this kind, which you believed you had a right to order by law in your discretion—to give the use of the name of the United States to this company to prosecute its suit—if you considered it improper in you to say that you were disabled under the circumstances and could not attend to it, and under the law the Solicitor-General had taken your office?—A. It would not be improper, but there was a question of delicacy in the matter.

Q. Do you not think it was, a little?—A. It might have been. But I was like Lorenzo's man, I would be damned if I did and be damned if I did not.

Q. It seems that on the 12th of July Mr. Van Benthuyzen addressed you a communication making this charge against the Bell Telephone Company, and stating his reasons why the Bell Telephone patent was void, and pressed upon you the propriety of instituting proceedings in the name of the United States. Now, immediately after the receipt of that letter, on the 14th of July, you referred the communication. Now, you had presented to you, on the 12th of July, an application to bring suit, and instead of acting upon it you referred it to the Secretary of the Interior for examination and reply?—A. Yes, sir.

Q. Where was there any difference between that and the renewed application on the 28th or 29th of July for the same thing?—A. The difference was very striking, as I have already explained. Mr. Van Benthuyzen's letter was based upon a law which he said had passed Congress. I made a search for that law and could not find it. Other gentlemen had spoken to me about the law, not in connection with this matter particularly, but in connection with patents generally, and for fear that it might be hidden away somewhere in an appropriation bill, I referred this letter to the Interior Department so that it might go to the Commissioner of Patents, and he might find out whether or not there was any such law as that. Another thing, I referred this Van Benthuyzen letter to the Department where it should have gone originally. After this letter was sent there I took up the whole subject, having the Rogers letter before me in addition to this letter, to see what I should do in the case of future applications. I went through the law and satisfied myself that I ought not only not to bring suits, but not to forward or refer any more papers about a suit.

Q. You say in your letter to him that the matter had been referred to the Secretary of the Interior, where it should have been presented originally?—A. Yes, sir.

Q. And do you observe that you did not raise any objection in that to acting on the ground you last stated?—A. I did not, for the reason I have stated two or three times heretofore.

Q. And you did not refuse to act upon it to that extent?—A. I sent the letter to the Interior Department. I often send letters to Departments where they belong when they come to me improperly.

Q. Do I understand you that it is the rule or practice in your Department to refer to the Interior Department all letters in respect to matters arising in the latter Department?—A. I think it the better plan to refer them to the Department where the

act originates, although the majority of cases are the other way. They are generally referred to the proper Department for suggestion. It is customary for the other Departments in cases of this kind to communicate with the Department of Justice for instructions, &c., in the premises. My idea is, however, that in cases of this kind the communications should be addressed to the Department in the first instance where the act originates.

Q. To the Interior Department?—A. Yes, sir; or whatever Department the matter comes out of.

Q. Has not the universal practice been to refer them to the Department of Justice?—A. I state that the practice has been different, though I believe the correct practice is to save all this round-about work, all this circumlocution.

Q. In this letter of Mr. Van Benthynsen he says, "I respectfully request that you institute suit," &c. Now, I would like to ask you, if you have no objection, whether there would have been any difficulty in instituting a suit, or allowing one to be instituted in the name of the United States against these parties, under existing law, independent of this statute referred to, even if it were a law, on that application?—A. That would depend entirely upon the phraseology of the law. For the reason of not having discovered it, and having my attention directed to it two or three times by different parties, I referred the letter for the purpose of ascertaining if the Commissioner of Patents knew of the existence of such a law. He says, "It is made incumbent." If he used this phrase as being in the law, there would have been no discretion on my part, and this application would never have gone to the Interior Department.

Q. If a letter came to you asking for a suit, and alleging ground sufficient to justify a suit in the name of the United States to vacate a patent, do you, or not, think on that application a suit might be granted, although the writer had referred to a statute as authority for it, if the law, independent of the statute, permitted it?—A. Oh, yes; I have no doubt of that. The idea is this, if I must go over the ground again somewhat to explain the motive—

Q. (Interposing). I do not mean to question your motive.

The CHAIRMAN. I think it would be better to allow the Attorney-General to make the statement.

The WITNESS. I had been asked two or three times respecting this law, and several parties said that such a law had been passed. I made a searching investigation with a view to settling this in my mind, not alone upon the subject of telephones, but generally. As I said before, I could find no such law; but after reading that letter, which was well written and very positive, I thought certainly there must be such a statute, though I had failed to find it. Therefore, I sent the letter to this Department, as I stated before, and as Mr. Van Benthynsen said "incumbent upon you," I was more anxious than ever to learn if there was such a law.

By the CHAIRMAN:

Q. Did it occur to you that the statute might prescribe a certain method of procedure in such cases?—A. Yes, sir; and I had been looking to see what it did prescribe.

By Mr. RANNEY:

Q. Did you not have the statutes in your office?—A. Yes, and I searched them from top to bottom, as the saying is.

Q. And you found no such law?—A. Found no such law.

Q. But you supposed that such a law had been passed and was not embraced in the public volume of statutes?—A. No, sir. The difficulty was that I thought there might have been a statute passed which I had not found, and inasmuch as you have made the suggestion I will illustrate it. I remember that a law had passed Congress punishing Indians for committing crimes on their reservations—of one Indian against another. A case involving that act had been referred to me, and after considerable search we gave an opinion that there was no such law in existence. Finally, about a month and a half afterward, when I happened to be looking at the Indian appropriation bill, this law was down at the bottom of one of the sections. The law was stuck down there, but I did not find it, although I had made several searches for it previously.

Q. Did you suppose the Interior Department would know better what laws had been passed by Congress than the Department of Justice?—A. No, sir; but I supposed the Commissioner of Patents might contribute something to my search.

Q. I see that your reference of the communication is a general one.—A. Precisely. If it had not been for that first part of the letter I would not have made any reference at all.

Q. You were a member of the Senate on December 11, 1883; and I understand that you were aware that such a bill was pending in the Senate.—A. Yes, sir; and as I stated, Mr. Platt came to me in reference to it, and I have referred to the conversation which took place between us.

Q. Look at this bill and see if that is it? [Handing bill to witness.]-A. I have never seen the bill since that interview with Mr. Platt, but from my recollection that is substantially the bill.

Q. I would like to know, general, if you are not aware of that bill coming into the Senate and being referred to the Committee on Patents?-A. I cannot say that it came in and was referred. I can only state that Mr. Platt said that such a bill was before his committee, and he showed it to me as he held it in his hand with other bills, in this way[illustrating]. I am not positive that Senator Platt came to me specially in reference to this bill, because he often came to see me about questions arising in his committee, and he may have called my attention to this bill among other things.

Q. I will ask you this: whether or not from your recollection-you may or may not have forgotten-but after that bill was there, before the committee, you received a letter in relation to it, which you indorsed over and delivered to Senator Platt?-A. I recollect getting several letters about patents which I referred to him. I do not remember any in reference to this bill. If I did receive such a letter, however, I sent it to him.

Q. Have you looked at the files to ascertain whether this was one of the letters which was indorsed over by you?-A. No, sir; I never heard of it before. I frequently got letters about patents, and always referred them to Senator Platt.

Q. And you cannot state from your recollection whether you did or did not receive a letter in relation to this bill?-A. No, sir; I cannot.

Q. I want to know what your recollection is about this circumstance; whether Mr. Platt came to you some time and asked you if you had any interest in that bill. You state that when you were approached upon this subject you were anxious that Congress should not take away the right which the Government already had under the statute by passing this bill?-A. Yes, sir; and I think that occurred in the conversation which I have referred to already, when I delivered to Mr. Platt my opinion that this law was not any broader than the practice which had grown up in the Department from the time of Wirt, and had become a recognized principle by the courts. I recollect stating that this law was no broader than that, and although I have no interest in the matter, I would not like to see the practice destroyed.

Q. But you are satisfied that the Government had this right?-A. Yes; the general right.

Q. Do you remember whether he went to you or you went to him when that conversation occurred?-A. If I recollect distinctly he came across to my seat. He said, "Old fellow, you are my retained counsel. I never paid you anything, though, but I want your opinion."

Q. Are you confident he said that? Are you confident that you did not say you had an interest in this bill?-A. I do not recall that at all.

Q. And you do not remember anything more than you have stated here in reference to this matter?-A. No, sir.

Q. You know Mr. Vance, do you not?-A. There are two of them. Vance in the Senate?

Q. No; Mr. Vance over in the House.-A. I know Mr. Vance who was in the House, and Mr. Vance who is in the Senate.

Q. Mr. Vance in the Senate is a brother of the man who was in the Patent Office at the time this hearing was had before the Secretary of the Interior, is he not?

The CHAIRMAN. The Assistant Commissioner of Patents is the same man who was in the House last Congress.

The WITNESS. It is the same man, I think.

Mr. RANNEY. I see by the provisions of this bill that it was made incumbent upon the Attorney-General to institute proceedings to vacate patents if in his discretion suit should be brought. It did not make it obligatory, but you would have to be satisfied. From what you say I understand that you did not pay particular attention to that bill.-A. I never thought of it afterwards, I think.

Q. Is your recollection so clear that you can state Senator Harris did not speak to you about it?-A. I do not think he ever spoke to me about it. We sat close together in the Senate, and spoke of many things in the Senate and out of the Senate, but I do not think he ever alluded to it.

Q. Were you aware at that time that the Committee on Patents, to which the matter had been referred, had decided and reported that no law existed warranting the bringing of such a suit as this bill provided for?-A. I do not know that I was aware of it. I do not say that such was not the fact, but I was not aware of it. I took less notice of the patent legislation than anything else which came before the Senate during the time I was there.

Q. I want to know, general, if you are willing to tell me at what time in the summer of 1885 you determined upon taking a vacation and going away?-A. I determined to go away, I think, six weeks before I went. It was understood that when the President went to General Grant's funeral that he and a number of the Cabinet offi-

cers were to take their vacation immediately after the funeral services were over. He and Mr. Manning and Mr. Whitney and Mr. Bayard and Mr. Endicott then went off on their vacation. Mr. Lamar, Mr. Vilas, and myself came back here from New York, and I had fixed my time in July to go away on the 27th of August.

Q. It was not any secret when the respective members of the Cabinet would take their vacation, was it? How did you arrange it?—A. One with the other.

Q. And it was well known, was it not?—A. Yes, sir.

Q. And publicly stated in the papers?—A. I think the papers stated it frequently from time to time.

Q. And if I recollect rightly it was given out early last summer that the members of Mr. Cleveland's Cabinet were not going to take any vacation?—A. They found out the work was harder than they expected, and they changed their minds.

Q. And you had for some weeks previous to your departure, according to your recollection, made up your mind to take your vacation at the time it was given out by the papers?—A. I do not know that the papers gave it out distinctly, but they had been speaking of it from time to time.

Q. The newspapers are supposed to know everything that is going on?—A. They have got to know it. That is their business. The reporters would be discharged if they did not know that.

Q. And you left —?—A. On the 27th August.

Q. And you went where?—A. I started to Little Rock, and staid there a little while, and then went to the classic spot, known as Hominy Hill.

Q. By what line did you travel?—A. By the Baltimore and Potomac as far as Pittsburgh.

Q. And you took a continuous line home without getting out of the cars?—A. I made no change.

Q. At Saint Louis?—A. Yes, sir.

Q. And you arrived at what date?—A. I arrived Sunday morning at 2 o'clock.

Q. And went through after you left Washington without stopping?—A. I did not stop at all. After I got to Little Rock I went right straight to Hominy Hill, and staid there three weeks—nearly four weeks. I was there four weeks lacking two days.

Q. You are presumed to know the law, and I will ask you, if when you are absent from your office as Attorney-General, the Solicitor-General becomes Acting Attorney-General?—A. Yes, sir.

Q. In other words, he is supposed in your absence to be the Attorney-General, but only in so far as the law provides that he shall act as Acting Attorney-General?—A. Yes, sir.

Q. And of course when you leave, and the Attorney General comes in as acting Attorney-General, he takes up the business where you leave it?—A. Yes, sir; whatever business there is there comes to him.

Q. How can a man step into the shoes of another and take up the business where it has been left without understanding it, without being informed of its status?—A. He takes all that is there and what new business comes in. There is nothing which I left unfinished which I needed to confer with him about, nor was there anything incumbent upon me to confer with him about. There was nothing except some cases coming before the Supreme Court at an early date that required any information on my part.

Q. Suppose you had had an application in an important matter, and you had not finished the consideration of the same, and you had to go away, it occurs to me that you would be likely to inform him in regard to it.—A. It would be likely that in that case I should do so; but the business was up clear and clean before the subordinates and out of my hands when I left to go to Arkansas.

Q. Did you clean up everything?—A. Yes, sir. I had been working on some cases that were to come up at an early day before the Supreme Court, which I called his attention to.

Q. I understood from your statement that after this interview with these gentlemen you decidedly told them that you would have nothing to do with the case, and would say nothing about it. You say that you expected that the application would come in again?—A. Not to me. I supposed that they would either go to the Solicitor-General, or to the President, as the fountain of all executive power in the land. I thought possibly they might come to me and ask me to refer it, but they did not do that.

Q. Just state what you did say. You have the paper there. I do not want to misrepresent you. Just see what you say there in that letter.—A. I supposed they would come to me either to refer the matter to the Solicitor-General or to the proper party.

Q. Is that in your letter?—A. Yes, sir.

Q. You did, then, come to the conclusion from what was said that they would come to see you again?—A. No, sir; not from anything that was said.

Q. You inferred or supposed that they would come again?—A. I just inferred it from the precedents of the office, as it had been the course to ask for the reference to the proper person.

Q. From what was said there that day did you suppose or was it suggested that the application was to be made again?—A. No, sir; nothing was said at all about that. I supposed as a legal inference that they would come to me and ask if I would refer it, or that they would appeal to the President as the fountain of all executive power. "After the interview with the gentlemen already spoken of, I supposed that they would come to me with an application, after the statement I had made, to either refer the matter to the Solicitor-General or to present it to you"—that is, the President—"as the legal head of the Executive Departments of the Government." That is the language of my letter.

Q. Why did you so suppose?—A. Because the legal inference, according to the precedents, as I have just now stated, in the Department. They could have very reasonably asked me to have referred the application either to the Solicitor-General or the President.

Q. I understood you to say that you did not suggest it?—A. No, sir; and there is not a man in the crowd that will swear to it either.

Q. And you did not say anything to Solicitor-General Goode about it, but supposed they might, from a legal inference, ask the reference of the application?—A. I supposed that they would follow up their rights, or what they supposed to be their rights, and do that.

Q. Did I understand you to say that your relations to this matter were such, and your previous action such, that that was the reason why you did not say a word to Mr. Goode?—A. I never thought about it, and it did not enter my mind, and I do not think it would have been improper even if I should have said to the Solicitor-General, "Look into the matter, Mr. Goode, and if there is a case in it, you must bring suit."

Q. Did you think that he was posted upon everything in that office in relation to it?—A. No, sir; I did not suppose he knew a thing about it; to begin with, I did not have any supposition on the subject.

Q. Perhaps you can recall what passed between you and Mr. Goode when he returned from his trip to Canada; whether he did not converse with you in reference to matters coming before the Department during his absence. I understand you to say that you had no communication with him about this matter. Was it because you did not want him to know what had occurred in this case during his absence?—A. I was entirely indifferent about the matter. If he asked me, or anybody else asked me about it, probably I told him; I have frequently thought since this investigation began what I could have stated to him about it.

Q. What was the reason for your not saying anything? Did it occur to you that he would possibly be called upon to act in the matter?—A. I never thought about it. It did not occur to me one way or the other after he came home.

Q. Probably you spoke of this matter to a clerk or some man in your Department?—A. No, sir.

Q. You kept strictly silent?—A. I had no communication with any of my subordinates except in the reference of this letter, which went through official hands.

Q. Do you know any reason why you should have kept silent on the subject after what had occurred?—A. After what had occurred, it seemed to me the utmost propriety that I should be entirely silent. I will say that I considered it delicate, if not impolitic, to say anything to anybody about it.

Q. Did it occur to you after you were away that this expected new application would be made while you were absent?—A. I knew that if these parties availed themselves of their legal rights in the premises they would go to somebody else for relief. The matter, however, passed entirely out of my mind, and, really, after I got this dispatch at Little Rock from the Times-Democrat, I had to study some time to recollect the matter—the matter had gone so entirely out of my head.

Q. I suppose, as a matter of fact, you would not have felt bad to have had such a suit brought in the name of the Government?

The CHAIRMAN. I suggest that the gentleman withdraw that question.

The WITNESS. Let it go. I would not have felt bad or felt glad either. I became entirely indifferent about it.

By Mr. RANNEY:

Q. I do not mean to press any questions that are offensive. I hope you understand me in that respect?—A. You cannot offend me. I did not come here to be offended.

Q. You dropped out something in your direct examination about giving a thousand-dollar note?—A. On the first assessment we made a note to get money to start the business.

Q. I thought you gave a note to the company?—A. No, sir; we put the note in bank to start the business. I think Mr. Young will tell you more definitely about that.

By Mr. MOFFATT:

Q. You have referred to an interview Mr. Goode had with you in regard to this suit.—A. Yes, sir; about the time of my letter to the President. He made the remark that he brought the suit—ordered it, I believe he said. He said that he did not know at that time I was interested in the company. That was all which occurred in reference to it.

Q. Did he state, Mr. Attorney-General, that he had adopted the unusual course of ordering the suit without reference to the Interior Department?—A. He said in his letter to the President, which you have here, that he found there were precedents authorizing it, and that he was satisfied from the showing that was made to him that the bringing of the suit was justified.

Q. What is the general form of the reference to the Interior Department?—A. It varies. There is no special form. Sometimes it is worded in this way: "I respectfully refer you the accompanying letter, or copy of letter, for such information or suggestion as you wish to make." Sometimes the reference asks for such information and advice or such action as the Department thinks proper to take, and requesting that the letter be returned to the Department of Justice. It varies.

Q. And the question is not the bringing or the not bringing of the suit?—A. Sometimes the bringing of suit is advised and sometimes it is not. Now, the case of a gentleman who applied to the President for the purpose of bringing a suit in a patent case I recall distinctly. The President sent him to me and I referred him to the Interior Department. The Interior Department examined into the matter and reported the facts by letter and wound up by saying that it was not a proper case in which to bring suit. That thing occurs frequently.

Q. In regard to the precedents in the Department of Justice, I understood you to say that there are cases in which suit has been ordered without reference, and subsequently your testimony went off on land patents. Now, I will ask you if there are any suits ordered to vacate patents without reference to the Interior Department?—A. I could not say myself positively in all instances of that kind which have come before my Department I have referred to the Interior Department. Without making an examination I could not answer that.

Q. You are still a director of this Pan-Electric Company, are you not?—A. Yes, sir.

Q. And attorney or counsel for that company.—A. Yes, sir; I never severed my connection with it.

Q. And you still hold this stock?—A. Yes, sir.

By Mr. RANNEY:

Q. You had an application from New York the 28th of July; do you remember that?—A. That is the one I expect, which I have just been speaking of in answer to the last question.

Q. I will ask that the letters in this case be put in the record. I have them here. If you will look at them and answer it will save your coming here again. [Handing letters to witness.]—A. (After examining papers.) Yes, sir; those papers are correct.

Q. These seem to be about the date you acted when this other thing came up?—A. That was running along from the 1st of July to the 30th.

Q. That was an application to set aside, as I see from the papers themselves, a patent, on the ground of fraud?—A. Yes, sir.

Mr. HALL. I would like the other members of the committee to see what these papers are.

The WITNESS. It is not in reference to a telephone patent at all.

Mr. RANNEY. I will read one. "If these facts are shown, my understanding of the rule is that such patent would be held illegal and invalid, and that in case such facts are true, such patent is probably voidable. My attention has been called to the case of the United States of America v. Gunning and Adaline N. Ingersoll," is the language of the Commissioner of Patents; and the Attorney-General says in his letter: "After a careful examination of the report of Mr. Montgomery and the accompanying papers, I am of opinion that his conclusion is correct, and, therefore, I decline to grant the use of the name of the United States for that purpose."

Mr. HALL. That does not relate to this Bell telephone case, does it? [Addressing witness.]

The WITNESS. No, sir; it does not relate to telephones at all.

Mr. HALL. Well, that is all I care about knowing.

The WITNESS. This letter of mine was directed to Mr. Townsend, the district attorney of New York.

Mr. RANNEY. Yes, sir; and I will hand them to the stenographer to incorporate in the record, if there is no objection.

There being no objection, the papers referred to are made a part of this record, and are as follows:

A.

UNITED STATES OF AMERICA.

DEPARTMENT OF JUSTICE, April 19, 1886.

Pursuant to the act of Congress of February 22, 1849, I hereby certify that the annexed papers are true copies of the original records on file in this office.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed, on the day and year first above written.

[SEAL.]

JOHN GOODE,
Acting Attorney-General.

[Indorsement.]

Int. Dept. Dated July 23, 1885.

Department of Justice. Number 7178, 1885. File No. 188. Received July 24, 1885.

From Sec.

(Verbal by Asst. Sec. Muldrow, July 23, 1885.)

Subject: Rel. to application for suit to vacate patent of Sept. 30, 1884, to James Sergeant and Marion Warren.

Charged to

Action: Answers and all papers returned July 23, 1885.

7178.]

DEPARTMENT OF JUSTICE,
Washington, July 23, 1885.

The SECRETARY OF THE INTERIOR:

SIR: I am in receipt of your communication (by Assistant Secretary Muldrow) with accompanying papers, touching the application of Albert S. Bigelow for the bringing of a suit to vacate a certain patent therein named, issued September 30, 1884, to James Sargent and Marion Warren.

The communication does not give any wish or expression of opinion as to the request made by Mr. B. As the patent comes from your Department, it is usual, in such cases, before any action is taken here, for your Department to give some expression of opinion or indicate some wish in reference to the propriety of granting the application. And as I consider the cases in which such suits should be brought very rare indeed, I would much prefer the Interior Department would, in this case, indicate its will, or its opinion as to the propriety of the course insisted upon by Mr. Bigelow.

With high regard &c.,

A. H. GARLAND,
Attorney-General.

[Indorsement.]

Dept. Int. Dated Aug. 3, 1885.

Department of Justice. Number 7437, 1885. File No. 7178, 1885. Received Aug. 5, 1885.

From L. Q. C. Lamar, Sec.

Subject: Rel. application use name U. S. set aside patent to Jas. Sargent & Marion Warren

Charged to C. C.

Action: Aug. 5, 1885. Wrote U. S. Atty. Townsend, Troy, N. Y. Wrote G. B. Selden, Rochester, N. Y.
File.

DEPARTMENT OF THE INTERIOR,
Washington, August 3, 1885.

SIR: Referring to your letter of the 23d instant respecting the application of Albert S. Bigelow, of Rochester, N. Y., to be permitted to use the name of the United States in a suit to vacate letters patent No. 305,956, for an improvement in safety valves, issued September 30, 1884, to James Sargent and Marion Warren, alleged joint inventors, upon the ground that it can be conclusively shown that said Warren was the sole inventor of said improvement, and that the patent is therefore void for fraud in its procurement, I have the honor to state that the matter was duly referred by me to the Commissioner of Patents for examination and recommendation.

A copy of his report, dated 25th instant, declining to recommend such action, is herewith inclosed, together with the papers referred.

He is of opinion, as there is no question raised as to the patentability of the invention and the right of one of the parties to have applied for and received it, there is not such fraud upon, or rather not such interest in the Government, as to necessitate the bringing of suit in its name for the purpose of vacating the grant. He distinguishes this case from that of Gunning, instituted in the southern district of New York in 1883, in that as to that case the grant was a monopoly improperly obtained for an alleged invention of an article already in use and belonging to the public, in which case public right, as well as public policy, was violated, and the Government might therefore be properly called upon to recall its improvident grant.

I concur in the recommendation as submitted by the Commissioner.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

Hon. A. H. GARLAND,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, August 5, 1885.

SIR: The application of Albert S. Bigelow, for the use of the name of the United States in a suit to vacate Letters Patent 305,956, issued to James Sargent and Marion Warren, has been for some time before the Secretary of the Interior, and to-day I have received from him the papers, with his recommendation that the name of the United States for that purpose be not granted. The Secretary of the Interior concurs in the report made upon this subject by Mr. Montgomery, the present Commissioner of Patents, a copy of which report I herewith send you. I have also mailed to you the other papers in the case.

After a careful examination of the report of Mr. Montgomery, and the accompanying papers, I am of the opinion that his conclusion is correct, and that a proper case for interference by the United States has not been furnished, and therefore I decline to grant the use of the name of the United States for that purpose.

Very respectfully,

A. H. GARLAND,
Attorney-General.

Hon. MARTIN I. TOWNSEND,
United States Attorney, Troy, N. Y.

DEPARTMENT OF JUSTICE,
Washington, August 5, 1885

SIR: I have to-day returned to Hon. Martin I. Townsend, United States attorney, a reply to the request heretofore sent up through him for the use of the name of the United States to vacate letters patent to Sargent & Warren, made on behalf of Albert S. Bigelow, and I have sent to him the papers which accompanied that application.

Very truly, yours,

A. H. GARLAND,
Attorney-General.

GEORGE R. SELDEN, Esq.,
Attorney at law, 50 and 51, Arcade, Rochester, N. Y.

DEPARTMENT OF THE INTERIOR, UNITED STATES PATENT OFFICE,
Washington, July 25, 1885.

SIR: In response to the letter of the Attorney-General, addressed to the Secretary of the Interior, in regard to the "application of Albert S. Bigelow for the bringing of a suit to vacate a certain patent issued September 30, 1884, to James Sargent and Marion Warren," in which letter the Attorney-General requests that he would "prefer the Interior Department would in this case indicate its will or its opinion as to the propriety of the course insisted upon by Mr. Bigelow," and which letter was referred to me "for examination and report as requested by the Attorney-General," I respectfully report:

First. That I have made a somewhat careful examination of the facts exhibited in behalf of applicant Bigelow, and I am of opinion that all the material facts averred in the accompanying bill of complaint, which is proposed to be filed, can be shown at least *prima facie*, and can probably be established beyond serious controversy.

Second. If these facts are shown, my understanding of the rule is that such patent would be held illegal and invalid, and that in case such facts are true such patent is probably voidable.

My attention has been called to the case of the United States of America v. John Gunning and Adeline M. Ingersoll, which was a suit commenced by bill in equity in the circuit court of the United States for the southern district of New York for the purpose of vacating certain letters patent theretofore granted to said Gunning, upon the ground that "applicant induced the grant by his statements in his application that he believed himself to be the inventor of the patentable subject, and did not know or believe that it had been in public use or on sale in the United States for more than two years prior to his application, whereas both of these statements were false to his knowledge."

In this case Mr. Bigelow asserts that Sargent and Warren obtained letters patent to themselves jointly for an invention which they asserted was their joint invention; whereas, in truth and in fact, the same was the sole invention of Warren. It is not complained that the monopoly created by *such a patent* should not have been granted; on the contrary, it is agreed that Warren was entitled at that time to precisely the monopoly which Sargent and Warren secured by virtue of their joint application, and in pursuance of a previous contract entered into between themselves.

It will be observed that in the Gunning case the bill was filed and the suit maintained upon the ground that no monopoly in fact should have been granted; that applicant was not the inventor at all, nor in privy with such inventor; and, also, that the invention had been in public use for more than two years, and patent was barred by the statute, and the invention belonged to the public.

I need hardly suggest that there is a palpable distinction between the case presented by Mr. Bigelow and the Gunning case. Neither the Government nor the public can be said to be injured by the issue of the patent to Sargent and Warren simply because it issued to them jointly instead of to Warren alone.

Assuming, therefore, that such proceeding as is contemplated here should be instituted very rarely, and only in exceptional cases, I am compelled to report that in my opinion the emergency does not exist which should call upon the Interior Department to recommend to the Attorney-General the institution of a suit.

The communication of the Attorney-General is herewith returned.

Very respectfully, your obedient servant,

M. V. MONTGOMERY,
Commissioner.

The SECRETARY OF THE INTERIOR.

[Office of J. N. Beckley, city attorney, 19 City Hall Building, Rochester, N. Y.]

JULY 28, 1885.

SIR: I take the liberty of sending you herewith the memorandum on behalf of Mr. Bigelow in the matter which has, or will, come before you from the Interior Department, and with reference to which you kindly gave me a hearing on Saturday last.

I am, with great respect, your obedient servant,

JOHN N. BECKLEY.

Hon. A. H. GARLAND,
Attorney-General, Washington, D. C.

In the matter of the application of Albert S. Bigelow for the commencement of an action by the United States to vacate letters patent 390,466.

MEMORANDUM ON BEHALF OF MR. BIGELOW.

The papers presented show :

(1) The letters patent for the joint invention of Sargent and Warren were granted and issued upon their joint application and joint oath to the effect that they were joint inventors of the improvement. (See certified copy oath attached to bill.)

(2) Sargent has made four affidavits, in actions brought by him in the supreme court of the State of New York, in each of which he swears that he is the sole inventor of said improvement. (See Exhibits C, D, E, and F, duly certified, attached to bill.)

(3) Warren has made application for a patent for the same invention, in which he makes oath that he is sole inventor of said improvement. (See Report of Commissioner of Patents.)

(4) Upon the facts above summarized it is claimed on behalf of Mr. Bigelow that the court must, if an action be brought by the United States to annul said letters patent, make a decree declaring them void. (See Mr. Selden's brief already submitted.)

(5) An action to vacate said letters patent can be maintained only by the United States. (See said brief.)

(6) The letters patent aforesaid are being used by Sargent to improperly and unjustly injure persons engaged in a lawful business. Such persons have no remedy for such improper and unjust use, except as the sovereignty shall intervene. (See papers presented and report of Mr. Townsend.)

(7) The letters patent were obtained from the Government by fraud. The Government certainly is interested in having its statutes, framed deliberately for the protection of its citizens, complied with. It does not suffer pecuniary injury by reason of the false statements on which it relied when it issued its letters to Sargent and Warren, but its citizens are injured by its act, which is based on the fraud stated. It is respectfully submitted that the Government should, by means of the action suggested, cause to be undone that which without fraud committed upon it would never have been done, to the end that its laws may be complied with and its citizens protected.

JOHN N. BECKLEY,
For the Petitioner.

ROCHESTER, N. Y., *July 28, 1885.*

DEPARTMENT OF THE INTERIOR, UNITED STATES PATENT OFFICE,
Washington, July 30, 1885.

DEAR SIR: You will remember that I spoke with you this morning at the Executive Mansion in relation to the reference which Mr. Beckley telegraphed me. You suggested that I should give it to the Secretary of the Interior, to be sent by him with his report in the matter which was referred here. I learn on inquiry, however, that the report had been made on yesterday. I therefore simply send you the reference which he telegraphed, which was chapter 14, Curtis on the Law of Patents, fourth edition.

Very truly, yours,

M. V. MONTGOMERY,
Commissioner.

Hon. A. H. GARLAND,
Attorney-General.

Q. I take it these papers were in your office when you left there August 27.—A. Yes, sir; I presume they were.

Q. And if Mr. Goode had looked the matter up he would have found them?—A. They had been there all the time, I suppose.

Mr. RANNEY. I am glad to find that the Department sustained my view of the law.

By Mr. HALL:

Q. I will ask you, Mr. Attorney-General, if from the inception of this association between you gentlemen it was known or considered that litigation would spring up between this corporation and the Bell Telephone Company?—A. I do not know that it was considered that there would be, but of course we expected to meet with opposition. We expected to meet with competition and warfares such as all corporations have to encounter.

Q. But the question of infringement was not raised until after you had consented to become one of these incorporators?—A. No, sir.

Q. What I want to know more particularly, is whether this association or corporation was a scheme devised by a number of gentlemen to break down or attack the

Bell Telephone Company?—A. No, sir; nor to attack any other company or anybody else.

Q. And it was your belief that your invention would be a success upon its own merits?—A. Yes, upon its own merits. That was our view of it.

Q. The fact has been drawn out in the examination that after this application was made to you to order the suit, that you did not communicate with General Goode or any other subordinate in your office in relation to the matter. Now, I ask you was that silence on your part for any purpose?—A. No, sir; I did not happen to think about it.

Q. Was it with a view to keeping from these subordinates that this application had been made?—A. No, sir; because it came through the chief clerk's office with the Rogers letter.

Q. And if Mr. Goode or any of these subordinates wished to know what action had been taken in the premises, all they had to do was to refer to these papers in the Department?—A. Yes, sir; because they were all there.

Q. So that it would be impossible that there could be any concealment about the matter?—A. Oh, none at all; you see these gentlemen who came there—these four gentlemen—did not file any application; they had their books and papers to refer to, and stated that they wanted to use the name of the United States in bringing this suit. As I said before, I cut them off short, and there was nothing further to it. Nothing went on file at that time for Mr. Goode or anybody else to see. It was simply a verbal statement, which I ended as peremptorily as I could politely do so.

Q. And your presumption was that they would follow the matter up in some other form, in accordance with the practice in such cases?—A. Yes. They seemed to be very much interested. In fact, Mr. Van Benthuyzen or Mr. Von Briesen seemed to be troubled considerably, and I did not suppose that the matter would end there. I thought as lawyers they would follow the matter up.

Q. From any conference or conversation, was there any intimation that they would do that?—A. No, sir.

Q. And I will ask you whether there was any verbal or other communication, directly or indirectly, advising any particular method of procedure?—A. No, sir.

By Mr. HALE:

Q. Since you have been Attorney-General, since March, 1885, what connection, if any, have you had with this Pan-Electric Company?—A. I have not been to a meeting of the company and have not talked about the business of it to a solitary person since I have been Attorney-General, nor for some time before. It was the general complaint always that I did not attend more meetings. It has been stated by somebody that I had attended a meeting at the Ebbitt House about the pendency of this controversy before the Interior Department. I have never been at a meeting held there since several years ago, when I went there to see Mr. Murphy about the Hennepin Canal.

Q. As a practical business man you had no connection with this company since you have been in office?—A. None at all.

By Mr. RANNEY:

Q. One branch of this inquiry is in relation to the reason for bringing the Government suit. Do you care to give your views on that point?—A. That would commit me to the opinion why we have the right to bring suit, and, as matter of fact, I do not know that the suit is pending. I hear it is. I have never given it any thought, and do not know what is in it.

Q. You know that is included in the resolution, and that is my reason for asking the authority for bringing the suit.—A. I would not care to express an opinion on that, as I started to stay out of the thing, and I think I have kept out of it very well.

Q. You do not care to answer that?—A. Not unless the committee presses me.

Q. Something has been said in the papers as to what disposition has been made of your stock in the company.—A. None whatever. I got my certificate from Secretary Johnston. He sent it to me last April a year ago, I believe it was, and I have it yet, and with that exception I have not heard of the Pan-Electric Company one way or the other since.

Q. Mr. Van Benthuyzen swears that he stated at that interview they concluded upon another course, and were going to apply to the district attorney.—A. I do not recall it.

Q. There is a discrepancy here as I recall it.—A. I cut the interview off short. If he stated that, it did not make any impression upon my mind. He and his counsel were very earnest in all their talk, but I cut them off.

Q. I simply thought I would call your attention to a discrepancy which you might correct.—A. If it occurred I have no recollection of it.

By Mr. OATES:

Q. Since you have been appointed Attorney-General have you done any act, either directly or indirectly, to enhance the interest either of the Pan-Electric Company or

the Pan-Electric Telephone Company, as counsel for them or as a stockholder interested in the matter?—A. There has been no thought or action of mine that was calculated in the remotest degree, since I have become Attorney-General, to increase the value of that stock, or to enhance the value of that property in any way. If such has been the case I cannot recall it to mind. I have not been at any of the meetings. I have never conferred with the gentlemen connected with it about it at all, and I have never had any conference with anybody concerned in this matter, except with Senator Harris, and only with Senator Harris to ask, since this investigation began, whether he or Mr. Atkins was the first to mention this enterprise to me. He told me that Mr. Atkins was the first, and I have not read three pages of the testimony that has been given here.

By the CHAIRMAN:

Q. You have shown some papers from your Department relating to an application for a suit to vacate a patent to James Sargent, issued September 30, 1884. I will read the first paragraph: "In response to the letter of the Attorney-General, addressed to the Secretary of the Interior, in regard to the application of Albert Bigelow for the bringing of a suit to vacate a patent issued September 30, 1884, to James Sargent and Marion Warren, in which letter the Attorney-General requests that he would prefer the Interior Department would in this case indicate its will or its opinion as to the propriety of the course insisted upon by Mr. Bigelow." I read from the letter of the Commissioner of Patents dated July 25, 1885. This application seems to have been made verbally, as I gather from the papers, on the 23d of July, 1885. The application of Mr. Van Benthuyzen had been made on the 12th of July, and was referred by you to the Interior Department?—A. Yes, sir.

Q. And it seems that you referred this application to the Interior Department also?—A. Yes, sir; that is my recollection.

Q. Do you recall what this patent was for?—A. I do not; there may be some paper there which states it, but I do not recall it now. I think is the case where this gentleman I have spoken of went to the President. He did not know exactly what to do, and thought it the proper course to go to the President, and the President or his secretary sent him over to me with a card of introduction, and I referred the matter to the Interior Department, and it went through it that way.

Q. You state in your letter of the 23d to the Secretary of the Interior as follows: "As the patent comes from your Department, it is usual in such cases before any action is taken here for your Department to give some expression of opinion, or indicate some wish in reference to the propriety of granting the application. And as I consider the cases in which such suits should be brought very rare indeed, I would much prefer the Interior Department would in this case indicate its will or its opinion as to the propriety of the course insisted upon by Mr. Bigelow." That seems to have been an expression of your opinion on the general question to the Interior Department at the same time that this Van Benthuyzen application was pending before that Department?—A. Oh, yes; the papers were there.

Q. And then you suggested to the Interior Department that you thought the case was one in which a proper cause for interference had not been furnished, and therefore suit should not be allowed?—A. That is the language of the law books on the subject, as a rule.

Q. In that case the Commissioner of Patents received the communication, reported the matter to the Secretary of the Interior, and it was returned by the Secretary to you?—A. Indorsed to me.

Q. You found, I infer from reading the papers, that it was not a case of such character as warranted the bringing of suit in the name of the United States?—A. I drew the distinction in that case in the beginning of the case.

Q. What did the case involve?—A. I do not know exactly. I have only seen it cited in the books in these cases.

Q. You seem to have recognized the power of the United States to bring such suits, but that its exercise would depend upon the facts in each particular case?—A. Yes, sir; and the presumption is strongly in favor of the grant as it stands.

Q. You gave a pretty strong opinion against the bringing of suits of that kind, notwithstanding the Van Benthuyzen application was pending?—A. Yes, sir.

By Mr. RANNEY:

Q. Do you not understand that this power of the Government is only exercised where a patent is obtained by surreptitious means, or by fraud upon the Government?—A. Not a mere matter of infringement?

Q. No, whether this power would in such a case be available in an infringement case?—A. Justice Miller in 14 Wallace, in the Moury case, announced the doctrine that I consider sound.

By the CHAIRMAN:

Q. Do I understand you to say that it should be confined to cases of fraud?—A. No,

sir; not as I understand Mr. Ranney to put the question; that was one of the elements. The opinion of Justice Miller in the Mowry case lays down the doctrine.

By Mr. OATES :

Q. Is it unusual or unprecedented for a district attorney to bring a suit?—A. Oh, no, sir; this very case was sent here, as I remember, by District Attorney Townsend; that is, applying to the Department of Justice for leave to bring it. The question which I understood Mr. Ranney to ask a little while ago was, was it not unusual for the district attorney, of his own motion, to bring it? Of course they often petition by letter the Department of Justice for leave to bring it.

Q. Is it unusual for an application to be made through a district attorney?—A. It is not unusual; it is sometimes done.

Q. I understood you to make the statement that the proper course to pursue was to make direct application to the Attorney-General?—A. The district attorney or parties could themselves make it. In this case we have been speaking of, Mr. Townsend, as I remember, applied to the Department for leave to bring suit. If I understood Mr. Ranney's question, it was, if it was not unusual for the district attorney to bring the suit.

By Mr. RANNEY :

Q. I will ask further, then, before this how had such suits been brought?—A. Oh, there are plenty of cases where they asked the Attorney-General for liberty to do it. There is one right here now. The parties may ask themselves, or the district attorney may ask for it, or any person may make the application who considers himself damaged or injured by a patent improperly held.

By the CHAIRMAN :

Q. Ask through the district attorney?—A. Ask through the district attorney to be heard.

By Mr. RANNEY :

Q. Is it within the duty or province of the district attorney to bring such suits?—A. They have done it frequently. There is no particular form in which it is done. The parties might jump over the district attorney and come themselves to the Department of Justice, if they want to; but as said before, district attorneys do not bring such suits without leave of the Department of Justice.

By Mr. HALE :

Q. It was stated here by the two Rogerses that Casey Young said to them on one occasion that you had agreed to have this Government suit brought. State whether that is true or false.—A. I never agreed to any such thing.

Q. Mr. Young denies the statement, of course.—A. I had no more idea of bringing the suit than of jumping into the Potomac with a millstone about my neck. If I had promised to bring it, I would have brought it if I were thrown out of that office the next day.

Q. And you neither agreed to bring the suit nor to have it brought?—A. No, sir; I did not know anything about it, except that I agreed I would not bring it.

At this point the committee adjourned to meet April 21, 1886, at the usual hour.

WASHINGTON, D. C., April 21, 1886.

Committee met pursuant to adjournment.

The CHAIRMAN. I requested Mr. Humphreys, of New York, to be present this morning, and I understand he has responded.

D. HUMPHREYS, being duly sworn, was examined as follows:

By the CHAIRMAN :

Question. Where is your place of residence?—Answer. Cincinnati.

Q. Are you connected with any telephone company?—A. I am counsel for the Globe Telephone Company, of New York, and have been, perhaps, for two years.

Q. Who are the officers of that company, if you know?—A. W. W. Goodwin, of New York, president, and Amos Rogers, secretary.

Q. Do you know of your own knowledge whether any member of Congress or any officer of the United States Government is a stockholder or officer in that company?—

A. I think there is neither a member of Congress nor an officer of the United States Government who has stock in that company.

Q. It is one of the companies at whose instance the suit was brought, is it?—A. We filed a petition for the Government suit.

Mr. RANNEY. I move to strike out the question and answer. This question and answer are in reference to members of Congress or Government officials holding stock in the Globe Telephone Company, and that has nothing to do with the subject we are investigating.

Mr. EDEN. I wish to remark that this seems to be one of the companies which was instrumental in having suit brought, and in that view I think the question is proper.

(The question and answer were read by the stenographer, the yeas and nays ordered, and the motion to strike out was lost.)

The WITNESS. That is, I meant to say I did not know of any Government officer having any stock. There may be such stockholders, but I do not know it.

Mr. RANNEY. It does not appear that this man is the secretary or treasurer of the company. He is simply counsel, and he says he does not know.

The CHAIRMAN. I asked him whether, of his own knowledge, he knew. That will protect him in the matter. I ask the witness if he knows of his own knowledge as counsel, or secretary, or in any relation to the company, whether any member of Congress or any officer of the Government was a stockholder in this company.

The WITNESS. I think perhaps I would know if there were any; I would not want to say positively whether there is or not—I do not think there is.

Q. Do you know whether your company was a party to the application for the use of the name of the Government to bring the suit to test the validity of the Bell patent?—A. I believe I filed the first application in the Department of Justice to have the Government suit brought, after the case had been withdrawn from Memphis. I think I filed the first petition there for the Globe Company. I drew up or dictated three or four petitions that were filed there at that time.

Q. Look at the paper I hand you and state whether that is the application. (Indicating to witness the application in printed form.)—A. That is the application of the Globe Company. I think my name is to it as counsel. Yes; I see it is here.

Q. The date of the application is October, 1885. I believe it is all in evidence. Was this application in pursuance of arrangement or agreement with any other company or individual?—A. No, sir; it was made on my own suggestion. It came about in this way: when the Government suit was first filed in Memphis, I had, previously to that time, been getting a defense ready for the Globe Company in regard to prior inventions and non-infringements of the Bell patents. I was looking for devices that did not infringe, and also for those in which the discovery was prior to Bell's. The Government suit was filed in Memphis. I concluded at that time that if the Government had taken hold of the matter, there was not much use of fighting an individual case, because all the defenses would be brought out in the Government suit, and the Government suit would be tried for all it was worth, and every particle of testimony in existence brought in, and that there would not be much use for them to try it themselves if the Government suit should go against the opposition. I so represented to the officers of the Globe Company, and I represented to them that we ought to, by all means, get a foothold in the Government suit; that is, to render our assistance both in respect of counsel and testimony, and witnesses and everything we controlled, so that the Government case would be made as complete as possible. We all labored under the impression—that is, all who paid any attention to this fight—that if we got a fair hearing in the case against the Bell Company, we would establish two facts—

Mr. RANNEY. I do not think it proper to state that; it has no relation to this matter.

Q. The WITNESS. As I have said, I reported to the officers of the Globe Company that we ought to render all the assistance in our power to the Government in order that all the facts would be brought out in that case, and on the strength of that, after we talked the matter over, I came here to Washington to see if it would be agreeable to all parties that we file a petition in the case, and render what assistance we could.

By the CHAIRMAN:

Q. Was that while the suit in Memphis was pending?—A. I came here first when the suit was pending in Memphis, and after I had come here and while the suit was pending in Memphis, I called on the various parties to see if there was any objection to our rendering all the assistance we could. They said this was a Government case, and they thought that the view we had taken of it was the proper one, and that we ought to have a fair, full, and complete trial of all the facts in the case.

Q. Who were the parties you talked with?—A. I think I saw General Joe Johnston first and asked him if he had any objection to our rendering what assistance we could. I think I spoke to General Atkins, may be; I saw General Bradley Johnson; I telegraphed to him to come over here; I saw all of those whose names have been identified with the matter.

Q. At that time did you see the Attorney-General?—A. I think I did not see the Attorney-General at that time.

Q. What time did you do that?—A. That was along about August or September; I think it was as long ago as last summer; I do not think I saw the Attorney-General at that time.

By Mr. RANNEY:

Q. Did you say where the Government suit was brought?—A. At Memphis.

Q. That was not brought until the 10th of September, was it?—A. Well, soon after that time I refer to.

By the CHAIRMAN:

Q. Did you take any further steps to identify yourself with that suit?—A. When I was here in Washington at that time, while they were taking steps to go into the Memphis case, it was understood that the President had taken the bit, and that he was going to withdraw the Memphis case and refer it, through the Interior Department, and require it to go through that channel, and for that reason I did not file a petition. As soon as I went back to New York, when the Government suit was withdrawn, I immediately prepared a petition to hand in to the Department of Justice, and then I came on to Washington and went in to see General Garland.

Q. After you had been here to consult with General Johnston and others in regard to taking part in the Memphis suit, did you understand that the Memphis suit had been withdrawn?—A. I understood that, after I had talked with them. I had not learned from any of them that it was going to be withdrawn, but it was intimated to me that perhaps that would be the course that would be pursued, and I thought I would wait a few days to see whether it would turn out so or not.

Q. Who intimated that?—A. Mr. Manning, I think.

By Mr. RANNEY:

Q. Not the Secretary of the Treasury?—A. I think he is an ex-member of Congress from Mississippi, and is now a practicing lawyer in New York.

By the CHAIRMAN:

Q. Can you fix that date?—A. That occurred along in September.

Q. Was there any arrangement made between you and these other gentlemen that you would make an application to the Department of Justice?—A. No, sir; not any arrangement. I came here for the purpose of seeing them about the matter, because, of course, they were in the case and I did not want to go in and incur any hostility, but to assist in the matter, if they had no objection to our company being mixed; and we did not want to do so unless it was agreeable to them. I consulted with them for the purpose of ascertaining whether they thought it would be right and proper for me to file a petition for our company, and whether they had any objection to it. I thought that the proper courtesy to show to counsel and officers. That was my object in seeing them as to whether they had any objection.

Q. Then the information given to you was that the Memphis suit would be withdrawn, and that the application would be referred by the President to the Interior Department?—A. Yes, sir; I learned that after I got here, and for that reason I did not file any.

Q. And when you did file your application, was it to join that of any other company coming into the case?—A. After the Memphis suit was withdrawn I immediately took steps to file a petition.

Q. Was that done in pursuance of any arrangement or agreement with the Attorney-General or any other officer?—A. Now, it was about that time, or it may have been the first time that I was down here, that I saw Mr. Garland.

Q. Was it before or after you had heard that the Memphis suit would be withdrawn?—A. I think most likely it was before I understood the Memphis suit was to be withdrawn.

Q. How long?—A. What date was the Memphis suit withdrawn?

Q. I do not recollect the date.—A. It was along in September sometime, I think.

Q. Had Mr. Garland returned here at the time you are speaking of, early in October?—A. He had not returned very long before it was done.

Q. Now state the circumstances of your interview with the Attorney-General.—A. I took the petition—either this one or some other—and went in to see General Garland about the matter. I introduced myself.

Q. Can you state right there whether it was this petition, or another, with a view to fixing the date?—A. I may have made some changes in it; I do not know whether that is the one or not.

Q. It is dated October?—A. I may be wrong. Well, it is practically the same petition.

Q. I understand you to say that you had not determined to present a petition until after you learned the Memphis suit was to be discontinued?—A. If I went in to see Mr. Garland the first time I was down here, I must have presented that before I un-

derstood it to be withdrawn. I did not file any, at any rate, when I saw Mr. Garland the first time.

Q. While the Memphis suit was pending how did you know it was to be withdrawn? Why did you call on him in reference to the Memphis suit?—A. Simply to refer our petition to him and ask him to refer our petition to Memphis and give us a standing in the case.

Q. This petition?—A. Either that or one similar to it. I think I made a second draft of it, and left out some words and added some.

Q. I gather from the wording of the petition that it must have been subsequent to the withdrawal of the Memphis suit?—A. Oh, that petition as amended there was certainly filed after the suit was withdrawn.

Q. State what was your purpose in calling on the Attorney-General, and what occurred.—A. After I had seen these various parties to learn if there was no objection to our taking a hand in the Memphis or Government case, why I went in to see General Garland at my own option. I told him that I had prepared a petition for my company, and I wished to have it embodied in the Government case as against the Bell people, and if possible we wanted to be considered; that it was a fight of the people against Bell. They were all for their rights in this matter; but General Garland did not allow me to say that much. I tried to say that much, but he cut me right square off, and said, "You must not speak me about that matter." I told him that I had not come to see General Garland, but to see the Attorney-General, and he must not consider himself the individual in this case, but as the Attorney-General, and he very politely told me, "I have not anything to do with this case; I cannot have anything to do with it, and I won't have anything to do with it." I told him he must have something to do with it; that I had no other recourse; that it was a matter which the courts had passed upon again and again, and he had his course as Attorney-General to pursue; that proceedings to vacate patents had to go through his Department, and it had to appear somewhere in every case of this character; that the matter had been before his Department. I told him he had to see this petition, and he could either reject it, refer it, or pass it over; I did not care a cent what he did, and I made use of another expression; he said he had not had anything to do with it, he could not have anything to do with it, and he would not have anything to do with it under any circumstances; I told him I did not think it was right or fair that because of his having an interest in another company it should operate against our company, as he did not have any interest in that; he said I must not talk to him any more about the matter. I asked him where I should go; if he could refer me to anybody so that I might overcome the trouble; he said he could not refer me to anybody. That he had not referred to anybody, and would not refer to anybody; that he had an interest in the matter, and that he looked upon it as a judicial act to do anything at all; that in a manner he was estopped from saying or doing anything in the matter. I told him he was not acting judicially in the matter; that he was in an Executive Department, and that this was simply an act he was compelled to perform, and it was the same as the act of a sheriff when he has to execute a man; that it was none of my business or his whether he had an interest in the matter. He said that it required an act of judgment, and that was a judicial act, and I must not talk to him about it. But I did talk to him, and managed to get a few words out of him to the effect that he would not touch it. I went there to get an expression of some kind out of him, but I did not manage to do it.

Q. Did you do it at any other time you had an interview with him?—A. I have not talked with him from that day to this, except, perhaps, to pass the time of day with him when I met him in the elevator in the Department of Justice. Once or twice I have met him in the elevator and simply passed the time of day.

Q. To whom did you present your petition?—A. I finally presented or sent it to General Goode, and by him it was referred to the Interior Department. I was pretty considerably worked up about the matter. I thought he ought to have the nerve to act in the matter. I went away from General Garland with very much more respect for him than when I entered his room.

Mr. RANNEY. I do not think you should make any such remark.

The CHAIRMAN. It is not a remark that would hurt anybody, and I do not think there can be any objection to it.

Mr. RANNEY. It is an improper remark.

The CHAIRMAN. It hurts nobody.

By Mr. HANBACK:

Q. You say you left him with more respect than when you went in his room?—A. Yes, sir; than when I went in, because he convinced me that he was incorruptible.

Mr. RANNEY. Did you try to corrupt him?

Mr. HANBACK. Let that go.

By the CHAIRMAN:

Q. Had you any other connection, Mr. Humphreys, with the bringing of this suit?—A. Well, I filed a petition and I dictated a number of petitions.

Q. Did you take any part in the hearing before the Secretary of the Interior?—A. Yes, sir; we introduced a great deal of testimony in that case, which you will find in the printed record of the case. I think I produced a large proportion of the fraud record, and also the Dolbear, Eaton, Cushing, and Meucci, and some of the Reis papers. We went into the fight pretty lively, and I assisted in the argument as well as furnished testimony. We did what was allotted to us to do in that case.

Q. It appears in the testimony that you shared in the expense?—A. We paid no expenses except our own.

Q. Did you pay any part of the expense of printing?—A. Yes, sir; I think we paid about \$30.

Q. What proportion was that?—A. I think the whole record cost \$100.

Q. Was any arrangement made between your company and the Pan-Electric and the National Improvement Company to divide any part of the expense?—A. I think that was after the testimony was all in. There was an arrangement made between us by which we would pay pro rata for having the record printed. I think there was some statement of that kind made. I think our share was about \$30.

By Mr. RANNEY:

Q. I understand that you are counsel for the Globe Company?—A. Yes, sir. I might say here that I did start my own investigation about this. I asked a number of persons about the propriety of bringing this suit, and the prospects of getting a fair deal in the matter. I may have had suspicions in regard to the Democratic administration going in for reform. I never belonged to that party, and as to their pretensions for honesty and reform I may have had my suspicions.

By the CHAIRMAN:

Q. You thought better of that afterwards? But I do not ask you to answer that question.—A. I thought afterwards that there were some Democrats who were fair.

Mr. RANNEY. That is, if they served your purpose?

The WITNESS. I do not think they served my purpose, particularly.

By Mr. HANBACK:

Q. Who do you think are fair? What members of the present administration do you think are honest?—A. I think Mr. Garland is honest, and I think Secretary Lamar is another one beyond any peradventure or question.

By RANNEY:

Q. I do not propose to follow this line of inquiry any further. I understand that you are attorney for the Globe Telephone Company?—A. Yes, sir.

Q. And you are counsel practicing in New York, I understood you to say?—A. Cincinnati is my home. That is where I generally practice.

Q. I thought you were from New York?—A. Cincinnati.

Q. Where is this Globe Company located?—A. New York.

Q. Who is the secretary of it?—A. Amos Rogers.

Q. Who is the treasurer?—A. He is the treasurer.

Q. Who is the president?—A. W. W. Goodwin.

Q. Who has the books?—A. Amos Rogers.

Q. Have you ever looked to see who are the stockholders, or can you give us a list of the stockholders?—A. I do not think I could give you a list of the stockholders; the secretary can.

Q. How many stockholders do you think you could name?—A. I do not know how many.

Q. Do you know how many there are in all?—A. There are, perhaps, one hundred.

Q. Do you know where they are located?—A. They are nearly all in Philadelphia.

Q. What proportion of that number do you think you can name?—A. I do not think I could name one-fourth of them.

Q. Did you have anything to do with the organization of the company?—A. I did not.

Q. Have you had anything to do with the sale or disposition of the stock?—A. I have not.

Q. And never had?—A. No, sir.

Q. I understand that before this Government suit was brought in Memphis you had been acting as counsel in the preparation of a defense against the Bell Company?—A. Yes, sir.

Q. Was your company charged as infringers?—A. No suit was brought against them at that time, but the moment the instruments were put out suit would have been brought.

Q. You had not put out any instruments up to that time?—A. We had not then, because I advised against it until they had a complete defense ready.

Q. When did they commence to put out instruments?—A. They have never had any put out.

Q. Have they been sued by the Bell Company?—A. They did, but they have not made out a suit.

Q. We did not go into that, and I have not asked you about it. When were you sued?—A. When we were here before the Interior Department asking to have the Bell patents vacated. They filed a suit against us at that time in New York. We have not done anything except to ask the Department of Justice that we be heard and prove that the Bell Company got their patent by fraud and perjury.

Q. Answer my question. How long were you here looking up matters so as to make a defense against the Bell Company?—A. I came on to take charge of that case in July, I think.

Q. 1885?—A. Yes, sir.

Q. What patent rights was your company based on?—A. They have quite a number of different devices and control many different devices.

The CHAIRMAN. It seems to me that this is not material. The witness need not answer that question, in my judgment. It is not material to this inquiry.

The WITNESS. I do not think I could answer it.

The CHAIRMAN. You need not answer it.

Mr. RANNEY. I appeal from that ruling.

The CHAIRMAN. It is not material what instruments the Globe Company uses.

A vote was taken on the appeal of Mr. Ranney, and the decision of the chair was overruled.

By Mr. RANNEY:

Q. Without going into any details, just answer the question, Mr. Humphreys.—A. You are all lawyers, and know that communications made to me as counsel I dare not reveal, and I do not think I could do it without violation of professional duty. Communications that have been made to me as counsel I do not think I dare reveal.

Q. If you cannot, I leave it to your own judgment, and shall not press it. I supposed that you had been investigating the patents to see whether they infringed the Bell patents, and you might possibly know.—A. I do know the Bell patents.

Q. And that perhaps you had investigated the patents in which you were interested to see whether there was any infringement.—A. I investigated the matter? yes, sir. I thought I had a good case.

Q. Did you learn this in the Interior Department from the patents themselves?—A. I do not know about the Globe patents.

Q. You do not understand my question. I ask you simply what patents of the Globe Company in the Patent Office did you examine, and whether your information came from the examination of the patents themselves. Can you tell what patents you examined as belonging to the Globe Company?—A. I could tell perhaps. I did not think they infringed the Bell patent, but I cannot—

Q. (Interposing.) I do not ask your opinion whether or not they infringed the Bell patents, that is not the purpose of my inquiry. It is simply what the patents are which that company has.—A. If you want to know what patents the Globe Company owns I do not think I can answer that question, because I know that professionally.

Q. I ask you what patents purporting to belong to that company you examined in your investigation in the Patent Office?—A. I never investigated all the patents belonging to them.

By the CHAIRMAN:

Q. If you investigated them in the line of your professional employment, you need not state.

The WITNESS. I have only examined as to that matter professionally, and that is the only way. I cannot answer that question without telling what patents they own, and I cannot do that.

By Mr. RANNEY:

Q. You say, as an attorney you cannot do it without violating your oath as attorney?—A. Not without violating my professional communication. I can answer that question in another way.

Q. If you will not answer affirmatively, I will not allow you to answer the question negatively.—A. There has been no combination in any manner, or any combination of interests.

Q. I am not asking you that. Before you came to Washington you had heard of the Government suit, if I understand your testimony correctly?—A. I saw an account of it.

Q. Can you not fix the date?—A. No, sir; but I think in September some time. I am not sure about it.

Q. Can you not fix the date in September with more accuracy?—A. I do not think I can any nearer than I have. I think it was in September.

Q. Where did you stop when here, at what hotel?—A. I think I stopped at the National at that time.

Q. Are you quite sure?—A. Generally I stop at the Ebbitt House; but I think the first time I stopped at the National.

Q. As that was only last September, I thought perhaps you might remember?—A. My impression is that I stopped at the National at that time.

Q. You were here some time in September?—A. That is my recollection.

Q. Was it before or after Mr. Garland returned from his Southern trip?—A. I think after.

Q. What makes you think that?—A. Because he was here when I got here.

Q. When you first came?—A. Yes.

Q. Are you confident of that?—A. I saw him.

Q. Well, when did you come the second time?—A. I do not know as I came more than once, except when I came down to get ready for the trial. I think when I sent the petition to Judge Goode that I mailed it to him. That is my recollection.

Q. You mailed it to him?—A. I think I mailed it to him. I think as soon as the Government suit at Memphis had been withdrawn, as soon as I saw the statement made in the papers, I mailed the petition to Judge Goode. I think I sent it to him by registered letter. I was determined that the Department of Justice should take hold of it in some shape. That is my recollection.

Q. Let me understand you. Was the interview which you had with the Attorney-General of which you have testified the first time you were here?—A. I think it must have been.

Q. You are quite confident of it, are you?—A. Yes, sir.

Q. And you went home after that and mailed the application to Judge Goode?—A. Yes.

Q. Did you mail it to him before you came here the second time?—A. I think so.

Q. And you did not come the second time until proceedings had been commenced before the Secretary of the Interior?—A. I was down here; at least I came down here pretty soon after that in order to get at certain testimony.

Q. Before the papers had been referred?—A. I think so. I was here off and on frequently.

Q. Where did you stop the second time you came here?—A. I think I went to the Ebbitt House at that time.

Q. You think you stopped there?—A. I perhaps stopped at the National first all the time. The second time I may have stopped a day or so at the National and then went to the Ebbitt.

Q. And you are sure in your recollection that the first time you came here was after Mr. Garland returned from his vacation?—A. I do not think I came here at all until after he returned from his vacation.

Q. Well, we can fix it then without going to the hotel register. Are you attorney for Mr. Cushman too?—A. His counsel came into the Globe office when I was in New York and wanted to know what we thought he ought to do, and I suggested that everybody ought to be in the Government suit, and he concurred with me, and he said, will you prepare for me a petition? I had a petition dictated there and then for Mr. Cushman.

Q. Whom do you mean by everybody?—A. Every citizen of the United States who had an interest in telephones ought to be interested in having a thorough investigation into the Bell patents, and I think so now.

Q. Mr. Cushman was another man charged with infringement, was he not?—A. Not at that time. Mr. Cushman had had a contract with the Bell people. Mr. Cushman was an inventor of a telephone way back in 1859 or 1860. He used it in constructing a telegraph line from Toledo to Chicago. He never got out a patent, but had a practical speaking telephone. He was from New Lisbon, Ohio. After hearing of the Cushman invention the Bell people brought him to Boston and made a contract with him that he should keep his invention secret.

By Mr. HANBACK:

Q. How do you know that?—A. From the testimony.

Q. But you do not know anything about it—as a lawyer I ask you. You are now testifying to what you have heard somebody say, are you not?—A. He asked me if I knew about it.

Q. What you knew legally as a witness testifying.

By Mr. RANNEY:

Q. Do you know that Mr. Cushman had any controversy with the Bell people?—A. Not at that time. His contract then ran out. He had a contract to keep still three years, and they paid him a hundred dollars a month for keeping his invention secret.

By Mr. HANBACK:

Q. Did you see that contract?—A. I think I saw it.

By Mr. RANNEY:

Q. You say you drew this petition?—A. I think I dictated it.

Q. I will read a clause: "That electric speaking telephones were neither new nor novel at the time the first application by Bell was made, the same having been invented by Dr. S. D. Cushman, New Lisbon, Ohio, as early as 1853, and reduced by him to practice long before the dates of Alexander Graham Bell's application for patents, issued to him in 1876-1877." One of the grounds in the very application that you dictated was that he claimed to be an inventor of the telephone.—A. I do not think there is any doubt about it at all.

Q. Then, when I asked you whether he was not a party standing in antagonism to the Bell Telephone Company, why did you go off on giving information about some contract he made?—A. The question asked me was if Mr. Cushman was not an infringer of the Bell patents. I did not understand that he was an infringer of the Bell patent at that time. He was simply a prior inventor, and was in the employ of the Bell Company nearly up to that time.

By the CHAIRMAN:

Q. And I understand that there was a contract relation between them?—A. Yes.

By Mr. RANNEY:

Q. I understand that you are undertaking to tell what other people told you?—A. You asked me this question, whether Mr. Cushman was not an infringer of the Bell patent? I proceeded to tell you what Mr. Cushman was; that nearly up to that time he was in the employ of the Bell Company.

Q. We heard that; you need not repeat it.

By Mr. HANBACK:

Q. How do you know that he was in their employ?

Mr. RANNEY. I do not care about that. * You now say [addressing witness] by the application I read you that he claimed he was the first inventor himself. Now, was he?

A. I think he was.

Q. And it was by your first suggestion that he was brought in, was it?—A. I said that I suggested it to his counsel, who was in New York, when he came to see me at my office. He wanted to know what he ought to do, and I told him I thought everybody in interest ought to have a hand in this suit, so that it would be a full and fair trial.

Q. And thereupon you sat down and dictated this petition which I have read?—A. Yes, sir; I think I dictated that.

Q. Did you have anything to do with the Board of Trade in New York about that time?—A. No, sir.

Q. Are you sure?—A. Yes, sir.

Q. Did you know any man connected with the Board of Trade in New York about that time?—A. I do not remember anybody. My recollection is that right after the withdrawal of the Memphis case the Board of Trade took the matter up.

Q. I did not ask you that. I asked you if you knew any member of that Board of Trade?—A. I do not think I did.

Q. You do not feel confident of it. Did you take any action to get anybody else to come in?—A. I did not go out to take any action. The McDonough people came in to see me.

Q. Did they have anything to do with it?—A. I dictated their petition, I think.

Q. Was Mr. McDonough another man in antagonism to the Bell people?—A. He had been fighting with the Bell people in Connecticut and in New Jersey, and in the Patent Office.

Q. What did you do in that case; did you get him in?—A. He asked me what I thought he ought to do and how he should act, and I told him I thought that every good citizen and inventor ought to file their petition in the case.

Q. How came you, living out in Cincinnati, to be so active in New York in getting these people in?—A. I was not active. They came to the office and asked me what they ought to do, and I told them frankly.

Q. You have an office in New York, have you?—A. I was in the Globe office at that time. I was there taking testimony all the time.

Q. Did you read the resolution of the Board of Trade?—A. No, sir.

Q. You knew that McDonough had been sued in Connecticut, did you?—A. That was the first time, I think, I ever saw Mr. McDonough, when he called to see me in the Globe office, in Mills building, New York. He and Mr. Eldridge, of the North American Company, came to see me, and I was glad to see him. He certainly goes way back in the invention of the telephone.

Q. And they were glad to see you?—A. I hope so.

Q. Especially if you were to write the application for them?—A. Well, they wanted it dictated as I did so, and I think they had it rewritten.

Q. Did you ever have any correspondence with Casey Young?—A. I do not know whether I had any or not until we met here at Washington. I do not believe I ever did.

Q. Did you ever sign any written agreement about this matter?—A. None whatsoever that I can remember.

Q. Were you present at the hearing before the Secretary of the Interior?—A. I was. I presented the first batch of proof, and I opened the argument, I think.

Q. Did you hear Casey Young, or any one, state to the Secretary of the Interior that the Pan-Electric Company was not before him?—A. If I was asked the question whether they were before him or not, I should say that they were not.

Q. Did I ask you that?—A. I think you asked me if I heard Colonel Young say that the Pan-Electric Company—

Q. (Interposing.) If you heard Col. Casey Young or any one state before the Secretary of the Interior that the Pan-Electric Company was not before him in that proceeding?—A. Well, I could not be sure about that. There was very much said there. Colonel Young made an argument there, and made a very fine one.

Q. Did I ask you that?—A. Whether he said that particular company or not I do not remember.

Q. Did I ask you that?—A. No; but I said it.

Q. I did ask you if you heard him, or any one, state in the hearing had before the Secretary of the Interior that the Pan-Electric Company was not there before him in that proceeding.—A. My best impression is that he did make such a statement there, and I think it is true. I always understood that was the fact about it.

Q. How did you understand?—A. Because they had no petition there that I remember.

Q. Did you know of any existing agreement between them and the National Improvement?—A. I understood there was an understanding in some way.

Q. Did you know of any existing written agreement, was my question?—A. I did not know only what I heard outside. I did not see it.

Q. What did you hear about it?—A. I do not know whether it was General Johnston told me that there was such an agreement, or who it was.

Mr. EDEN. So far as the contents of the agreement is concerned the papers themselves would be the best evidence.

By Mr. RANNEY:

Q. It was in this combination, wasn't it?—A. Not exactly that.

Q. Who told you there was such an agreement?—A. My best recollection is that General Johnston told me that they would be glad to have us come in and render what assistance we could. It may be that it was General Bradley Johnson. I know he told me that they invited us with great warmth to bring in our ammunition and troops.

Q. You are a lawyer and ought to know that the answer to a question ought to be responsive.—A. I think General Bradley Johnson.

Q. What did he tell you?—A. That the understanding between the Pan-Electric and the National Improved was that they would render what assistance they could, each individual man.

Q. Is that all?—A. That is all.

Q. Was it not General Joseph E. Johnston that said that?—A. It may have been him, but he knew little about it.

Q. Did he not ask you Globe people to join that combination?—A. No; he did not put it in that way.

Q. How did he put it?—A. That we should come in and render what assistance we could, as we would be benefited as much as they.

Q. And he did not ask you to pay one-third of the expenses?—A. No, sir.

Q. Did they not produce a written agreement for you to sign?—A. No, sir.

Q. Did you not have a correspondence on the subject?—A. I think not.

Q. Did you with Senator Harris?—A. No, sir.

Q. Did you know when you went to Attorney-General Garland that he had already declined to have anything to do with it?—A. Well, I had in a manner understood that, yes, sir.

Q. Have you not seen the letter published by him to the President?—A. I saw him before that letter was written, I think.

Q. Are you sure?—A. I think so.

Q. How long before?—A. Well, pretty soon—about the same time.

Q. And then, notwithstanding that you knew Attorney-General Garland had refused to have anything to do with it, you still went to him and insisted that he should?—A. Yes, sir.

Q. And you knew that he claimed to be disabled and disqualified from acting, because of his interest in it?—A. Yes, sir.

Q. And still you as a lawyer insisted that he should?—A. Yes, sir. The decisions are very emphatic that the Attorney-General has the power in those cases.

Q. Did you not know that the Attorney-General was disqualified from acting, and that his duties in a case of disability devolved upon the Solicitor-General?—A. I went there to make it a matter of record. I do not think I was aware of that fact at that time. I think I looked it up afterwards.

Q. When did you find it out?—A. About that time. I do not know whether I had looked it up that time or not, but my best impression is I had not.

Q. Do you remember when you did?—A. Right away after that.

Q. Before you went to New York or after?—A. I think it was after I got back to New York, perhaps.

Q. You say perhaps; is that your recollection?—A. I do not remember whether I did look it up before or after I got back to New York.

Q. Did not the Attorney-General tell you that he was disabled from acting, and in such case referred you to the law?—A. No, sir; he would not talk to me about it. He simply said, "I have not had anything to do with this case; I cannot have anything to do with this case, and I will not have anything to do with this case."

Q. And you knew that he had said so before?—A. I heard it.

Q. Did you have any more respect for him after you heard him repeat that language?—A. I proposed to have him refuse to me. I proposed to have my case complete.

Q. And you as a lawyer said to him that you thought it would be proper for him to proceed and have suit brought to vacate the Bell patent when he was directly interested to have it done?—A. I thought then, and think now, that he ought to order a suit, although an executive officer, and I told him so. He was Attorney-General, and he had no interest in the company I represented, directly or indirectly, and I insisted that he had the right to act and ought to act. I told him that I represented large interests, and if it had to go through his office that he should act, which would be simple justice.

Q. And you thought that he ought to put it through, notwithstanding his direct interest?—A. I thought in our case he should do so.

Q. And you insisted, when you knew that he had previously declined on that account, and when he repeated it you still persisted in the way you state?—A. I wanted him to state that he would not do it.

Q. And you insisted that he ought to do so notwithstanding that he had a direct interest in the matter?—A. Yes, sir.

Q. And you found he would not?—A. Yes, sir.

Q. And you made the remark gratuitously, or I would not ask the question, that when you went away you thought he was incorruptible?—A. Yes, sir.

Q. Do you mean by that that you tried to corrupt him?—A. No, sir.

Q. And you say you went away with more respect for him than you had when you went in?—A. Yes, sir.

Q. Did you not have respect for him when you went in?—A. Yes, sir; I had considerable respect for him. I took occasion to find out afterwards how well he stood in the estimation of his associates in the Senate.

Q. Then, why were you offended?—A. I was not offended, but angry because he would not listen to me.

Q. Do you not call angry being offended?—A. I do not know about that.

Q. That is what I do not want to ask you—what you do not know. I think I shall not proceed any further.

By Mr. HANBACK:

Q. What made you go out with this higher respect than you had when you went in?—A. I tried to explain here. I went there, supposing that it was an executive act that I wanted him to do. I did not look upon him as exactly a judge before whom I had brought a case for trial, and he told me "I am interested in this, and I cannot hear it." I went in there as I would to a clerk of the court or a sheriff whom I wanted to take my papers, and see if I made out a prima facie case. I offered to furnish him any proof he required in order to establish my case. I considered it entirely an executive act. He took the other view of it, that it would require an act of judgment on his part, and that it was more the act of a judge than of an executive officer, and he impressed me with this idea: that I have an interest remote in the telephone fight. You know what my interest is. I must avoid the very appearance of evil in this matter.

Q. You say he had an interest remote. You knew he was one of the owners of the Pan-Electric stock, did you not?—A. Yes, sir; I knew it from the start.

Q. Was his interest any more remote than yours?—A. He had no interest in my company.

Q. But I mean did you not know that his interest was no more or less than your own—that it was a direct interest he had?—A. Yes, sir; what I mean by remote is, suppose the telephone interests were thrown open to the world, so that the Globe and Pan-Electric and National Improved could do business, that his interest would depend upon the money put into it, and not from any good that might be derived from the opportunities of suit.

Q. In other words, his interest like yours depends upon future developments?—A. Yes, sir.

Q. You had read his letter to the President?—A. No; I think the President's letter was after that.

Q. You read the newspaper account?—A. I read the account of attacks made on General Garland.

Q. Which fully explained to your mind his interest?—A. Yes, sir.

Q. And when you went with the respect that you would have for such high officer as the Attorney-General, you left with a higher respect?—A. Yes, sir; because he impressed me that he would not touch anything whether proper or not that would leave him open to any criticism.

Q. You read General Garland's testimony before this committee, did you not?—A. Yes, sir.

Q. And you read where he said that he thought you were going to jump over the table on him?—A. Yes, sir.

Q. You were excited, were you not?—A. Not very much excited. Not more than any other lawyer. Lawyers are in the habit of being demonstrative.

Q. But as a lawyer you never attempted to jump over on a judge?—A. I surveyed him and saw that he weighed about 200 pounds, and as I weigh only about 130 I thought I had better not try it.

Q. But after going with the respect that you would naturally have for the law officer of the Government, you left with a high respect notwithstanding this feeling?—A. I did.

Q. Did you know any more about the interests that Attorney-General Garland had in this Pan-Electric Company when you left than when you went there?—A. Not anything more; nothing more, no.

By Mr. HALL:

Q. Had you ever met Mr. Garland before that interview?—A. That was the first time I ever saw him.

Q. The feeling you entertained before that was independent of any personal recognition on his part, was it not?—A. I always understood that General Garland was an honest man.

Q. I understand that you went there as the representative of a company in which General Garland had no earthly interest?—A. None at all.

Q. And the only interest urged by him was an interest in some other company?—A. That is all.

Q. And your idea was that on account of an interest he had in some other company he was necessarily disqualified from acting?—A. I did not see why it should.

Q. In answer to some question put by Mr. Ranney you were about to explain why you desired to have your application recorded as going through the regular form in the Attorney-General's office?—A. Yes, sir.

Q. Explain that.—A. My recollection is that I told the general about it. The decisions were that in all these Government cases brought to vacate patents—for instance, in the Morry, the Whitney, the Rumford, and the Throckmorton land case—the court had decided emphatically that the authority of the Government of the United States must be expressed in some part of the record by the act of the Attorney-General in every case, and in no case I think does it appear that it shall be done by the Solicitor-General.

Mr. RANNEY. I do not think this man's opinion about the law ought to be give here. If he states what he is now saying he said to the Attorney-General I do not object.

The WITNESS. Yes.

Mr. HALL. You have been asking just such questions for the last four weeks.

The WITNESS. And I was very anxious in view of these decisions that the Attorney-General should appear in the case in some manner.

Mr. RANNEY. I object to the witness's answer to that question.

(The question and answer were read by the stenographer.)

The CHAIRMAN. The Chair holds that the witness may answer the question put by the gentleman from Iowa, and the manner in which the witness answers is for himself to decide, so long as it is a substantial and responsive answer. The Chair is of opinion, in view of these suggestions from the gentleman from Massachusetts, that the opinion of the witness of the law would not be competent evidence in answer to that question; but if what the witness is stating is part of the conversation relative to which we have already had some proof, it certainly is competent. But the Chair

does not hold that the witness is confined to the conversation between himself and the Attorney-General. That remark was made merely as to the witness giving an opinion as to the law.

The WITNESS. I want to say that I wanted the record to show somewhere that the Attorney-General had given official action in the matter.

Mr. RANNEY. The Chair has ruled that you must confine yourself to what you stated to the Attorney-General, and not give your opinion as to the law.

Mr. HALL. The witness has not given his opinion of the law, but is simply justifying his action. For instance, he understood the law to require certain steps to be taken, and he was pursuing this course notwithstanding the Attorney-General in another similar case refused to act. I will ask you [referring to witness] this question at this time: did you understand the law and the practice with reference to applications for the vacation of patents issued by the Government to require that they should go through the Attorney-General's office?

A. That was my understanding of it.

Q. Were you of opinion or did you have the idea that in case the Attorney-General should refuse to act in your case, that there might possibly be some other means of accomplishing your purpose?—A. I did, but I wanted to exhaust that first.

Q. I am coming to that. Then your application in that particular to the Attorney-General, and alluded to by you in your testimony, was with a view to having it appear on the record that you had done all you could towards securing the safer action?—A. Yes, sir.

Q. And in order to lay the foundation for other steps that might be deemed proper?—A. Exactly.

Mr. RANNEY. I move to strike out this answer as far as the witness expresses an opinion, unless he states that he said this in conversation with the Attorney-General.

The WITNESS. Well, to tell you what I stated to the Attorney General, I will say that I think I stated to him, "You are the Attorney-General of the United States. The decisions of the court require that all these applications in all these suits to vacate patents must have the indorsement of the Attorney-General some place in the record, and I have no other course to pursue only this one, and it is not right for you to say to me you must not talk to me about this matter."

Q. The stenographer has read to you what you said about the authorities to the Attorney-General. Do I now understand you to say that you told him about these authorities, as the answer purports to show?—A. I think what I said to him was that the authorities have been that the authority to bring these suits must be expressed some place in the record; that it has been before the Attorney-General of the United States.

Q. Is that all you told him on that subject?—A. I think I went on to explain which the authorities were; how far I got along I do not remember.

Q. Then it may stand. Did Mr. Garland listen to those authorities?—A. He would not listen to me at all.

Q. But you kept firing them at him?—A. No, sir.

By Mr. HALL:

Q. I was not here at the beginning of the examination, and I will ask you if you are a practicing lawyer?—A. Yes, sir.

Q. Have you ever in your practice been cognizant of cases arising before judges who had an interest in the subject-matter?

Mr. RANNEY. I object to that, and ask the ruling of the Chair.

Mr. HALL. What is the ground of objection, that it is immaterial?

Mr. RANNEY. That it is immaterial, and that it is not competent for him to state what in his practice he knew about other men.

Mr. HALL. I waive that question. I will ask you [addressing witness] this question—whether in your applications to the Attorney-General after you had heard that he had refused to act in this other matter, you had reason to suppose that he ought to refer a case or take any other action notwithstanding his interest in the other matter.

Mr. RANNEY. I object to that question. I want the ruling of the Chair on that.

The CHAIRMAN. I did not catch it?

Mr. HALL. I asked if in his applications to the Attorney-General after he had refused to act in the other matter, he had any reason to suppose that the Attorney-General ought to refer a case or take any other action notwithstanding his interest in the other matter?

The CHAIRMAN. I think that is competent as explaining why the witness went to the Attorney-General after knowing that he had already refused to act.

Mr. RANNEY. I object to the question on the ground that he puts into the mouth of the witness what the answer should be.

Mr. HALL. That is not very wise in coming from you, because you have not being doing anything else since you have been here.

Mr. RANNEY. Another objection is, it contains a statement of his own. I object to it as being incompetent.

Mr. HALL. State, Mr. Humphreys, whether you had any reason to think at the time you made this application that the Attorney-General would be justified in taking some action, notwithstanding his interest in the Pan-Electric?

A. That was one of the reasons I was trying to impress upon him. One was that he had no interest in my clients' case, and the second was that I did not take it to be a judicial act, but an executive act, and not the same as a judge.

Q. Did you have an idea that he might refer the matter in some other way?—A. I asked him to send me to somebody else, or to refer it to somebody.

Q. Who was not interested?—A. Yes, not interested; to some of his subordinates

By Mr. RANNEY:

Q. What did he say to that?—A. He said I must not talk to him about the matter. He would not refer it, and he would not do anything about it.

By Mr. HALE:

Q. You represent the Globe Company, you state?—A. Yes, sir.

Q. Judge Ranney asked you the question as to what patents your company owned, which you declined to answer?—A. Yes, sir.

Q. I will ask you, did your company at that time own any of the Rogers' telephone patents?—A. They did not.

Q. Was there any connection of any character whatsoever between your company and the Pan-Electric?—A. There was not and never has been.

Q. No contract of any sort?—A. None whatsoever.

Q. Was there any contract or agreement made in which you agreed to unite your forces in bringing the suit?—A. Only in a general way, that if the Government suit was ordered to be brought we were all to furnish all the testimony we could control.

Q. With whom did you confer representing the Pan-Electric Company?—A. Colonel Gantt and Colonel Young.

Q. Did that conference take place in New York?—A. Here in Washington.

Q. Was that reduced to writing?—A. No, sir.

Q. It was simply an understanding that you would unite and endeavor to have a Government suit brought, was it?—A. All the understanding I had was that we were to furnish all the testimony and help all we could in order to have a fair full trial of the case.

Q. Was it understood that you should make an application on the part of your company to bring this suit?—A. I do not think there was any understanding between them and us. I determined to bring it on our own account.

Q. Was anybody with you when you presented this application to the Attorney-General?—A. No, sir.

Q. Was Colonel Young here at the time?—A. I had never seen him and never had a word with him before that time.

Q. Do you say you had no conversation with him?—A. No conversation with him.

Q. When was it that you say you had a conference with him and Colonel Looney?—

A. I never had a conversation with Colonel Looney in regard to this matter.

Q. Colonel Gantt, I mean.—A. Not until the hearing at the Interior Department.

Q. That was the telephone trial at the Interior Department?—A. Yes, sir.

Q. And you are positive there was no partnership or contract or community of interest between your company and the Pan-Electric?—A. No, sir; no more connection with the Pan-Electric Company or no more interest in the matter than as citizens of the United States.

Q. You were not then and never have been?—A. No, sir.

By Mr. HANBACK:

Q. You were in the same business, were you not?—A. What is that?

Q. The telephone business?—A. I was counsel for the Globe Company and we were getting ready to put up telephones.

Q. But you were in the same business. Your company invested its money in telephones and the Pan-Electric had invested its money in telephones?—A. We were all in the same business in this, that we were all interested in having the Bell patents vacated if we could, and we all wanted to do a telephone business.

By Mr. RANNEY:

Q. And you were all in the telephone business?—A. In the telephone fight.

By Mr. HANBACK:

Q. And in the telephone business?—A. If I would say telephone business, that would be a reason why the Bell people should come in and join us, which was not a fact. We were all getting ready to go into the telephone business.

Q. You were all really in the telephone business were you not?—A. You as a lawyer know that we could not be in the telephone business without being enjoined.

Q. You would not have to be enjoined if you were not actively engaged in the telephone business, would you?—A. If I told you we were in the telephone business they could bring it up to-morrow and ask for a restraining order against us.

Q. You are attorney for the Globe Company, I believe you stated?—A. Yes, sir.

Q. And the object of that company was to establish a telephone business?—A. The testimony will show that so far as the Globe Company is concerned it endeavored to secure a foot-hold to do a telephone business without infringement of any one, and do it safely. I think it is an outrage that—

Q. (Interposing.) Now had the Pan-Electric also got ready to do a telephone business?—A. Yes, sir.

Q. And you had a community of interests, did you not?—A. Yes, like every citizen of the United States.

Q. But indirectly you had a community of interests?—A. We were all interested in the same line.

Q. You were exclusive in your business, and expected to get your patronage from those people of the United States who transacted business with you, did you not?—A. We were interested more or less.

Q. Your interest and the Pan-Electric interest was a direct interest, was it not? That is to say, you expected to be patronized by the people to whom you had your wares to sell?—A. Yes, sir; we expected to do a telephone business.

Q. And you had a community of interest, did you not?—A. In one sense.

Q. Absolutely?—A. We had antagonistic interests, though.

Q. But you had a community of interest to beat some other interest, did you not?—A. In other words we all wanted, if we could do so lawfully, to set aside Bell's fifth claim.

Q. And then you would settle your differences?—A. Then I have no doubt we would settle our own differences.

Q. And several of you would join suit to set aside the patent of the other?—A. I should not be surprised if we did.

Q. You have not yet?—A. No, sir; but I have no doubt it will come up in the future.

ROBERT B. VANCE, being duly sworn, testified as follows:

By the CHAIRMAN:

Question. Please state your full name.—Answer. Robert B. Vance.

Q. Do you hold any office under the Government at this time?—A. I am Assistant Commissioner of Patents.

Mr. HANBACK. I move we adjourn until to-morrow at 12 o'clock, and I do it for a reason.

The CHAIRMAN. It is not necessary to give a reason.

Mr. HALL. Before we adjourn had we better not have an executive session?

The CHAIRMAN. The motion to adjourn is in order. The gentleman has made a motion that we adjourn to meet to-morrow at 12 o'clock.

Mr. HALE. I had rather take this testimony this evening than wait until to-morrow.

Mr. HANBACK. Then I amend that motion, and move that we adjourn until Friday. I will withdraw the first motion and make a motion to adjourn until Friday.

The CHAIRMAN. The gentleman withdraws his first motion and moves to adjourn until Friday.

At this point Mr. D. Humphreys, the preceding witness, asked to make a correction in his testimony, and spoke as follows:

Mr. HUMPHREYS. May I make a remark in relation to the question of expenses asked me in my examination in relation to any arrangement as to the payment of the expenses of this hearing at Washington before the Secretary of the Interior?

The CHAIRMAN. We would like to know anything you can state in regard to that.

Mr. HUMPHREYS. I said that we were to pay a part of the cost of printing the record, and that the whole record cost something over \$100, and that our part amounted to \$30 or so. Colonel Young tells me that the printing of the record cost more than that; that it cost in the neighborhood of \$500, and that our part of the cost of having the printing done amounted to something over \$100. That was a part I did not look after.

Q. Did you have anything to do with making the arrangement with your company for paying the money?—A. I had nothing to do with the payment of the money, except that we wanted the record and were willing to pay our share for the printing of the same. General Beckwith was the manager of our company, and he looked after the part of paying the bill.

Mr. CHAIRMAN. The gentleman from Kansas has moved that the committee adjourn until Friday at 12 o'clock. Those in favor of this motion will say aye, and those opposed will say no. [A *viva voce* vote was taken.] The chair is unable to decide. As many as are in favor of the motion will hold up their hands. [Two members held up

their hands.] As many as are opposed will hold up their hands. [Two members voted.] The motion fails, there being two in the affirmative and two in the negative.

Mr. HANBACK. I ask the roll to be called.

Mr. HALL. Do I understand there is any objection to adjournment until to-morrow?

Mr. EDEN. I thought it important to allow Mr. Vance's statement to be taken to-day, as his services are required in his Department, and there is also another witness here from the Interior Department waiting to be examined.

The CHAIRMAN. The gentleman from Kansas calls for the yeas and nays on the motion to adjourn. The clerk will please call the roll.

The roll was called, and the committee refused to adjourn.

(Mr. VANCE, the witness who gave way for the purpose of allowing Mr. Humphreys to make his statement, took the stand.)

Q. You state, Mr. Vance, that you are the Assistant Commissioner of Patents?—A. Yes, sir; that is the legal phrase.

Q. You have been a member of Congress?—A. Yes, sir; I was a member from 1873 to 1885—twelve years.

Q. Of what Congresses were you a member?—A. From the Forty-third to the Forty-eighth.

Q. Inclusive?—A. Yes, sir.

By Mr. HALE:

Q. From what State?—A. North Carolina.

By the CHAIRMAN:

Q. Did you at any time while you were a member Congress introduce a bill providing for the use of the name of the Government or the bringing of a suit by the Government for the vacation of letters patent for inventions?—A. I introduced a bill in the Forty-sixth Congress, in the Forty-seventh, and Forty-eighth.

Q. The same bill?—A. The same bill, yes sir; authorizing or directing it. I have the bill in my pocket. Shall I use the bill?

Q. Yes, sir.—A. This is the bill of the Forty-sixth Congress. (Exhibiting bill.) It is not the original bill, but it is the bill as reported from the committee. It is a bill entitled "A bill to enable courts of the United States in case of frauds and misrepresentations to declare a patent void, on application of the Attorney-General."

Q. What is the number of that bill?—A. That bill is numbered 6456.

Q. Introduced in the Forty-sixth Congress?—A. Yes, sir; Forty-sixth Congress. I also have the bills introduced in the Forty-seventh and Forty-eighth Congresses.

Q. What is the number of the bill of the Forty-seventh Congress?—A. The bill of the Forty-seventh Congress is numbered 4573.

Q. What is the number of the bill in the Forty-eighth?—A. No. 1136 in the Forty-eighth.

Q. Are these bills all the same?—A. I think they are the same. I have not examined them word for word. There was some changes made from the original bill in the committee.

Q. That was in the Forty-sixth Congress?—A. Well, probably in all three of the Congresses which I have referred to, sir; changes and amendments were made in committee. This is the bill, though [indicating], which passed the House in the Forty-eighth Congress.

Q. Is it your recollection that they are substantially the same?—A. Substantially the same.

Q. In what respect does that differ from the bill you refer to—differ from the one introduced?—A. Nothing in particular that I call to mind. Just such changes as occur in a bill that is before a committee.

Q. Give to the stenographer the number of the bill introduced in the Forty-sixth Congress.—A. This bill I have here is the bill of the Forty-sixth Congress.

By Mr. RANNEY:

Q. Those are bills of the Forty-sixth and Forty-eighth.—A. Don't you want also the Forty-seventh?

By the CHAIRMAN:

Q. Put them all in.

The bills referred to are as follows:

[Forty-sixth Congress, second session. H. R. 6456. Report No 1711. In the House of Representatives, June 9, 1880. Read twice, recommitted to the Committee on Patents, and ordered to be printed.]

Mr. VANCE, from the Committee on Patents, reported the following bill:

A BILL to enable the courts of the United States in cases of fraud and misrepresentation to declare a patent void on application of the Attorney-General.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall be made to appear to the satisfaction of

the Attorney-General that there is probable cause for impeaching the validity of any patent issued, or reissued, or extended by the United States, either by act of Congress or by the Commissioner of Patents, on the ground that the same has been procured by fraud or misrepresentation, it shall be his duty to take legal proceedings in equity in the supreme court of the District of Columbia to have the said patent vacated and annulled; and if the party, at whose complaint the Attorney-General shall take the proceedings provided for in this act, shall fail to establish the invalidity of the patent, then the costs incurred by the Attorney-General in such litigation shall be chargeable to and collected from such party complainant.

SEC. 2. That this act shall not deprive parties interested of the right of appeal.

[Forty-seventh Congress, first session, H. R. 4573. In the House of Representatives, February 20, 1882. Read twice, referred to the Committee on Patents, and ordered to be printed.]

Mr. VANCE introduced the following bill:

A BILL to enable the courts of the United States in cases of fraud and misrepresentation to declare a patent void on application of the Attorney-General.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall be made to appear to the satisfaction of the Attorney-General that there is a probable cause for impeaching the validity of any patent issued, or reissued, or extended by the United States, either by act of Congress or by the Commissioner of Patents, on the ground that the same has been procured by fraud or misrepresentation, it shall be his duty to take legal proceedings in equity in the supreme court of the District of Columbia to have the said patent vacated and annulled; and if the party at whose complaint the Attorney-General shall take the proceedings provided for in this act shall fail to establish the invalidity of the patent, then the costs incurred by the Attorney-General in such litigation shall be chargeable to and collected from such party complainant.

SEC. 2. That this act shall not deprive parties interested of the right of appeal.

[Forty-eighth Congress, first session, H. R. 1136. In the House of Representatives, December 11, 1883. Read twice, referred to the Committee on Patents, and ordered to be printed.]

Mr. VANCE introduced the following bill:

A BILL to enable the courts of the United States, in the case of the improper grant of letters patent by reason of fraud, misrepresentation, or for other reasons, to declare a patent void on application of the Attorney-General.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall be made to appear to the satisfaction of the Attorney-General that there is probable cause for impeaching the validity of any unexpired patent, whether original, reissued, or extended, which may have been or shall hereafter be granted, on the ground that the same has been improperly issued, or has been procured by fraud or misrepresentation, it shall be his duty to take due proceedings, by a bill in equity in the United States circuit court for the district in which the said patentee resides, or in the case of his death or the assignment of his entire interest in said patent, then in the district in which his legal representatives or assigns reside, to have the said patent vacated and annulled; and the court, on notice to said adverse parties, and in pursuance of such proceedings, shall have power to adjudge and declare said patent void in whole or in part, and to annul and vacate the same.

SEC. 2. That if the party at whose complaint the Attorney-General shall take the proceedings provided for in this act shall fail to establish the invalidity of the patent, or if the patent be adjudged invalid on other grounds than of fraud or misrepresentation, then the costs incurred by the Attorney-General in such litigation shall be chargeable to and be collected from such party complainant.

SEC. 3. That from the judgment and decree of any court rendered in the premises appeal shall lie, at the instance of either party, to the Supreme Court of the United States, in the same manner and under the same circumstances as is now provided by law in other judgments and decrees of circuit courts in causes arising on letters patent relating to inventions.

Q. Were you a member of the Committee on Patents in any one of these Congresses?

—A. Yes, sir.

Q. When were you first a member of Congress?—A. I was a member of the Forty-

third Congress, and was continuously a member up to and including the Forty-eighth.

Q. Were you chairman of the Committee on Patents?—A. I was chairman of the Committee on Patents eight years, and the two years of the Forty-seventh Congress I was on the committee; but Judge Young, of Ohio, was the chairman.

Q. At whose instance did you introduce this bill in the Forty-sixth Congress?—A. I consulted first with the Assistant Commissioner of Patents, Mr. Doolittle. He suggested to me that he thought it a proper thing to do to pass the bill in relation to declaring a patent void that had been obtained through fraud.

Q. Had any one suggested it to you before that?—A. No one.

Q. Then how did it occur to you?—A. In conversation with him. I frequently, when in consultation with officers and in conversations with others, spoke of his suggesting it. My recollection is that the first time it came to my mind was in conversation with him, and it occurred as a proper thing to do, and I introduced the bill.

Q. That was the first session of the Forty-sixth Congress?—A. That, I think, was the first session of the Forty-sixth Congress. I am inclined to think the first bill was introduced in 1879, in the early part of the session. That is my belief about it.

Q. Well, sir, was the bill introduced in the Forty-seventh Congress at anybody's instance?—A. No, sir.

Q. Or in the Forty-eighth?—A. Nothing further than the conversation with Mr. Doolittle. Mr. Doolittle went out. He resigned and then he and I from time to time talked about it when we met.

Q. Was it suggested during the Forty-eighth Congress when the bill was introduced?—A. By no person except him that I can call to mind now. I had some conversation with a gentleman from New York who had seen a notice in the papers of the bill being introduced, and he said he thought it was a very good thing.

By the CHAIRMAN:

Q. Do I understand you to state that you had conversations with Mr. Doolittle from the Forty-sixth to the Forty-eighth Congresses?—A. Yes, sir; when we met, and of course he knew I had the bill before the committee and the House.

Q. Had you had any conversation with any gentleman who appeared to have been connected with the Pan-Electric Company in regard to the introduction of this bill?—A. Not one.

Q. Did you have any consultation with any one of them about the bill either before or after its introduction?—A. Well, upon the floor of the House, when I was pressing the bill, Mr. Casey Young came to me and objected to the bill. He said he thought it was a bill that ought not to pass, and I remember that Mr. Holman, of Indiana, who was sitting near by and overheard the conversation, said the bill was right. Mr. Young was the only person who said anything about the bill to me that I know of, except the remark of Mr. Holman, and that was to me personally. He did not address the Speaker, as I remember.

Q. What Congress was that?—A. The Forty-eighth Congress.

Q. Can you remember the time?—A. I do not know, but probably the bill itself will show. [Perusing bill.] It does not. I think it was in the spring of the year.

Q. Will you state in what situation was the bill at the time the conversation took place; was it before the House?—A. Possibly before the House on its passage, and Mr. Young stepped up to me and said that the bill ought not to pass.

By Mr. RANNEY:

Q. Did he give any reason?—A. He said that he thought it might be the means of bringing troublesome suits is my recollection of what he said about it at the time. So we had some remarks about it, and I told him that the bill was a proper one; that any patent obtained through practicing fraud on the Patent Office ought to be declared void, and I think maybe I mentioned that the law as it stood in 1790 provided for the Attorney General bringing suit at that time, but it was left out in the law of 1836.

Q. When you originally introduced this bill in the Forty-sixth Congress, had you in view its use, in case it became a law, for the vacation of any particular patent?—A. No, sir.

Q. Had you in any other Congress?—A. It was never connected with any patent that was in existence, as far as I was concerned.

Q. Did you look after the bill when it passed and went to the Senate?—A. No, sir; except I went there to talk with Mr. Platt, the chairman of the Senate Committee on Patents, and told him that the bill had passed the House, and I should like to have him look after it on the Senate side, as I thought it a good bill.

Q. Did you ever have any conversation with Attorney-General Garland while that bill was pending?—A. I am not certain, but I think either Senator Platt or Senator Garland said that Senator Garland's opinion was that the bill was not necessary. I am not sure whether it was said to me by Senator Garland or whether I got it from

Senator Platt. I know the impression was made on my mind that Senator Garland thought it unnecessary.

Q. Did you have any conversation with any one connected with the Pan-Electric Company—you know the parties who have been named—while that bill was pending in the Forty-eighth Congress, in regard to its passage?—A. No, sir; I did not.

Q. Except the conversation that day with Colonel Young which you have stated?—A. I would remark here, if the committee will permit me to do so, that the Pan-Electric Company had the Rogers patents assigned to it in 1882, which was two years after I introduced the bill I refer to, and I did not know that such a patent was in existence when the bill passed.

Q. Have you had any connection with the ordering of these Government suits?—A. Nothing at all.

Q. Did you take no part in the hearing before the Secretary?—A. Nothing at all. I was not invited to the hearing, and had nothing to do with it in any way whatever.

Q. How long do you say you have been in the Patent Office?—A. A little over a year.

Q. And your position is what?—A. Assistant Commissioner, sir. Mr. Montgomery is Commissioner and I am his assistant.

Q. When these bills were introduced successively three separate Congresses, were reports made on them?—A. Yes, sir; I have them here.

Q. Say if you signed the report giving your opinion that there was no authority now under the law to bring such a suit and it was necessary to have one?—A. Here is the report of the Forty-sixth Congress [displaying report].

Q. I do not want to encumber the record too much. Let me see it. [Witness handed two reports to Mr. Ranney.] Is this the report of Forty-eighth Congress [indicating?—A. It is marked there—that is, for the Forty-eighth; the other is for the Forty-sixth Congress.

Q. I see you say in here, "The law as it now stands, and has stood since 1836, provides no way in which a patent can be declared void, except upon the ground of interference with some other patent, and then only upon the suit of some rival patentee, or of some person claiming under one of the interfering patents. And such adjudication affects only the rights of the party to that particular suit and those subsequently deriving title under them." I see you give your opinion here that a suit cannot be maintained under the existing law.

Mr. HALL. I object to that question on the ground that it asks for an opinion, and the opinion of the witness is immaterial.

Mr. RANNEY. It refers to his action.

Mr. HALL. It is an official report, and it will speak for itself.

The CHAIRMAN. The Chair thinks that the opinion of the witness is not material.

Mr. RANNEY. As a matter of law I ask that the report be included in the record.

The report is as follows:

[House Report No. 4, Forty-eighth Congress, first session.]

JANUARY 9, 1884.—Referred to the House Calendar and ordered to be printed.

Mr. VANCE, from the Committee on Patents, submitted the following report, to accompany bill H. R. 3036:

The Committee on Patents, to whom was referred bill H. R. 1136, submit the following report, and beg to accompany it by a substitute bill which more fully sets forth the object in view and the means of attaining it:

The title of the bill as originally reported read as follows: "To enable the courts of the United States in cases of fraud and misrepresentation to declare a patent void on application of the Attorney-General."

The law, as it now stands, and has stood since 1836, provides no way in which a patent can be declared void except upon the ground of interference with some other patent, and then only upon the suit of some rival patentee, or of some person claiming under one of the interfering patents. And such adjudication affects only the rights of the parties to that particular suit, and those subsequently deriving title under them. (See section 4918, Revised Statutes.)

For forty-six years prior to the act of July 4, 1836, provisions were in force whereby, upon proper complaint by any individual filed in any district court, and other due proceedings had, a patent could be declared void on the ground that it was obtained surreptitiously and upon false suggestion; but at present the general public have no protection against embarrassment and vexation from invalid patents, and the Government no power to repeal the grant of the same, however strongly it may be convinced that a patent has thus been wrongly granted.

Interfering patentees, as stated before, and individual parties when sued as infringers, alone have the means of showing that a patent was improperly granted.

It was intimated, but intimated only, by the United States Supreme Court in the

case of *Mowry vs. Whitney* (14 Wall., 434), that the Attorney-General might maintain such a suit on the relation of some one who was interested adversely to the patent.

But, in a latter decision, rendered in 1876, in just such a suit, brought by the Attorney-General on the relation of one *Hecker vs. The Rumford Chemical Works* (reported in 9th Pat. Off. Gaz., 1062), the United States circuit court for the district of Rhode Island dismissed such suit, and in a most elaborate decision reviewed the whole history of the law on the subject, and arrived at the conclusion that no patent could be repealed in this country except in a manner prescribed by statute, and that no statutory provision existed authorizing the Attorney-General, in his own name or in the name of the United States on the relation of any one, or authorizing any other officer or individual, to bring suit for that purpose.

It having been well settled by numerous adjudications of our courts that a patent is in the nature of a contract, which, under the Constitution, Congress authorizes to be entered into between the Government and the inventor, securing to him for a limited time the exclusive enjoyment of his invention, in consideration of his disclosure of his invention to the public and his relinquishment of it to the public at the end of the term, it follows that there should be some way of abrogating such a contract when the Government becomes convinced through its proper officers that it was improperly entered into or was invalid by reason of fraud or false suggestion.

Fraudulent patents, your committee are convinced, are often used for the sole purpose of terrifying purchasers, extorting tribute, and disturbing trade, while suits thereon, by which their invalidity could alone be established, are carefully avoided.

The maintenance of such false and unjust grants is destructive to the principle on which patents are based by the Constitution—namely, to promote the progress of science and the useful arts—and they are simply odious monopolies.

Your committee, therefore, earnestly favor early action upon said bill and recommend its passage.

By the accompanying substitute bill we have added to the original provisions for maintaining such suit on other grounds than fraud and misrepresentation; for extending the application of the bill to patents granted before its passage as well as thereafter; for bringing the suit in the court for the district in which the patentee or the owners of the patent live; and for holding the complainant liable for costs when his suit fails, or when the patent is declared invalid for other reasons than fraud or misrepresentation.

We are of opinion that the suit should be brought by the Attorney-General and not by the individual alone, as the entire public through the Government should be properly represented in the repeal of its grant, which is the act of the Government and not of an individual.

By Mr. RANNEY:

Q. Now, Mr. Vance, have you a distinct recollection of what Mr. Young said to you?—A. Oh, yes.

Q. Was not the ground upon which he put his objection this, in substance, that if you passed that bill it would be exclusive in its operation, and that no other mode would be provided and allowed?—A. I do not remember.

Q. Have you read his testimony?—A. No, sir; I have not. The other makes the impression on my mind that he objected because it might bring too many troublesome suits.

Q. Did he not object on the ground that it might take a remedy already existing?—A. I am not able to answer that at present. I cannot remember whether he said that or not. I know positively he objected to it, and fixing my mind as to why he objected, this other occurs to me.

Q. He stated in the case what his reasons were, and I need not tell you.—A. I have not read his testimony.

Q. I will ask you did he not express this idea, that if you should pass that bill it would be exclusive in its operation on that subject?—A. I cannot remember that he said that.

Q. Whether he objected on the ground that you would take away a remedy already existing?—A. I cannot answer that, because I do not remember whether he said that or not.

Q. Do you remember that Mr. Garland did not put his objection on that ground?—A. Senator Garland did not specify any particular objection, only he said, and I have explained to you, that it either reached me through him or Senator Platt; that it was unnecessary, and that was all I know of his saying.

Q. Did he say why it was unnecessary?—A. I understood that to mean that the law already authorized the bringing of such suits; that was my inference.

Q. Did you write a letter to Senator Garland, calling his attention to the bill when pending in the Senate?—A. I do not know whether or not—likely I did.

Q. Do you know you did, and he indorsed it over to Senator Platt?—A. I do not know whether I wrote him a letter, but I know I went to see him.

Q. Is it not in your recollection that you wrote him calling his attention to that bill?—A. It is likely that I did, because bills go over there sometimes and it is necessary to call particularly attention to them.

Q. Isn't it your best recollection that you did write such a letter?—A. I could not say I wrote such a letter, but I think I wrote him a letter once, though what the particular subject was I cannot call to mind.

Q. Do you remember writing him on any other subject but this?—A. I was very anxious about section 4887 of the Revised Statutes. I wanted that changed, because it was working a disadvantage to American inventors. I was anxious about that, and I wanted to see him frequently about it.

Q. Do you remember you wrote him about that or this matter?—A. I think I wrote about that, and I may have mentioned that in this letter.

Q. Why did you select Senator Garland for an opinion?—A. Why did I? I cannot say I did consult him, because I am not certain whether he told me or Senator Platt.

Q. Why did you go to him rather than to anybody else?—A. Well, sir, I cannot say that I did go to him.

Q. Why did you write to him rather than to anybody else?—A. I do not know that I wrote him.

Q. I thought you said you were sure as to whether you wrote or went to him?—A. I understood you to refer to Senator Platt.

Q. I said Senator Garland.—A. I misunderstood you. I have no recollection whatever; writing to Senator Garland is what I said.

Q. And no recollection of going to him about it?—A. I have a recollection that I either saw him, or that Senator Platt thought Mr. Garland thought it unnecessary.

Q. Are you related to Senator Vance?—A. We are brothers.

Q. Did you not speak to him about it?—A. I think I did. I think that I mentioned the matter to him, and probably he might have suggested to me to speak to Senator Garland, as Senator Garland was a distinguished lawyer. That might have been the way, but in the hurry of the moment, passing to and fro, I cannot call to mind whether I did speak to Senator Garland in person or not.

Q. Did Mr. Young say anything to you about consulting Senator Garland?—A. I do not think he did.

Q. Did he withdraw his objection to the bill?—A. When Mr. Holman spoke to him he did not say any more. It was one of those things which pass without any demonstration.

Q. Did the bill pass without any discussion?—A. Yes, except what I said myself. The ayes and noes were not called, and nobody objected to the bill. I think you were on the floor at the time yourself.

Q. Do you know Casey Young?—A. Very well, indeed.

Q. Has he ever been at the Department to see you or to confer with you about it?—A. He passed through there one day and I asked him a question or two about it.

Q. When was that?—A. This winter some time.

Q. Since this investigation?—A. I will tell you what I asked him.

Q. I do not care about any conversation you had with him during this investigation.—A. I was only answering your question.

Q. If it happened since this investigation, I do not care to go into it.—A. It was since the investigation began. It was personal to myself entirely what I asked him.

Q. You have known Senator Garland some years?—A. I never was intimate with him. When I would go over to the Senate I would speak to him.

Q. Being chairman of the Committee on Patents and as prominent as you were, is it possible you never heard of this Pan-Electric Company? It is hardly possible that you had not heard of this Pan-Electric Company.—A. I had never heard of it, and had no occasion to look into it. I did not know who the company were until I saw the matter discussed in the papers.

Q. You knew that the Pan-Electric Company was in operation, didn't you?—A. No, sir.

Q. Didn't you see it advertised?—A. No, sir; I hadn't my attention called to it at all.

Q. Had you known Mr. Rogers?—A. No, sir; I did not know him.

Q. Had you anything to do with recommending him for or getting Rogers the position of electrician?—A. Nothing at all.

Q. You went out of Congress at the expiration of the Forty-eight Congress?—A. I went out as President Cleveland came in.

Q. Was Mr. Young a member of that Congress?—A. I believe not.

Q. Well, he would hardly have been on the floor of the House when this last bill was passed.—A. Yes, sir; now that I come to think of it he was in the Forty-eighth. The Forty-seventh, I reckon, he was out.

Q. He was a member of the Forty-eighth, was he?—A. Yes, sir.

Q. Did you know General Atkins?—A. Oh, very well, sir.

Q. Was he in the Forty-eighth Congress?—A. I think not, sir.

Q. All these men knew that you were in the Patent Office, Mr. Young and these other gentlemen named?—A. Yes, sir; they knew that I was in the Patent Office since April a year ago.

Q. Were you solicited to sit on this hearing before the Secretary of the Interior in 1885?—A. No, sir; I was not invited into the discussion at all.

Q. How near are you in rank to the Commissioner of Patents?—A. Next in rank. I transact my business as Acting Commissioner of Patents; that is the way I sign my name, although really I am Assistant Commissioner.

Q. Do you know Mr. Van Benthuyzen?—A. No, sir; I do not know him.

Q. Do you know whether Mr. Casey Young knew last October that you had given an opinion that there was no law under which the Government suit could be brought without further legislation—as expressing that opinion in that report?—A. This last October?

Q. Yes.—A. Well, if he had examined my report he would know that, because I had made the report in several Congresses.

Q. Had you any knowledge of the application of Van Benthuyzen when he went into your Department and conferred with the Secretary of the Interior on the 14th of July, 1885?—A. I did not know of it.

Q. Didn't it come into your hands?—A. I will explain that the mode of operation is that the business goes into the hands of the Commissioner, and he assigns to me such business as he wishes me to transact.

Q. Did you know by whom it was assigned?—A. I did not.

Q. It appears in the record that it was assigned to the Department by the Attorney-General. He says in his letter, "I have the honor to send you for your consideration, and for an expression of your views thereupon, a letter of the 12th inst. from Mr. Van Benthuyzen, asking the institution of suit against the Bell Telephone patents." That is addressed to the Secretary of the Interior. I see by the indorsement on it that it was referred to the Commissioner of Patents for report. You say you know nothing about that, do you?—A. I do not remember anything about it. If I was Acting Commissioner of Patents, and if the Commissioner presented it, it might have come into my hands and passed out without any thought about it. I do not call to mind anything at all about it.

Q. I see here in the indorsement, "H. L. Muldrow, Acting Secretary." Who is H. L. Muldrow?—A. Henry L. Muldrow, an ex-member of Congress, whom I presume you know very well, and who is now Assistant Secretary of the Interior.

Q. Is he Assistant Secretary in the Patent Office Department or under the Interior Department?—A. The Patent Office is under the Interior Department. The Secretary's supervision extends over the Patent Office.

Q. That Mr. Muldrow was not connected with the Patent Office proper, was what I meant by asking; not that I did not know him. I see in the indorsement below that of Mr. Muldrow the following: "On request of writer, and on assurance that it is in accord with the views of the Attorney-General, this paper is returned to such writer without report. Dated July 31, 1885. M. V. Montgomery, Commissioner of Patents." Do you know anything about that being withdrawn? Do you know anything about this application of Van Benthuyzen being withdrawn?—A. I do not, sir.

Q. And you do not think it was referred to you?—A. I do not think it was.

Q. Do you remember whether the Commissioner of Patents was in town at his post of duty in July, 1885?—A. I could not answer that question, because I do not know; I know he was suffering from hay fever along in the summer, and sometimes he went out of town, which left the office in my charge.

Q. I did not know but what he left on vacation?—A. He had not gone out of the city, but was sick during the summer.

Q. That original paper, with its indorsements, is in the Patent Office. Will you do me the kindness to see if you had anything to do with it, and see in whose hands it went?—A. When I go from here?

Q. Yes, sir; at your convenience.—A. Yes, sir.

Q. Was it known to Mr. Montgomery that you expressed the opinion that is embraced in that report?—A. I do not know.

Q. Do you know whether or not?—A. I do not know positively, but I have every reason to believe that he did not know anything about it.

Q. Has he been in Congress?—A. No, sir; he has never been in Congress. He lives in Detroit, Mich., and is a man who has not been about Washington much.

Q. Mr. Montgomery came into office when?—A. He came in early—not early in March, but in March, 1885.

Q. And you say he has not been a member of Congress?—A. No, sir; he has not been a member of Congress to the best of my knowledge.

Q. Do you know whether Mr. Lamar had seen your report?—A. I do not know that he had.

Q. Did you never talk with him on the subject?—A. No, sir; never with him or Mr. Montgomery on the subject.

Q. And you are not invited to sit on that commission?—A. No, sir.

Q. Was there any one in the Patent Office that was?—A. No one but Mr. Montgomery that I know of.

Q. Did you ever look up the records in the office to see what opinions on the subject had been given?—A. No, sir.

Q. Was an inquiry ever made at your office, during the summer or fall of 1885, in regard to whether that bill of yours in the Forty-eighth Congress passed the Senate and became a law?—A. It seems to me as if some one asked there if the bill had become a law.

Q. When was that?—A. It was, I think, perhaps the latter part of the summer or in the fall.

Q. Can you not fix the date?—A. No, sir; I cannot now fix the date, because at that time it did not occur to me that there was any pressing pertinency about it, and I felt no interest in the matter until I saw it in the New York World.

Q. Do you know who made the inquiries?—A. I do not remember.

Q. Do you know that some one stole the bill in the Senate?—A. I had such a suggestion as that.

Q. When was that?—A. That was, I think, the latter part of the summer or fall. I do not know that I heard that it was stolen, but that the bill was mislaid.

Q. Where did you hear that?—A. At the Patent Office.

Q. Who told you?—A. I do not remember. It may have been, though, in conversation between myself and Mr. Byington.

Q. Mr. Byington, the clerk of the Committee on Patents?—A. Yes, sir. It seems that I recollect somebody else talking of it.

Q. Can you not be more definite?—A. I could not now swear who it was who came to me and asked me if the bill was not mislaid.

Q. When was that?—A. I think along about the last of summer or first of fall; along about that time.

Q. Are you positive it was before or after the time this matter was referred to the Secretary of the Interior?—A. I think after it was referred.

Q. Well, before that time had the Commissioner of Patents asked you whether that bill had been passed and become a law?—A. No, sir; he never asked me anything about it before or since.

Q. You were not aware of any reference from the Attorney-General or the Department of Justice of any inquiry of that kind, were you?—A. No, sir; I never heard any thing of that kind.

Q. Are you are not aware of the Commissioner making inquiry as to that fact?—A. He never asked me.

Q. And you never knew of any such reference?—A. No, sir.

Q. Do you think the Commissioner was aware of that report of yours?—A. I do not think the Commissioner knew any thing about it. I am confident we had no conversation about it.

By the CHAIRMAN:

Q. It seems to have been assumed here that you reported that no power existed authorizing the Government to bring suits to vacate patents prior to the introduction of this bill.

Mr. RANNEY. They would not allow me to ask him what his opinion was, and then I put in the report of the Forty-eighth Congress.

The CHAIRMAN. I have read this report of yours, Mr. Vance, and—

Mr. RANNEY (interposing). I was not permitted to ask him what his view of the law was.

The CHAIRMAN. I have not asked him what he reported. I think a wrong impression has been made in regard to the report, and I want to call his attention to it.

Mr. RANNEY. Then it should be read.

The CHAIRMAN. Did I understand you to say, Mr. Vance, that your three reports were substantially the same?

The WITNESS. I think so, though I have not read them over recently.

Q. You say you think they were substantially the same?—A. I think, substantially the same.

Q. I will ask if your first report in the Forty-sixth Congress went further than to take this position, that the question as to whether a patent had been issued fraudulently or not could not be inquired into collaterally.

Mr. RANNEY. I think the proper way would be to put the reports in, and then I should not urge any objection.

The CHAIRMAN. If this report goes in, it goes in to show what was the opinion of the party making it at the time.

Mr. RANNEY. I was proceeding to examine with that view, claiming that it was a matter which affected his action and differed from the other cases, and, objection being made by Mr. Hall, I yielded to it.

The CHAIRMAN. I understood that the objection was made to allowing the witness to give his opinion.

Mr. RANNEY. I understand that you want to get his opinion.

The CHAIRMAN. I am not asking him as to his opinion, but as to these reports produced here.

Mr. RANNEY. If you put the reports in I shall not make the objection, only I should have been allowed to have done it myself.

The CHAIRMAN. I do not remember to have heard the gentleman ask the question or pursue the line of inquiry I now contemplate.

Mr. RANNEY. I say that I believe I was right then and you are right now.

The CHAIRMAN. I have not asked a question, and you do not know whether I am right or wrong until I do something. I will ask you, Mr. Vance, have you looked at your report made from the Committee on Patents in the Forty-sixth Congress.

The WITNESS. I have not carefully examined it; I have an impression that they are substantially alike.

Q. You say that they are substantially alike.—A. That is my impression.

Mr. RANNEY. Now I think I can with propriety object. I object to his saying they are substantially alike unless they are put in the record.

The CHAIRMAN. I have no objection to them going in.

The report is as follows:

[House Report No. 1711, Forty-sixth Congress, second session.]

JUNE 9, 1880.—Recommitted to the Committee on Patents and ordered to be printed.

Mr. Vance, from the Committee on Patents, submitted the following report, to accompany bill H. R. 6456:

The Committee on Patents have had under consideration sundry bills referred to them, relating to patents issued, reissued, and extended, where fraud, concealment, or misrepresentation are alleged to have been used in the procurement thereof, and now beg to submit the following report, with an accompanying bill, which they recommend as a provision to cure a serious defect in the existing law.

By the act of April 10, 1790, creating the Patent Office, it was provided that where suit was brought for infringement, the defendant could plead all the defenses now allowed by the statute, *as well as fraud* in the procurement of the original patent or the reissue or extension of the same.

This provision was re-enacted in 1793, but in the act of 1870, revising and consolidating the patent laws, the defense of fraud was omitted.

It thus appears that whilst the most flagrant fraud or misrepresentation may be practiced in the procurement of a patent or its reissue or extension, there is to-day no statute provision by which it may be successfully pleaded as a defense against a charge of infringement or against the validity of the patent itself.

The Supreme Court, in *The United States v. Stone*, 2 Wallace, 525, says:

"The United States may properly proceed by bill in equity to have a judicial decree of nullity and an order of cancellation of a patent issued by itself, ignorantly or in mistake, for lands reserved from sale by law, and a grant of which by patent was therefore void."

In *Rubber Company v. Goodyear*, 9 Wallace, 788, the court says:

"Extended letters patent cannot be abrogated on any collateral proceeding for fraud (p. 788)."

The opinion of the court was delivered by Swayne, J. He refers (p. 796) to the 5th section of the act 1790, which provided for the repeal of patents, and reviews the legislation of Congress on that subject, and concludes that—

"It was the intention of Congress not to allow a patent to be abrogated in any collateral proceeding except in the particular instance mentioned, *but to leave the remedy in all other cases to be regulated by the principle of general jurisprudence.*"

The judge refers (p. 797) to *Jackson v. Lawton*, 10 Johnson, 23, where Chancellor Kent said:

"Unless letters patent are absolutely void on the face of them, or the issuing of them was without authority, or was prohibited by statute, *they can only be avoided in a regular course of pleading, in which the fraud, irregularity, or mistake is regularly put in issue.*"

The court further say, in referring to 1 Hening & Munford, 19, 187:

"The patent in that case was for land; but, as regards the point here under consideration, there is no distinction between such a patent and one for an invention or discovery. If there be, *the case is stronger as to the latter.*"

Eureka Company v. Bailey, 11 Wallace, 488, Judge Miller delivered the opinion—

"A patent from the Government cannot be impeached for fraud in procuring its issue in any other mode than by a direct proceeding to set it aside (p. 492)."

Seymour v. Osborn, 11 Wallace, 543, Judge Clifford delivered the opinion. He referred to *Railroad v. Stimpson*, 14 Peters, 458; and *Stimpson v. Railroad*, 4 Howard,

384, holding that the fact of the granting of the reissued patent closed all inquiry into the existence of inadvertence, accident, or mistake, and left open only the question of fraud for the jury.

The court say :

"Since that time it has been definitely settled that neither reissued or extended patents can be abrogated by an infringer, in a suit against him for infringement, upon the ground that the letters patent were procured by fraud in prosecuting the application for the same before the Commissioner (page 543)."

Mourey v. Whitney, 14 Wallace, 434, the court say, page 441 :

"The general public is left to the protection of the Government and its officers.

"1. The fraud, if one exists, has been practiced on the Government, and, as the party injured, it is the appropriate party to assert the remedy or seek relief.

"2. A suit by an individual could only be conclusive in result as between the patentee and the party suing, and it would remain a valid instrument as to all others.

"The patentee would or might be subjected to innumerable vexatious suits to set aside his patent, since a decree in his favor in one suit would be no bar to a suit by another party.

"If, on the other hand, an individual finds himself injured, either specially or as a part of the general public, it is no hardship to require him to satisfy the Attorney-General that the case is one in which the Government ought to interfere, either directly, by instituting the suit, or indirectly, by authorizing the use of its name, by which the Attorney-General would retain such control of the matter as would enable him to prevent oppression and abuse in the exercise of the right to prosecute such a suit (page 441)."

The committee submit that from the foregoing it will appear that the Supreme Court constantly recognized this defect in the law, and sought to suggest means of meeting the difficulty by the application of the "general principles of jurisprudence."

To remove all doubt in the matter, and to relieve Congress from the consideration of questions which more properly belong to the judiciary, as well as to avoid all question of the constitutional power of Congress to repeal, limit, or vacate letters patent by legislative enactment subsequent to the issue of the patent, and to provide proper protection to all innocent users from the charge of infringement of patents that have been improperly obtained, your committee have prepared the accompanying bill, and hope that it may receive the unanimous approval of Congress. It cannot affect any valid patent properly obtained. A patent improperly obtained should not be permitted to levy tribute from the people.

Q. Now I call your attention to your report in the Forty-sixth Congress. I submit it to you. [Handing report to witness.] I want to know whether in your report on that bill you went further than to maintain this general proposition, that whether a patent was issued fraudulently or not could not be inquired into collaterally?

Mr. RANNEY. I object to that because you are asking what is in a report.

The CHAIRMAN. I do not think that is a valid objection.

Mr. RANNEY. You do not think it is valid?

The CHAIRMAN. No, sir.

Mr. RANNEY. I appeal from that decision and call for the ayes and noes.

Mr. HALE. I object myself because it is not competent to examine the witness in regard to the contents of a printed report. The reports speak for themselves.

The CHAIRMAN. If the Chair thought he was examining the witness for the purpose of bringing out what is in a printed report, he would not pursue that line of examination.

Mr. HALE. I shall have to vote against examining the witness in regard to the contents of a report. These reports speak for themselves.

The CHAIRMAN. I do not question that, but I am not asking for the contents of the paper.

(The question was read by the stenographer.)

Mr. RANNEY. I suppose the Chair will overrule me, and I ask for the ayes and noes.

The CHAIRMAN. The gentlemen from Massachusetts has given in evidence a report made by this witness when chairman of the Committee on Patents—when a member of the Forty-eighth Congress—for what? To prove what the opinion of the witness was, and also the opinion of the Committee on Patents. It is here for that purpose. May I not ask this witness whether he has not made a report different from this, and point out the difference, and may I not in cross-examination ask him whether or not this report is his opinion and he changed it. Why may I not do that?

Mr. RANNEY. Do you put it in the form of an interrogatory?

The CHAIRMAN. And cannot I call his attention to the difference between one and another?

Mr. HANBACK. But this is not his opinion.

The CHAIRMAN. It is, or it has no business here.

Mr. RANNEY. It is put in as the opinion of the Committee on Patents.

The CHAIRMAN. Then it is not competent. The report of a committee is not authority for anything.

Mr. RANNEY. I do not care to discuss it.

Mr. MOFFATT. If this committee was governed by the strict rules of law in regard to the admission of evidence it would be different, but it seems to me that we are here for the purpose of getting at facts referred to us, and we should not attempt to tie ourselves down to a strict construction of the rules of evidence, and I shall vote to allow this question and sustain the chair.

The CHAIRMAN. I now understand that there is no objection to the question as you have stated it (referring to Mr. Ranney, who had made a suggestion to the chairman which the stenographer was unable to hear), to call the attention of the witness to the difference between the two reports.

Mr. RANNEY. The chairman having changed his question, I withdraw my objection.

The CHAIRMAN. The Chair has not changed his question. Well, Mr. Vance, answer the question.

The WITNESS. State the question, if you please.

The CHAIRMAN. I call your attention to the report made by you in the Forty-sixth Congress, and also to the report given in evidence, made in the Forty-eighth Congress, and ask you whether the report made in the Forty-sixth Congress was the action of the committee upon the same ground as that made in the Forty-eighth Congress?

Mr. RANNEY. I object.

The CHAIRMAN. I ask you whether in your report to the Forty-sixth Congress you did not state, and base the action of your committee upon the ground, that a suit to invalidate a patent fraudulently issued could be brought only in the name of the United States, and that the matter could not be inquired into collaterally?

Mr. HANBACK. I object.

The CHAIRMAN. Upon what ground?

Mr. HANBACK. On the ground that the report shows for itself.

The CHAIRMAN. The Chair overrules the objection.

Mr. HANBACK. I appeal from the decision of the Chair.

Mr. HALE. Ask the witness if he read the reports, and if he made any changes in his reports.

The CHAIRMAN. I call attention to the fact that he made inconsistent reports.

Mr. HANBACK. Is it a question of the inconsistency of the witness here?

The CHAIRMAN. Yes, sir.

Mr. HANBACK. He did not make this report. The whole committee made it.

The CHAIRMAN. It has been put in here, as I understand, as his views, or it is not competent at all.

The CHAIRMAN. The question is shall the Chair be sustained?

The ayes and noes were taken and resulted as follows:

Ayes—Messrs. Eden, Moffatt, and Hall. Noes—Messrs. Hale, Hanback, and Ranney.

The CHAIRMAN. The noes have it, and the chair is overruled.

The WITNESS. Will you let me make a remark? I should like to explain what I meant by the answer I gave to the question last recorded, when I said that I thought these reports were substantially the same.

The CHAIRMAN. If the witness wishes to explain answer already made he may do so.

Mr. HALL. Is there any objection to my asking one or two questions?

The CHAIRMAN. No.

Mr. HALE. First allow the witness to make his explanation.

The WITNESS. My meaning was that they were substantially the same.

Mr. RANNEY. I object to that because it will open the whole ground.

Mr. HALE. I think the witness has the right to make an explanation.

Mr. EDEN. I never heard of any committee or any court where a witness was not allowed to make an explanation if he desired to do so, and he has answered you that the reports were substantially alike. Now, you object to that because as you say it will open up the whole ground.

By Mr. HALL:

Q. Have you examined the two papers called reports, which have been called to your attention?—A. Not recently, not until now, and I have not had a thorough chance now to go over them and examine them critically.

Q. Do you remember whether you have testified to the committee anything touching the effect of these reports, or any reports of the Committee on Patents while you were on that committee?—A. At this meeting?

Q. Here to-day.—A. I do not think I gave any opinion. I said that I thought the reports were substantially the same.

Mr. RANNEY. That has been ruled out.

Mr. HALL. That is in the record now.

Mr. HALE. I heard him answer that he thought the reports were substantially the same.

By Mr. HALL:

Q. Do you remember, in answer to a question of Mr. Ranney, you replied substantially that these reports were on file, holding that the Government had no power to bring suits to vacate patents obtained by fraud?

Mr. RANNEY. I object.

Mr. HALL. What is the objection?

Mr. RANNEY. Because the Chairman has ruled upon that. I put no such question as that myself. I sent out to examine him on that line, but by your objection I was prevented.

Mr. HALL. Let the stenographer read the question.

(The question was read by the stenographer.)

The CHAIRMAN. Is there any objection to that?

Mr. RANNEY. I object.

The CHAIRMAN. I hold that the question is competent.

Mr. RANNEY. I appeal from the decision of the chair.

The CHAIRMAN. The question is shall the ruling of the chair be sustained?

Mr. RANNEY. That is the thing to be determined by the record and not by the witness.

A vote was taken and the chair was sustained.

The question was ordered to be read, and the stenographer read as follows: Do you remember, in answer to a question of Mr. Ranney, you replied substantially that these reports were on file, holding that the Government had no power to bring suits to vacate patents obtained by fraud?

A. I did not answer such a question, according to the best of my recollection.

By Mr. HALL:

Q. Do you not remember what the question was which was put to you, and to which you made a reply relating to what the reports of the Committee on Patents were?—A. I do not remember what the question was, but I remember stating to the committee that the reports were substantially the same and looking to given point, and that is authorizing the Attorney-General to bring suit.

Q. Now, I will ask you whether you made any statement in correction or explanation of that answer?

Mr. RANNEY. I ask the ruling of the chair on that question.

The CHAIRMAN. I think that is competent.

Mr. RANNEY. I understand that you undertook to rule that out.

The CHAIRMAN. I do not recall it. It seems that the witness has made a certain answer which, upon the suggestion of the gentleman from Iowa, he wishes to explain, and I think he has a right to do so.

By Mr. HALL:

Q. I will ask the witness if he desires to say anything in explanation of that answer he gave the committee?

The WITNESS. I would like to state this, that I was not speaking so much to the precise language of the report as I was to the fact that they were substantially the same, and as going to the point that the present laws did not authorize the Attorney-General to bring suit, and if you will look at the reports you will see that there is a matter of doubt as to whether the Attorney-General has the power.

Q. Then you mean to say that the similarity of the two reports was in the direction of enacting a declaratory statute, so as to make it certain?—A. So as to make it plain; that is what I meant to say.

Mr. RANNEY. It is violating a rule, however, that the committee has established. The committee voted on that, and still the members persist in disregarding the decision of the committee.

Mr. HALE. I want to correct myself in one of the votes had here to-day. The first witness examined gave his opinion as to the honesty or dishonesty of a certain gentleman. I do not think that testimony proper to go into the record, and if I voted to admit it I want to withdraw the vote.

Mr. EDEN. It was not stated in response to any question. He simply, in giving an account of the transaction he had with the Attorney-General, made that statement.

Mr. HALE. And stated, in his opinion, that General Garland was an honest man. If I voted to admit that testimony I wish to recall it.

Mr. RANNEY. I suppose the proper proceeding would be for the gentleman to move a reconsideration of that vote.

Mr. HALE. I do not think it is a matter of such importance as that.

Mr. RANNEY. I move that all this latter part of the record be stricken out.

Without taking action upon Mr. Ranney's motion the committee adjourned until April 23, 1886, 12 m.

WASHINGTON, D. C., *April 23, 1886.*

The committee met pursuant to adjournment.

A. H. BYINGTON was put upon the stand, but, by his request, he was excused from being examined at this time.

THOMAS H. GARDNER, being recalled, was examined as follows:

By the CHAIRMAN:

Question. I have been informed Mr. Gardner, that you desired to make some correction in your former testimony?—Answer. I made a statement the other day that I never spoke to any member of Congress in relation to the sale of stock, and I now am of that opinion. I met my friend, Mr. McComas, some days afterward and he told me that I had mentioned the matter to him about two years ago, which was before our company was organized. I may have had a conversation with him, but I had no recollection of it, nor had I when I testified here, nor have I now. Mr. McComas says this conversation occurred about two years ago, and my impression is that our company was not then organized. I make this statement, although I do not deem it material.

Q. You say you have no recollection now of this conversation?—A. No, sir.

Q. The fact as to whether you did or did not have a conversation with Mr. McComas does not appear by your correction.—A. I have no doubt that Mr. McComas will state his recollections in the matter.

L. E. MCCOMAS, being duly sworn, was examined as follows:

By the CHAIRMAN:

Question.—Are you a member of Congress?—Answer. Yes, sir.

Q. From what State?—A. Maryland.

Q. How long have you been in Congress?—A. In the Forty-eighth and Forty-ninth.

Q. Are you a stockholder in the American Bell Telephone Company?—A. In no telephone company in any way of any sort.

Q. Have you at any time been solicited to take stock in any telephone company?—A. The only occasion that I recall was in the long session of the former Congress, I think about this time of year; Major Gardner asked me to buy some stock in a telephone company in which he was concerned, which he said would be a very good thing, and which was about to put up lines in the District of Columbia and Maryland, and elsewhere probably; we had a brief conversation and he offered to sell me the stock, and thought it would be a good investment; I declined to buy any stock; the conversation was very brief, and I turned to see some people who were waiting to see me, and he turned to see some people he wanted to speak with; it was several years ago, about this time probably—certainly in the long session of Congress.

Q. The long session of the Forty-eighth Congress?—A. Yes, the Forty-eighth.

Q. Two years ago?—A. Yes, sir. It was a brief, and casual conversation in which he offered to sell me some stock of some company, and I simply said I did not want to buy stock in any company. He said it would be prosperous, and would be a good investment, but I told him I did not want stock in any company. That was the subject of conversation in a general statement.

Q. Did he name the company?—A. Very likely he did, but I gave it so little attention that I could not recollect if I heard it mentioned.

By Mr. RANNEY:

Q. Was this the Washington Telephone Company?—A. I really cannot recollect at this time. My impression is it was a local company in Maryland certainly, and the District probably—one or two States—and as I had known Mr. Gardner for years, and he had known me, and coming from my State, he offered to sell to me this stock, and urged that it would be a profitable investment. The conversation lasted probably five minutes. Other things probably were referred to in the conversation of which I have some vague and dim recollection, but what I have stated was the substance of the conversation.

Q. Do you remember, in calling your attention to this company, if he named any gentleman in it?—A. I tried to recollect that, and maybe he did, though I am not prepared to say now upon my affirmation whom he named. He named several to me.

Q. Do you remember whether Bradley T. Johnson was one of them?—A. I have quite a distinct impression that Mr. Johnson was one of them.

Q. Can you not recall others?—A. I cannot positively, sir; not enough to name them.

Q. Did he say anything about your coming in on the ground floor, or anything of that kind?—A. I cannot recall that expression. He wanted to sell me stock in a company which was about to be organized, and he told me he believed it was a very good thing and a very good enterprise, and thought it would be a profitable investment. That is the substance of it. I have vague recollections which I should not like to give after the lapse of two years.

Q. Did you decline to buy?—A. I declined to buy.

Q. On what committee were you at that time?—A. District of Columbia and the Committee on the Revision of the Laws.

Q. You say you have known Mr. Gardner some time?—A. Oh, yes, sir.

Q. Do you remember the price he named for it?—A. I really cannot recollect, I gave so little attention to it. I gave two reasons for not buying, either one of which was sufficient. I had not the money to invest, and if I had I should not invest it in any stocks that I know of.

Q. Did Mr. Gardner know what position you had in the House?—A. I have no doubt. I think from the conversation he did. My impression is that Mr. Gardner referred to the fact that I, being a Maryland man, and also here on the District Committee, and well known here, was a reason why he wanted me to buy stock in what he supposed to be a very good investment, and one that would make a good return. The conversation was so brief and casual, that I then turned and talked with some of my constituents who were there and waiting to see me, and Mr. Gardner turned to see some persons there he was inquiring for, and he went off with a gentleman whom I did not know. He was a tall man, as I recollect.

Q. As a matter of fact you do remember that he named several gentlemen who were in this company, is that so?—A. My strong impression is that Mr. Gardner mentioned several gentlemen of my acquaintance who had bought stock in this company and who were interested in it, but I cannot after this lapse of time state anybody, except General Johnston, whom he did name.

Q. Do you mean Bradley T. Johnson?—A. Yes, sir. The other names that he used I cannot bring clearly to my mind.

Q. Do you remember whether he said Bradley T. Johnson was president of it?—A. I cannot recollect more definitely than I have said.

Q. You would recollect any other gentlemen being mentioned, if you knew them?—A. I cannot do that with any distinctness, as the conversation was only casual, and there at the House door. I should not like to name anybody that I did not positively remember. The conversation was so casual and of so little interest to me that I do not like to name anybody whom I could not distinctly remember. The conversation was very brief indeed.

By Mr. HALL.

Q. I infer from what you state that you understood from the conversation that the company into which you were invited had not then been organized?—A. I really gave it so little attention that I cannot recall the name of the company or anything else about the company further than I have answered.

Q. I mean whether it had any existence at all at that time. I understood Mr. Gardner to say at the time you fix for the conversation the company to which he belongs had not been organized and I am simply calling your attention to the point, whether you were invited to become a promoter of a company of that kind?—A. I was simply invited to buy stock.

Q. Was the word "stock" used, or "interest"?—A. That he wanted to sell me some stock, and from that I inferred the company was organized and he spoke of the company being a good one in which to invest and wanted me to buy some stock in it. Although I had seen him before and have seen him since, the subject was at no other time alluded to.

By Mr. RANNEY:

Q. I suppose you have read something in the newspapers on the subject since then?—A. Yes, sir.

Q. And that Bradley T. Johnson was president of this company, and learned something about the relationship since?—A. Not from Mr. Gardner, whether he was an officer of this company he named or any other company.

Mr. MOFFAT. When was this company organized?

The CHAIRMAN. I have an impression it was organized in May, 1884. Can you fix the date of the conversation with any accuracy, Mr. McComas?

The WITNESS. You know, Mr. Chairman, how very hard that is to do. It was during the long session of Congress; the conversation was very brief and casual, and took place in the lobby in the presence of dozens of people, many of whom were waiting to see me.

Q. You state that it was about this time two years ago?—A. My impression is that perhaps it was about this time, perhaps two months earlier or two months later. I hope I have made it distinct that I have no stock of that company, or any telegraph company, or any telephone company of any sort.

The CHAIRMAN. You have stated that, sir.

EDWARD CLARK, being duly sworn, was examined as follows:

By the CHAIRMAN:

Question. Do you hold any office connected with the House of Representatives?—

Answer. I hold the position of Architect of the Capitol.

Q. How long have you had that position?—A. Twenty years about.

Q. Have you any recollection of an application having been made to you for the appointment of J. Harris Rogers as electrician of the House?—A. I have no recollection of such an application being made to me by Rogers. My impression is that the application was made to the Speaker of the House of Representatives, who sent for me to consult about it. I do not think the application was made directly to me at all.

Q. In what Congress was that?—A. That was the Forty-eighth Congress.

Q. That was Speaker Carlisle?—A. Yes, sir.

Q. Were you ever spoken to on the subject by Mr. Rogers himself?—A. No, sir.

Q. Were you spoken to by any other person than the Speaker of the House?—A. I was spoken to by Senator Harris and by a subcommittee of the Committee on Public Buildings and Grounds, to whom the resolution providing for the restoration of the Rogerses was referred.

Q. You may state what was said to you by Senator Harris respecting the appointment?—A. I was sent for by Senator Harris, and he told me that he took an interest in Harry Rogers, who was an applicant for restoration to his former position, that of electrician, and it would be gratifying to him if he could be reappointed. That is the substance of it.

Q. Do you remember your reply?—A. Yes, sir; I replied that there were reasons for not doing it; one was that he was connected with a company.

Q. What did Senator Harris say to that?—A. I said it would be damaging if the Rogerses were successful; that it would be damaging to some members of Congress and to himself; that they were interested in getting telephones and electric lights in the Capitol, and these gentlemen would finally be called upon to vote on a question in which they were personally interested. Senator Harris said that put it in a new light to him; that he never saw it in that light before, and urged it no more. It appeared to be revelation to him.

Q. Did you give any other reason why he should not be appointed?—A. Yes, sir; that Mr. Harry Rogers was not reliable; that he was a skillful electrician, but off his center often, and we had, at times, considerable doubt of his ability to perform his duties.

Q. Do you remember any other reasons that you gave in any other conversations?—A. That was the substance of all conversations on the subject. Senator Harris said, "I thank you for speaking so plainly in the matter and showing to me what the effects might be." Perhaps I magnified the evil of the thing.

Q. Did you then know the gentlemen who have been named as being connected with the Pan-Electric Company?—A. Yes, sir. I think I met Mr. Young shortly after I saw Senator Harris, Mr. Young being on the Committee on Public Buildings and Grounds, and this resolution having been referred to that committee. I met Mr. Young in the corridor one day, and went on to explain why I could not favor the project of restoring Rogers. He said, perhaps, "Well," or something like that.

Q. What reasons did you give to Mr. Young for not favoring this restoration?—A. I gave to him the same reason that I gave to Senator Harris. I explained that Senator Harris had sent for me and made this request, and being himself interested in behalf of the Rogerses, I told him what I told Senator Harris, as I thought the same applied to him, though I am doubtful if Mr. Young asked anything about it.

Q. What did he say to you if he did not ask an explanation?—A. He listened and walked off.

Q. Had he called your attention to the matter?—A. No; I met him and made this explanation to him, knowing that Mr. Young was connected with the company.

Q. I understand that you spoke to him about it; that you introduced the subject.—A. Oh, yes; I introduced the subject.

Q. Did you have any conversation with Senator Garland respecting the application?—A. No, sir; I cannot remember that I ever had any conversation with Senator Garland in relation to the reappointment of Rogers, but I did have a conversation with him in relation to placing telephones in the Senate Chamber. He said that the Rogerses were anxious to put telephones in the Senate Chamber, and asked me what would be the proper mode of getting permission, and I said that the presiding officer of each House had control of the respective Halls, and nobody but they could give

the privilege; he would therefore have to go to Senator Edmunds, who was then the presiding officer *pro tempore* of the Senate. There was nothing more done in the matter. Senator Edmunds did not agree, or else Mr. Garland did not ask his permission. I suppose that was the case, as nothing more was done in the matter.

Q. Do I understand you that you made that statement to Senator Garland, that he would have to go to the presiding officer?—A. Yes, sir; and that is the only conversation I remember having with Senator Garland in relation to Rogers as electrician.

Q. Do you remember when that was, Mr. Clark?—A. No, sir; but I think it was the beginning of the Forty-eighth Congress, about the time that Mr. Rogers was seeking restoration.

Q. Did you know at that time that Senator Garland was connected with the telephone company referred to?—A. Yes, sir; because I had the prospectus and saw who the directors were.

Q. Was any allusion made to that fact in your conversation?—A. No, sir.

Q. You state that you had an interview with the subcommittee of the Committee on Public Buildings and Grounds in reference to J. Harris Rogers's reinstatement?—A. Yes, sir.

Q. Who were the members of that subcommittee?—A. Here is a copy of the resolution which I presume was introduced in the House, and which was referred to the Committee on Public Buildings and Grounds. [Displaying paper.]

Mr. HALL. Is that the Rogers resolution you have there?

The WITNESS. This is the resolution, I presume, which was introduced in the House. Here is a letter that I have that was not official, but I think came to the electrician. At any rate, the matter was referred to the subcommittee on Public Buildings and Grounds, consisting of Mr. Stockslager (chairman), Mr. Keen, of New Jersey, and Mr. Reese, of Georgia, a member of the present House.

By the CHAIRMAN:

Q. Do you say this is a copy of what you understand to be the Robinson resolution?—A. Yes, sir.

Q. Were you spoken to in respect to that resolution by any gentleman named—Mr. Young, Senator Harris, or any of them?—A. No, sir.

Q. State what occurred between you and the subcommittee.—A. They asked me what I thought of the matter; if I thought the resolution should pass, and I told them no, and gave my reasons. One reason was, as I had stated to Senator Harris, that it would bring scandal on some members, on one a member of their committee, meaning Mr. Young here. [Pointing to Mr. Young.] He said, "How?" I said that he and these other parties were connected with the company of which Rogers was the electrician, inventor, and a director. That appeared to be new to them, and they asked me if that was so. I happened to have the prospectus with me, and showed it to them, and then I heard nothing more of it. They did not report the resolution, however, as I suppose they saw the impropriety.

Q. Was any other person appointed at that time? Was there any change made?—A. No, sir; no change. Mr. Tolcot was then electrician, but Rogers wanted to supersede him.

By Mr. RANNEY:

If that is the resolution I should like to have it marked and put in the record of these proceedings. Did you refer in any of these conversations—at least I do understand that you did refer in these conversations—to the fact that these gentlemen were connected with the Pan-Electric Company?—A. Yes, sir; I did, both to the committee and to Senator Harris.

Q. Which member of the committee came to you?—A. I was sent for to the committee room to meet the subcommittee to which this resolution had been referred.

Q. Who composed that subcommittee?—A. Mr. Stockslager, the chairman of the Committee on Public Buildings and Grounds, Mr. Reese, and Mr. Keene of New Jersey.

Q. How many men came to see you before Mr. Robinson introduced the resolution?—A. None. The only person I spoke to was Senator Harris. He did not come, but sent for me to see him at the Senate chamber.

Q. And you went there to see him?—A. Yes, sir.

Q. Mr. Garland, I understood you to say, went to see you?—A. I have an indistinct recollection of Senator Garland coming to see me, to know what course he should pursue to get Rogers' permission to put telephones in the Senate chamber, but I have no recollection of his saying anything about the reappointment. What fixes it on my mind is this, that when I saw Mr. Garland, whom I knew to be one of this company, I thought that his object was the Rogers' reappointment.

Q. You have not read his testimony, have you?—A. No, sir.

Q. I want you to read it, so that you may be able to state positively whether he did or did not. I understood him to say that he did see you.—A. I think he is mistaken. He came to see me about putting Rogers telephones in the Senate.

Q. Did anybody except Senator Harris speak to you on the subject, if Mr. Garland did not?—A. No; nobody else.

Q. Did Mr. Rogers come himself?—A. No, sir.

Q. Do you recollect saying anything to any of them that you would not consent, because there were so many interested that it would be another Credit Mobilier?—A. Yes, sir; I did say something like that to Senator Harris and the three gentlemen of the committee.

Q. Did you say anything about Credit Mobilier?—A. Yes, sir; that was the expression I used.

Q. What did you say on that subject?—A. I said it might produce a scandal similar to the Credit Mobilier, because five of the directors were members of Congress, and it appeared that the stock might be divided among other members judging from the composition of the directory. I said to him, "Your political opponents might use this argument against you, and if they do not your business competitors would." He said that was new to him, as it never appeared to him in that light, and he urged it no further.

Q. That was said to Senator Harris, was it?—A. Yes, sir.

Q. Did anybody ever offer you any of this stock?—A. I have a letter here from J. W. Rogers. It is headed 315 4½ street, N. W., Washington, D. C., and says, "My dear Mr. Clark: I send you herewith a proof of circular which explains itself, &c." Here is the letter, you may read it yourself. [Handing letter to Mr. Ranney.]

By Mr. EDEN:

Q. Who wrote that letter?

Mr. RANNEY. J. W. Rogers. I will read it.

(Mr. Ranney had some difficulty in deciphering the writing and asked the witness to read.)

The letter was read, as follows:

315 FOUR-AND-A-HALF STREET, N. W.,
Washington, D. C.

MY DEAR MR. CLARK: I send you herewith a proof of circular which explains itself, and mindful of the many pleasant *entre pas* which I and my sons have had with you for several years past, I beg you to accept \$10,000 stock in the Pan-Electric Company.

Your name as a director, also, if you should permit it, would guarantee honest and square dealings with the public.

Your friend,

J. W. ROGERS.

P. S.—Now for bargains, intrigue, and corruption. Harry has made great advances in the thermotelemeter, and begs you to lend him one with the graduated galvanometer, in Landon's room, for a few days, when he will return it.

Q. What is the date of that?—A. It is dated February the 12th. I judge that from my reply, which is dated February the 13th.

By Mr. EDEN:

Q. What year?—A. 1883.

By Mr. RANNEY:

Q. What was your reply to it?—A. I will read:

ARCHITECT'S OFFICE, UNITED STATES CAPITOL,
Washington, D. C., February 13, 1883.

DEAR SIR: In reply to yours, I will say that you can have the thermotelemeter whenever you send for it.

While thanking you for your kind offer, I must decline to be connected with any electric company either as a stockholder or director, as it is in the possibilities that I may be called upon some day to decide as to the use of some electrical apparatus for Government service.

Respectfully yours,

EDWARD CLARK,
Architect, United States Capitol.

Mr. J. W. ROGERS,
No. 315 Four-and-a-half street, N. W.

Q. Was the stock inclosed in the letter?—A. No, sir; no stock was inclosed.

Q. What period was that in relation to the time when they applied to you to put Rogers in as electrician?—A. I think that was before.

Q. Which was before?—A. I think was dated before. I am not positive. I have not my mind connected with that and the other at all.

Q. If I recollect, that application to have Rogers's appointment made commenced December, 1884?—A. This is 1883.

Q. Then the time he tried to get you to appoint him was subsequent to your receiving this letter?—A. He did not try to get me to appoint him.

Q. I mean others?—A. Yes, and he was under the impression that the appointment lay with the Speaker; but the Speaker decided that he had simply a confirming voice in the matter. The Speaker told me he was pressed in this matter, and sent for me to consult about it, and I spoke to him, and he said he thought I was perfectly right.

By the CHAIRMAN:

Q. Is the reply dated the day of the receipt of this letter from Rogers?—A. The reply was made the very day that letter was received.

By Mr. RANNEY:

Q. Did you ever have any stock sent to you afterward?—A. No, sir.

Q. Do you know anybody connected with the House that did have any?—A. No, sir.

Q. Or with the Senate?—A. No, sir.

Q. I see you had a circular sent to you; you say that you were aware when Senator Harris came to you, of the fact that these parties were connected with this enterprise. How did you learn that?—A. I had a prospectus which the Rogerses sent, showing that these gentlemen were connected with that enterprise. Here is the prospectus now, and you will see the five names there. (Handing paper to Mr. Ranney.)

Q. From whom did you receive this prospectus?—A. I do not know. My impression is that the pamphlet which had the same names of directors in it was sent me by Rogers. But that one I picked up somewhere. I do not think that was sent to me at all. That is a more recent issue.

Q. This circular contains the names of directors, letter of Myers to Garland, and letter of Garland to Myers. I understood you to say that Mr. Rogers sent you a circular?—A. Yes, sir; a circular in which there was the same list of directors. I think I left that with the subcommittee on Public Buildings and Grounds when they were examining into the resolution referred to them.

Q. When you went to the subcommittee in relation to the matter, you had it then, did you?—A. Yes, sir.

Q. Which disclosed the relation of these parties to it?—A. Yes.

Q. And you knew by the circular who they were?—A. Yes, sir.

Q. And that was sent to you by Dr. Rogers?—A. I think so.

Q. Where did you get this one?—A. I think Mr. Tolcot, the present electrician, gave it to me, but I cannot be positive about that. But I do not trace it up as coming from either of the Rogers, in any way at all.

Q. Have you the circular which was sent to you which disclosed the relation of these parties to the enterprise?—A. I think I left it with that committee. It was a pamphlet perhaps of ten or twenty pages, and contained the names of the directors.

Q. Did you say anything to either of these gentlemen about the fact that there had been or was pending before Congress the project of establishing a postal telegraph?—A. No, sir.

Q. Where did you get the resolution which you presented here, and did not put in?—A. I think that was inclosed in Mr. Rogers' letter. I think he said, "I inclose resolution, which explains itself." That was the circular.

Q. Well, which circular was named in that letter?—A. Probably this one [pointing to paper headed "The Rogers Telegraph and Telephone Co."].

Q. That could hardly be, because I see in that a letter of Mr. Garland's dated in 1884, unless there is a mistake in the date.—A. No; I cannot tell, really. I cannot tell what this circular was. I think it is likely this may be it, because it looks like it had been folded to go in that same envelope in which Mr. Rogers' letter was inclosed.

Q. It would be impossible that that circular was sent with a letter dated in February, 1883, would it not?—A. Well, I may in looking over my papers find it.

Q. It may be that it was so near the first of January that 1883 may have been written instead of 1884. It is a very probable mistake to make.—A. It may be, but I can find out by looking in my press copy-book, which contains letters of my office.

Q. I see the company was not formed that early in 1883. It was not formed until the date of this written agreement, in March, 1883. If your letter was written in February, 1883, it would be before these men were associated with that company. Now, you may be mistaken about the date. Your letter in reply might suggest the possibility of your writing 1883 instead of 1884.—A. I guess that is the right date, because at the time I did not know that any public men were interested in this company at all.

Q. When you got that letter?—A. Yes, sir; and sometime after that I got this pamphlet—this prospectus.

Q. And in the letter you got the circular you cannot recollect?—A. I cannot.

Q. And cannot recollect when you got this one here?—A. No, sir; I think Mr. Tolcot, the present electrician, gave it to me.

Q. Do you know when?—A. No; may be he can tell. I could not say. Sometimes he would say, "Here is something on the telephone business," and hand it to me.

Q. You say you got other documents, and perhaps you can make an examination in your office and speak definitely in regard to this matter of date.—A. If that is a misdate I will find it in our press copy-book of letters; I will find there whether it was 1884 or 1883. The letters all come in regular order in the book, and I can tell very readily.

Q. Perhaps you are right about the date of the letter. Did anybody ever offer you any of the stock since?—A. No, sir.

Q. Do you know anybody else connected with Congress in a subordinate condition (employés) to whom stock had been offered?—A. I do not, sir.

Q. You have been a good many years Architect of the Capitol?—A. Twenty years, sir.

Q. That resolution which you have brought here, do you recall when you got it?—A. I do not. I do not know when I got that. I got it soon after the resolution was introduced. I do not think the resolution introduced was printed. I have not been able to find it. I wanted to get it, and I went to the committee-room to ascertain if I could get a copy of the resolution that had been referred. Whether it was because there was some difficulty in getting it, or the clerk was not there, that I did not get it, I cannot say; but I got Mr. Tolcot, the electrician, to go and get a copy of that, and a day or two afterwards, I think it was, he brought that printed copy, but that was not printed by the Congressional Printer.

Q. I observe that it is not the resolution which Mr. Robinson introduced.—A. Yes, and I think I have a letter which I got from Mr. Tolcot, written by J. Webb Rogers, saying that by the inclosed copy you will see the New York delegation desire the Rogerses restored to their former place, and hoping that Mr. Tolcot would vacate, or something like that.

Q. But you think you got that resolution in a letter from somebody?—A. Yes, sir.

Q. From whom?—A. I think that came in a letter addressed to Mr. Tolcot, the present electrician, from Mr. Rogers.

Q. I see that puts it on the ground of politics. I recollect in the testimony of Mr. Rogers that it was not put on the ground of politics. In the resolution introduced by Mr. Robinson there is nothing of that kind in it, but this one seems to refer to politics. Do you know anything of any change in the resolution as at first proposed?—A. No, sir; I did not read the resolution first proposed.

Q. Was this the one that was before the committee at the time you had the hearing, or the resolution that Mr. Robinson introduced?—A. That Mr. Robinson introduced. Were they not identical? I should judge from that erasure there [pointing to an erasure in the paper before him] that that was not in the Robinson resolution.

Q. Do you know by whom the erasure was made?—A. I do not. I suppose by Mr. Rogers.

Q. Now mark these papers, and have the stenographer put them in the record.

The CHAIRMAN. It should not go in the record unless it is known to be the Robinson resolution.

Mr. EDEN. It seems that is not the resolution the committee acted on at all.

Mr. RANNEY. The preamble part of it is not in the Robinson resolution.

The WITNESS. Was the Robinson resolution ever printed?

Mr. RANNEY. We have had it here. I suppose it is in the record. I have not looked at it lately.

The WITNESS. I think I could go to my office and find the letter in which I suppose this was transmitted.

(Mr. Clark was permitted by the committee to leave the stand for the purpose of visiting his office and making the examination alluded to.)

Hon. POINDEXTER DUNN, M. C., sworn and examined.

By the CHAIRMAN:

Question. Are you a member of Congress?—Answer. Yes, sir.

Q. How long have you been a member?—A. I was elected first to the Forty-sixth Congress, and have been continuously a member since.

Q. Your name has been mentioned by some witness, I do not remember by whom, in connection with the Pan-Electric Telephone Company?—A. Yes, so I have seen in the public prints.

Q. Are you a stockholder in that company?—A. I am not, sir.

Q. Have you ever been solicited by any one to become a stockholder?—A. I am not sure as to solicitation. I have discussed the matter with persons who had stock; I am not sure that any one ever solicited me to purchase stock; I never was solicited to accept stock.

Q. Was the discussion you speak of at your instance or at the instance of the parties?—A. I think at my own instance.

Q. Who were the parties?—A. Perhaps I had better state the facts about as they occurred, if you will allow me.

Q. Yes.—A. The Rogers telephone was first brought to my attention, I think, during the Forty-seventh Congress. I am not sure whether it was the last part of the Forty-seventh Congress or the first part of the Forty-eighth Congress. I was informed that it was on exhibition over at what is called the Congressional Hotel, and was requested to go and look at its performance; but I did not go. Afterwards, I do not know how long, but a considerable length of time afterwards, the fact was brought to my knowledge that a company had been organized. Just how it came to my knowledge I do not remember, whether by seeing a publication in the papers or by getting in possession of a prospectus, or whether it was simply information given me by some friends, and in such terms as to lead me to conclude that it was probably a very favorable opportunity to make a good earning with the investment of a small sum of money. Finding also that a number of my friends were stockholders, members of the company, I made a very thorough investigation of it to ascertain, first, whether the stock was a promising investment, and second, whether I could buy it and on what terms.

I think I went first to Hon. Casey Young, who was the secretary of the company, to ascertain from him its exact business status and the business policy of the company. After a conversation with him I was referred to Senator Harris and Senator Garland for an interview on the subject of the law affecting the interests of the Pan-Electric Company, particularly as to possible litigation on the question of a conflict with the Bell Company on an infringement. I found, through Mr. Young, that the Pan-Electric Company would not sell stock at all. They refused to sell stock for the reason, as given to me by him and other members, that there was a legal question involved in possible conflict with the Bell Company; that the question of conflict must come up on the point of infringement and be determined somewhere, and the company had determined until that was settled they would not sell stock at all.

I then had an interview, I think, next, with Senator Harris, and that was of not much length and not any consequence; he referred me to Mr. Garland. I wanted to talk over minutely and carefully the law points involved, if I could ascertain what they were. I saw Mr. Garland. In the meanwhile I had been placed in possession of his written opinion on the subject, and I went to him and had a very thorough talk generally about the matter. I found on the matter of law points involved that he had examined very carefully Mr. Edmunds's brief in the Drawbaugh case, then pending in the United States court for the western district of New York. Mr. Edmunds was counsel for Drawbaugh. By comparison of the Rogers telephone with the Pan-Electric telephone on all the points that it claimed to have covered by its patent, he was of the opinion that the Pan telephone had one single point on which it might stand independently in a contest with the Bell telephone if Drawbaugh failed in that suit. In addition to all the points that Drawbaugh had, it had one additional on which he thought it might stand in conflict with Bell.

I found then, in the course of further conversations, that Dr. Rogers and Mr. Looney were willing to sell stock. Looney and Rogers seemed to own a block of stock to themselves. They were willing to sell their shares. None of the other members were willing to sell either their own shares or to allow the company to sell what it had subject to its control not assigned to individual members. I then had a conversation with Mr. Looney and Mr. Rogers—the doctor, the elder Rogers, I mean. I think I also met his son at his house. They were willing to sell and were very sanguine as to the possibilities of profit and wealth for the company and the stockholders of the company. We talked over matters a good deal, but the sum of all my investigations of the matter and talks with them, was that I concluded that I could not afford to invest the little money I might be able to borrow, for I had none of my own, in a thing so uncertain as that.

I should state, however, that in the meanwhile after I asked Colonel Young and Mr. Garland questions pertaining to the business management of the company and the law features of the case, I asked them as personal friends for their advice about the matter. They both advised me to invest neither money nor valuable property in it. Mr. Garland's remark was that he considered the stock something like a lottery ticket. If it stood in a conflict with the Bell Company he thought it would be very valuable, but the Bell Company had thus far won all suits against contestants. They both advised me to invest neither money nor valuable property in it, and my conclusion was that I would not buy the stock at any price at all.

Q. Is that all?—A. That is about the sum of all I know. Those interviews ran through perhaps a period of two months.

By Mr. RANNEY:

Q. Be kind enough to fix that period as near as you can—the year and the part of the year, the season or month.—A. Let me see if I can do that definitely. [After reflecting.] My impression is it was the summer of 1884.

Q. During a session of Congress?—A. Yes, I think so. Was that a short session or a long session that terminated in 1884?

Q. A long session.—A. I guess it was during the latter part of the session and possibly extending—well, no. I left here very promptly when the session ended. I remember that. I left a day before it ended. It must have been during that session of Congress, I guess. I will not be positive about the time; I think it was that time.

Q. Do you remember whether it was before the Presidential election?—A. It may have been; I think it was before the Presidential election. I started to say it may have been the spring or summer of 1885.

By Mr. HALL:

Q. Perhaps you can fix it by the Attorney-Generalship.—A. It was the summer of 1884—Mr. Garland was a Senator then.

By Mr. RANNEY:

Q. It was before the Presidential election?—A. I was not here when he became Attorney-General, and did not see him since then until this last September.

Q. Then you fix it at the last part of the Forty-eighth Congress?—A. Yes, sir.

Q. What makes you think that Mr. Garland has examined the brief of Mr. Edmunds in the Drawbaugh case?—A. I think he told me so himself.

Q. Are you quite sure of that?—A. That is my distinct impression.

Q. Did you see the brief itself?—A. I did not.

Q. Did he tell you he had done it?—A. I have an impression that he did; that he had either examined it or knew the points made in it. We discussed the matter of a possible conflict.

Q. Did you have any correspondence with Rogers connected with it?—A. I do not think I ever did. I think all my communications were personal interviews.

Q. You had the interviews during the two months you have stated?—A. Yes, sir.

Q. You did not have any poetry sent you?—A. No; I did not have any poetry sent me, nor any stock.

Q. Nor in the course of those two months did you have interviews with Mr. Young about it?—A. Oh, I could not tell you that. I think the first interview I had with any member of the company on the subject was with Mr. Young. He being informed—he was secretary of the company—I went to him for an interview as to its organization and as to the purpose and policy of the company.

Q. Well, how early was that, do you think?—A. My impression is that was pretty early in the spring.

Q. Was he then a member of Congress?—A. Yes, sir.

Q. Were you on the same committee with him?—A. No, sir.

Q. Where did you talk with him; where were you when you talked with him; in the House, at the Capitol?—A. No, sir; at his room on Thirteenth street was the first interview I ever had with him.

Q. Did he show you any papers?—A. Oh, yes; he showed me that prospectus, and an opinion signed perhaps by Senator Harris and Senator Garland both; at least one of them, if not both. I have an impression there was some paper signed by Mr. Marble, an ex-Commissioner of Patents, also that I was shown.

Q. He expressed confidence that the patent was valid?—A. Yes; I either saw a paper, or was informed it was Mr. Marble's opinion that it was the most sensitive instrument that was ever invented.

Q. (Submitting a paper.) Will you look at the circular with the opinion of Mr. Garland and see if you recall that opinion of Mr. Garland?—A. I would not undertake now to identify any paper I saw then.

Q. How many opinions of Mr. Garland did he show you?—A. I do not recollect of but one.

Q. But one?—A. No; and I would not say positively that there was but one, or more. I simply have a distinct recollection that there was a written opinion signed by Mr. Garland in some form.

Q. (Submitting a paper.) Perhaps by reading that you may recall it?—A. After looking at paper submitted.) Well, now, this corroborates very much my recollection of the character of opinion that I was shown at that time. I suppose this is it.

Q. The opinion of Mr. Garland? Dated when, as you read it?—A. This is dated January 5, 1884.

Q. What other papers did he show you?—A. He showed me, perhaps, a prospectus of the company, or some papers which I would not undertake to describe or identify. He did not show me numerous papers.

Q. Look through it. You recall a part of it. Perhaps you may recall the rest.—A. The thing had been represented to me in rather rosy colors, and when I had an interview with Mr. Young he discouraged me a good deal. I had gone there with a hope of finding something very good or promising.

Q. I thought you said Mr. Young was the first one who spoke to you about it?—A. No; I said he was the first one of the company to whom I spoke.

Q. Was that opinion of Mr. Garland on a separate paper or on the prospectus?—A. I do not remember that.

Q. Possibly if you will run your eye through that you will recall that that was the prospectus, as you have done with regard to the letter?—A. I do not think I saw this paper. I may have seen it. My impression is that I was furnished a pamphlet by Dr. Rogers, in which I found more literature about the company than anywhere else or everywhere else.

Q. Before your interview with Mr. Young?—A. No, sir; afterwards, and after my interview with Mr. Garland.

Q. I understood you to say that Mr. Young showed you the letter of Mr. Garland?—A. No; I do not know who did. I said I did not know who did. It may have been there or it may have been at Dr. Rogers's. I have now a more distinct recollection that Dr. Rogers gave me some kind of a pamphlet containing all that is here, and apparently more than there is here. I do not think Mr. Young furnished me any literature at all. I do not recollect that he did.

Q. You say Mr. Young discouraged you?—A. Very much, except on buying stock.

Q. And Mr. Garland?—A. Yes, sir.

Q. He said it was like a lottery?—A. He said he regarded the stock very much in point of value as he would a lottery ticket.

Q. Did he say to you that its value depended upon the validity of the Bell Telephone patents?—A. No, sir.

Q. What did he say?—A. That it depended entirely whether it would stand in a conflict with Bell on the question of infringement. Litigation was not discussed on any other theory.

Q. Did he not show you that he had given his opinion that it was not an infringement?—A. Yes; he believed positively that it was not an infringement, and he believed it had one independent point to stand upon which no other telephone had. He said all others might fail in conflict with Bell, and yet the Pan might stand on one single point. I could not restate what that point was, but he stated that point and cited a decision or two to support it.

Q. And did he indicate any other difficulty in the way of the success of it beyond this alleged infringement of Bell?—A. None in the world; I never heard of any other.

Q. Then the only difficulty about the thing was the alleged infringement?—A. That was all.

Q. And on that he expressed a very confident opinion?—A. He and the company seemed to entertain no doubt in the world that there would be a conflict whenever their telephones were put into use.

Q. But he thought it was a very good thing, provided there was no infringement?—A. Oh, yes; they all believed that it was the most sensitive instrument that had ever been invented, and I was taken to where I could witness experimental tests of it. Of course I understood those tests were being made under the most favorable conditions which they could provide. I could hear not only ordinary conversation, but I could hear whispers between Harris's office and Rogers's office, and determined the fact that it was a whisper. I could plainly understand that it was a whisper—could distinguish the whisper.

Q. And could you tell whose whisper it was?—A. No; I could not tell that. I did know, because I knew who it was talking. I could recognize Dr. Rogers's voice very distinctly.

Q. Then I understand they indicated no doubt about its success, provided it was not an infringement?—A. No one had any doubt about that.

Q. And they had no doubt, so far as their opinion was concerned, that it was not an infringement?—A. Oh, no; they did not feel that there was no doubt; while they believed it would stand the test, they were full of doubts; I do not think they would have given me the advice they did if they had been entirely without doubt on the subject; they all felt a large measure of doubt and uncertainty involved in it.

Q. And the only thing in the way was the Bell patent?—A. That is what they thought; that is, as to whether it was an infringement on the Bell patent or not.

Q. Did they show you Mr. Harris's opinion on it?—A. I have an impression that I saw a paper signed by Mr. Harris in the nature of an opinion; I would not undertake to say just what it was; I have an impression of that sort; when I reached the conclusion that I would not buy any stock at any price, I dismissed the whole subject from my mind and never thought of it any more until it got into the newspapers again.

Q. You knew Mr. Looney, who was in it?—A. Oh, yes; I had known him from my boyhood.

Q. He was a citizen resident where?—A. Of Memphis, Tenn.

Q. Formerly a candidate for governor of that State?—A. I do not recollect that he

was; I do not remember when he was ever a candidate for governor of the State. He is a very prominent and distinguished citizen of the State.

Q. What price was named to you for the stock?—A. Well, it was thought I could buy it for 10 cents. Looney thought that, and Rogers said if I saw proper to buy it he could sell it for 10 cents.

Q. Ten dollars a share, if par was a hundred?—A. Yes, sir.

Q. How much was Looney to let you have at that price?—A. No definite amount was stated at all. Dr. Rogers seemed willing to sell indefinitely.

Q. You have known Dr. Rogers how many years?—A. I never knew him in my life until I was introduced to talk to him about that matter.

Q. As I understand you, he did not come to you, but you went to him?—A. I went to him.

Q. You had heard it talked of?—A. The matter was brought to my attention with such colorings and accounts as to make me believe it was a very valuable purchase. I first went to Mr. Young and then went to Mr. Garland and had a law talk. In the mean time I met Looney and he told me that he and Rogers would sell stock, and that led to the interview with Rogers.

Q. Had you not heard it talked of in the House by the members, where you got your idea of it?—A. I do not know. I think the first account I ever had given to me of the invention at all was in the House. Some person in the House told me they were going to have an exhibition of the new telephone over at the Congressional Hotel. I was invited to go and witness it, but I did not go.

Q. Can you recall who that person was in the House?—A. I believe it was General Manning, of Mississippi.

Q. Was there any one else?—A. No; I do not remember of any one else.

Q. Had you not heard it talked up in the House?—A. No, sir.

Q. Did you hear Mr. Money talk of it?—A. I do not think I ever did until I met him in Mr. Young's office when I went there for an interview. I do not think he ever mentioned it to me.

Q. He was there when you had one of your interviews with Young?—A. I think he was there.

Q. Did he participate in it?—A. I think that we talked, very probably.

Q. Did he tell you he was a director in it?—A. I do not remember about that. I saw the paper showing he was one of the stockholders. I do not remember about his mentioning himself as one of the stockholders.

Q. Yes; he had ten thousand in one and fifty thousand in another?—A. No; I do not remember. I do not think I ever had much talk with Money about it. [Referring to a paper in his hand.] Yes; I see his name now. His name is on the prospectus, showing he was one of the directors.

Mr. EDEN. Mr. Money was not a director in the Pan-Electric Telephone Company.

By Mr. RANNEY:

Q. [Resuming.] On that circular you see his name. I think he was a director?—A. This is the Rogers Telegraph and Telephone Company. I do not recollect Money's name in connection with it.

Q. You knew at that time that he was interested in some way in the company?—A. I do not know that I did.

Q. Did he not speak of it?—A. If he did, I do not remember what he said. I would not pretend to relate the details of a conversation had then.

Q. Had you not heard Casey Young speak of the matter in the House too?—A. Oh, we talked of it often at various places during that time. We may have talked in the House, or anywhere. We may have talked about it anywhere at all. I could not undertake to state where; only I remember distinctly that my first interview was at his house, and I went there for that purpose.

Q. It would seem from the testimony that the stock had been offered to quite a number of the members of the House. Did you know of it?—A. No, I did not know of it until I saw it in proof here from Dr. Rogers's evidence. That is the first I ever knew of that.

Q. Did you have any letters from Mr. Young on the subject?—A. Never in my life. I do not think I ever had any correspondence with anybody at all about it.

Q. Did any one communicate with Senator Vest about some of it?—A. I do not remember anything about that. I do not recollect hearing his name mentioned in connection with it at all. I was simply making an investigation in my own personal interests to see whether I wanted to buy some or not, and when I got through with that investigation and dismissed the subject from my mind I do not think I ever talked of it any more.

Mr. RANNEY. Nobody claims that you ever purchased or took any of the stock.

The WITNESS. Oh, no; I never did.

By Mr. HALL:

Q. You have been inquired of in regard to conversations in the House between yourself and other members, and you said at one time there was about to be an exhi-

bition of the power of this?—A. [Interrupting.] Of what was represented to me then as a new telephone.

Q. In those conversations, was there any one urging you to become interested?—A. Oh, no.

Q. Or becoming a promoter or purchasing stock?—A. Oh, no; I never heard it discussed in that connection.

Q. Those conversations were simply in the direction of its being a valuable scientific improvement?—A. That was all. It had probably then become a historic fact that persons who had invested small sums in the Bell telephone had made great profits out of it, and I was investigating it purely as a business possession.

Q. But I am speaking about the exhibition at the Congressional Hotel.—A. I understood that to be an exhibition for the purpose of interesting people to—well, an exhibition of the real merits of a newly invented telephone for the purpose of interesting people in the enterprise, or selling stock, I do not know which.

Q. I understand you to say you never heard anybody and nobody ever proposed to sell you any stock except Young?—A. No, not Young.

Q. I mean Harris?—A. Looney and Rogers; not Harris.

Q. Looney and Rogers were not in the House?—A. Oh, no, sir; they were only private citizens.

Q. I will ask you whether this exhibition was not simply for the purpose of showing to any person who desired to make the investigation that this was a superior and wonderful instrument?—A. That was all.

Q. Was there any prospectus then pending in which the public were invited to invest in stock?—A. I think none at all. None were brought to my attention. Months after that, I do not know how long after that, the organization of this Pan-Electric Company was brought to my attention, and that was when I made my business investigation of it.

Q. Do you know whether quite a number of persons went over there to witness the operations?—A. I do not. I do not know who went, nor how many went. I heard some talk about its wonderful performances.

By Mr. RANNEY:

Q. Did you suggest to Senator Garland or ask him this question: "Why are these letters of yours published recommending this thing if you do not think anything of it?"—A. No; that question did not occur to me, because I went to him to ascertain just exactly what he did think. I never saw anything from him representing the stock as being of great value. All I ever saw from him or ever heard from him was simply touching the law—its possible chances to stand a litigation testing a question of infringement on the Bell telephone. I never heard any other opinion from him. I think it was the universal opinion that the stock would be exceedingly valuable if the telephone could stand that test.

Q. Did it not strike you as a little singular if it was like a lottery?—A. (Interrupting.) O, he did not say it was like a lottery. He said he regarded the stock in point of value pretty much as he would a lottery-ticket—pretty uncertain.

Q. Did it not strike you as a little singular that he should say that and at the same time have his letters out speaking of it as if there were no doubt on the question of infringement and representing as to its value?—A. No, sir. Knowing Senator Garland as I knew him, that suggested nothing at all singular or unusual to me. To a man who did not know his integrity and character as I knew it, it might have suggested something of that sort; but I knew him too well to think anything of the kind. He is not generally an over-sanguine man; he is a man of sober judgment.

Q. You did not see the letter to Mr. Gardes that has been put in here, did you?—A. I do not know that I did. Is it that printed letter that you showed me just now?

Q. No; that is to Mr. Meyers.—A. No, sir.

The CHAIRMAN. That is all.

By Mr. HALL:

Q. One word further. Mr. Garland did not hesitate to state to you that he regarded this as a very valuable invention, so far as its utility was concerned, did he?—A. Oh, no; he never had a doubt of that. I do not think anyone doubted that. There seemed to be much reliance on Mr. Marble's judgment on that point. I either saw something over his signature or was informed it was his opinion that it was the most sensitive instrument ever invented, and, of course, was a most valuable one.

Q. Then, of course, as a matter of fact, if that invention could be placed on the market and be recognized by public use, it would have a great value?—A. The owners never doubted their ability to compete successfully with the Bell instruments.

Q. In that event, what was the understanding about its value—I mean its financial value?—A. Well, it was thought it would be exceedingly valuable stock. That was the general impression.

EDWARD CLARK resumed the stand and produced a letter-press copy-book and certain papers.

The WITNESS. Here is the letter transmitting that resolution that was in this letter when addressed, but it came to Mr. Talcot, the present electrician, who handed it to me. I will simply read a passage.

The CHAIRMAN. Who is it from?

The WITNESS. From J. H. and J. C. Rogers, dated January 20, 1884:

"As citizens of New York, we sent to you yesterday a resolution concerning the electrical department of the House of Representatives."

By Mr. RANNEY:

Q. This letter is dated January 20, 1884. This letter, I understand, was sent to you?—A. No; it was sent to Mr. Talcot, the present electrician, and he handed it to me with the inclosure, the resolution.

The CHAIRMAN. I do not think that letter should go into the record.

Mr. RANNEY. It concerns Mr. J. H. Rogers, one of the associates.

The CHAIRMAN. He is not an officer of the Government, though. It is not material at all. I do not think the record ought to be encumbered with that or with that resolution.

Mr. EDEN. Mr. Clark is an officer of the Government.

The CHAIRMAN. It was not sent to him.

Mr. RANNEY. It strikes me that letter is competent in two aspects—that and the resolution together.

Mr. HALL. As I understand, that letter is from the two Rogerses who testified.

The WITNESS. My memory is refreshed. I said that was addressed to Mr. Talcot, the present electrician. It says, "Hon. and dear sir." I think it was addressed to some member from New York, who gave it to the present electrician, who brought it to me.

By the CHAIRMAN:

Q. You have no knowledge whatever?—A. No, I have no knowledge whatever; it is just my present impression. I wish to say that Mr. Rogers says here he was requested to vacate the place. That is not the case. Mr. Rogers resigned, and in presenting his resignation he told me he could not remain; that General Ewing had given him ten or twenty thousand dollars for an interest in his telephone, and that he was going to New York to organize a company in New York. That was his reason for leaving; that it would not pay him to remain.

By Mr. RANNEY:

Q. Is there anything else you know about this matter?—A. Nothing whatever; here is a copy of that prospectus you have reference to, which I found (submitting a paper).

Mr. MOFFATT. Who is this letter addressed to?

Mr. RANNEY. He does not know; it may have been to Mr. Robbins.

The WITNESS. Mr. Talcot, from whom I got it, may be able to tell.

Mr. RANNEY. Mr. Talcot, probably, will be able to identify it. Let the stenographer mark the papers for identification. Rogers has been a witness here, and it is a matter affecting his conduct.

Mr. EDEN. He did not testify about this matter.

Mr. RANNEY. No matter, it touches his conduct.

The CHAIRMAN. I would suggest that that letter be held until Mr. Talcot is examined.

He perhaps can testify from whom he received it.

Mr. RANNEY. Very well. I am willing it should be suspended until then, but I want it marked. I think his conduct in trying to become an electrician in the House is to be considered in relation to him alone. Then it may affect him as a witness. It is to be coupled with everything else that is in evidence about his trying to be electrician and others co-operating.

Mr. HALL. I think we want to know whether it was addressed to somebody belonging to the Government.

Mr. RANNEY. If Mr. Rogers were here he could state. Now, have them identified.

(The two papers submitted by the witness were marked for identification respectively "X" and "Y," "April 23d, 1886; Pan-Electric.")

By Mr. HALL:

Q. How long have you been the Architect of the Capitol?—A. Twenty years.

Q. Under what administration were you appointed?—A. I was appointed in the Johnson administration, by Andrew Johnson.

Q. Who do you say applied to you—that is, members of Congress—upon the subject of the application of Mr. Rogers to be appointed as electrician?—A. Senator Harris.

Q. I understood you to say Mr. Casey Young spoke to you?—A. No, sir; I met Casey Young and spoke to him; I crossed him.

Q. I think you referred to an interview between yourself and Senator Garland?—A. I did; yes, sir.

Q. In which I rather inferred you were going on to explain something at the time?—A. No; I simply said I thought Senator Garland was mistaken in saying that he had ever any conversation with me in relation to the reappointment of Rogers. I remember distinctly he called upon me to get information how telephones could be introduced in the Senate Chamber.

Q. You say he must be mistaken. Do you know that he has ever said he had such an interview?—A. I understood Attorney-General Garland had testified before this committee that he had.

Q. I do not think he stated that?—A. But I have no recollection of Mr. Garland ever speaking to me about it.

Q. But I thought when you were narrating that subject before, you were proceeding to state that when he came to see you you took it for granted in the first instance that he would talk about that subject?—A. I did, because he was a director of that company, and I was rather astonished that he said nothing about it at all.

Q. So that that rather impressed itself upon your mind?—A. Yes, sir.

Q. When Senator Harris came he explained that he would like young Rogers put back?—A. No, he did not come; he sent for me.

Q. You had an interview?—A. Yes, sir.

Q. I wish you would just state briefly what the interview was.—A. He said he wished to see Rogers reinstated as electrician of the House of Representatives; that he took an interest in their behalf, and that he would like to see J. Harry Rogers reappointed; that was all.

Q. What response did you make?—A. I said that I was not in favor of that proposition for several reasons, and among them was one that I have mentioned.

Q. Do you mean to say that if he interested himself in the matter he would get himself into a scandal? Is that what you said to him?—A. I did say that to him.

Q. Did you use the word scandal?—A. I said that it might be magnified into an affair, and he said that he had never looked at it in that light.

Q. You knew, of course, what were Senator Harris's politics?—A. Oh, I knew what were his politics. I therefore said: "You will not only have your political opponents to look after, but your business competitors."

Q. Were you of the same politics as Senator Harris?—A. I have no politics at all. I have lived here for thirty years.

Q. You took that occasion to suggest for his own benefit the propriety — —A. (Interrupting.) Oh, I do not know as I did then. I did it to vindicate my own conduct.

Q. And to save his. Have you a distinct recollection of that conversation?—A. Yes, sir.

Q. You did not make any memoranda; you have nothing except pure memory to rely upon?—A. Oh, no.

Q. What time was it?—A. I think the beginning of the Forty-eighth Congress; about the time this resolution was offered; I think before that resolution was offered, because I said to him, "The object will be thus and so, to get the telephone and electric lights throughout the building, and you gentlemen will be called on to vote upon a matter in which you are personally interested," and I think in a week or so after that this Robinson resolution was offered.

Q. You say you had no interview with Mr. Casey Young about the subject?—A. Mr. Casey Young never called upon me, but I met him in the corridor some few days after having the interview with Senator Harris, and told him about the interview with Senator Harris, and what I had said to him.

Q. And you mentioned the same subject about a scandal to Mr. Young?—A. No, I did not say anything about scandal, but I mentioned to him what I said to Senator Harris.

Q. The subject of that was the scandal?—A. Yes.

Q. Did you use the same language to Mr. Young?—A. I think I did.

Q. Did you mention to Mr. Young the fact that Mr. Rogers was rather too dissipated to be trusted?—A. No, sir; I said that he had often got intoxicated.

Q. Did you not give that as one reason?—A. Yes, sir.

Q. But you have a distinct recollection about the use of the word scandal?—A. I think I did to Mr. Young, and I think to Senator Harris.

Q. I understood you to say you mentioned that to Senator Harris in an interview with him at his house?—A. Yes, sir.

CECIL CLAY sworn and examined.

By Mr. RANNEY:

Question. You are the chief clerk of the Department of Justice?—Answer. Yes, sir.

Q. You produced here the other day a file of certified copies. Is that here?

The CHAIRMAN. The paper is not here.

Mr. RANNEY. These I have are not all printed. There was among them one letter from the district attorney in New York.

The CHAIRMAN. Townsend?

Mr. RANNEY. Townsend. That I saw the other day.

The WITNESS. There was a letter to the district attorney.

Mr. RANNEY. That does not seem to be printed here.

The CHAIRMAN. There was a letter to the district attorney.

Mr. RANNEY. Is it here?

The CHAIRMAN. Yes; it is on page 672.

The WITNESS. There was a letter from Mr. Beckly, city attorney, but none from the district attorney.

Mr. RANNEY. Have you not applied it to the district attorney rather than the one who sent the letter?

The CHAIRMAN. There is no letter from Mr. Townsend.

The WITNESS. The matter came to the Department originally by verbal communication. Secretary Muldrow came there with a verbal communication, and a jacket was then prepared.

By Mr. RANNEY:

Q. The first letter you produced here is the letter of the 23d of July to the Secretary of the Interior by Mr. Garland?—A. That was in reply to the oral communication.

Q. "On receipt of your communication by Assistant Secretary Muldrow"?—A. Yes; that was simply an oral communication. He came there with the papers in his hand, and I had a jacket prepared to cover that communication and put it on file. There is a certified copy of the jacket with a certified copy of the letter attached to it.

Q. There was one thing you called my attention to about it. There is a little discrepancy here about the date of August 3, 1875. The date has since been erased. I think you can explain that.—A. I thought I explained that the other day when I was here. A certified copy could not show that. We could not put it on and erase it afterwards.

Q. You called my attention to it this morning. That is an original letter with the Department stamp on it, as received August 1, 1885?—A. Yes; this letter, from the Secretary of the Interior, came up on the 5th of August, dated the 3d, and it showed on its face that he had started the letter by writing "July 29" with the pen, and then that was erased and August 3d was put on it; so that Mr. Montgomery, in saying that the matter was settled at the Department the day before, was correct, but it is dated the 3d. We got it the 5th.

Q. It is dated the 29th.—A. Yes, sir; we frequently get letters that way.

Q. You identify it?—A. This is the original letter from the Secretary of the Interior of August 3, 1885, on which I put in pencil "file 7178."

Q. There is a date put on it before that. Who erased it?—A. That was the way it came in.

Q. Has that the Government stamp to show when it was received at the Department.—A. It was received the 5th of August; yes, sir.

Q. So that your explanation is that it was written by the Secretary on July 29?—A. That they had arrived at this conclusion on the 29th, and Mr. Montgomery was aware of it. That letter was never jacketed.

Q. That was written to be sent July 29th?—A. To be sent; yes, sir; just as we get letters about important international matters from the State Department ten days after their date.

Q. The letter was dated July 29th, and this letter stated—A. (Interrupting). That Mr. Montgomery was aware of that.

Q. By some chance it was not sent over?—A. It was not sent over.

Q. And then the date was changed?—A. Yes; we sometimes get letters ten, twelve, and fifteen days after the necessity for writing them.

Q. Oh, yes; I understand that. So that it fixes the fact that Mr. Lamar wrote his letter after receiving Montgomery's on July 29, and it failed to be sent, and the date was afterwards changed to August 3, and the letter was sent then?—A. So that Mr. Montgomery's letter of the 30th did not have an official jacket put on it, as the Attorney-General said the matter was in the hands of the Interior Department.

Q. Oh, yes; I do not claim that there is anything wrong about it, but I did not understand that. You have not the other papers we asked for with you?—A. No, sir; I have not. The difficulty is our small clerical force.

Mr. RANNEY. If any of the committee want to understand it they can look at the letters.

Mr. HALL. Oh, I understand it. I do not understand why the letters are not printed in the order of their date in the record.

By Mr. MOFFATT:

Q. There must have been another letter. There was a letter of transmittal from your Department to the Department of the Interior?—A. Yes; of the 23d of July.

Mr. RANNEY. I think the original letter of reference by the Attorney-General is not here.

The WITNESS. That is the letter of the 23d of July.

The CHAIRMAN. My examination was based upon that letter.

Mr. MOFFATT. It has been presented here, but not printed.

Mr. RANNEY. See if this is the one [reading]:

"I am in receipt of your communication [by Assistant Secretary Muldrow], with accompanying papers, touching the application of Albert S. Bigelow for the bringing of a suit to vacate a certain patent therein named, issued September 30, 1884, to James Sargent and Marion Warren.

"The communication does not give any wish or expression of opinion as to the request made by Mr. B. As the patent comes from your Department, it is usual in such cases before any action is taken here for your Department to give some expression of opinion, or indicate some wish in reference to the propriety of granting the application. And as I consider the cases in which such suits should be brought very rare indeed I would much prefer the Interior Department would in this case indicate its will or its opinion as to the propriety of the course insisted upon by Mr. Bigelow."

The CHAIRMAN. That letter was not printed. That letter was here because I examined upon it.

Mr. RANNEY. If we have a copy of it it is not necessary to copy it.

Mr. HALL. It seems to me these letters ought to have been put in in the order of their dates. They are all mixed up. It can be done yet without any trouble.

Mr. RANNEY. Here is another letter. Is this in? It is dated the 28th of July.—A. Yes.

Q. (Submitting papers to witness.) Now, Mr. Clay, be kind enough to say if I have handed you back all the originals?—A. Yes, sir.

Q. How soon will you be likely to finish the other examination?—A. I think I can be through by Monday, sir.

The CHAIRMAN. This application of General Johnston to have parts of the testimony of Mr. Gardener stricken out has not been disposed of. He desires to have struck out a part of the testimony of Mr. Gardener.

Mr. RANNEY. General Johnston said he wanted to be heard upon it.

The CHAIRMAN. He wanted to be heard if there was any hesitation about striking it out. I am not sure but it is too late now, as I believe it has been stereotyped.

Mr. RANNEY. I should not have any hesitation about it myself. In the first place, I think it is too late. In the next place, if anybody should make such an application it should be by the company itself. One man has put it in and any one other man cannot come and ask to have it stricken out.

Mr. EDEN. He cannot strike it out.

Mr. MOFFATT. It seems to me no one has any right to move to strike it out except a member of the committee.

Mr. HALL. I suppose a citizen has the same right in that respect as the right to petition.

Mr. EDEN. He has a right to petition the House, but not to petition us.

Mr. RANNEY. It went in without objection, and having gone in without objection there is no right to strike it out now.

Mr. HALL. Suppose you take the case of a letter. The writer would have some right, if it were a private matter, to have it protected. He could not make a motion as a member of the committee.

Mr. RANNEY. In that case there might be some scandal or gross violation of confidence.

Mr. EDEN. It will be observed in the proceedings that I objected at the time to most of that part asked to be stricken out.

Mr. HALL. As far as I am concerned I do not care anything about the matter, except I suppose there are certain individual rights that ought to be regarded as sacred, if it comes within the proper definition.

Mr. RANNEY. We have not got through with Mr. Johnson's testimony. He was to look up some letters.

Mr. EDEN. Probably we may have to call his attention to it if he finds any letters of that kind.

The CHAIRMAN. He is ready to come at any time.

Mr. RANNEY. I think we had better pass this by for the present. Before we go we ought to see about this last stenographer's report. The question arose yesterday. I got the copy for the first time this morning. I find some marked errors in it, and before we pass on we should dispose of the matter.

At this point all persons not members of the committee were requested to retire, as the committee wished to go into consultation. After consultation, the committee adjourned, to meet April 27, 12 m.

WASHINGTON, D. C., *Tuesday, April 27, 1886.*

A quorum being present, the committee was called to order by the chairman at 12.30 p. m.

The CHAIRMAN. Is Mr. Forbes present?

Mr. FORBES. Yes, sir.

The CHAIRMAN. You are Mr. Forbes, of the Bell Company, are you?

Mr. FORBES. Yes, sir.

The CHAIRMAN. Will you be sworn?

Mr. FORBES. Yes, sir.

WILLIAM H. FORBES was then duly sworn and examined, as follows:

By the CHAIRMAN:

Question. Mr. Forbes, are you in any way connected with the American Bell Telephone Company?—Answer. I am the president of the American Bell Telephone Company.

Q. How long have you occupied that position?—A. Ever since the company was organized, in May, 1880.

Q. What is your place of residence?—A. In Milton, Mass.

Q. Do I understand you that the Bell Company was organized in 1880?—A. In 1880.

Q. Was that the beginning of its business as a telephone company?—A. The American Bell Telephone Company was organized in May, 1880, and began business at that time. Before that the business was done by the National Telephone Company, and before that by the Bell Telephone Company. Those were successive companies that were formed, the property being all taken by the National Bell.

Q. Were you president of the National Bell Telephone Company?—A. President.

Q. And of the Bell Telephone Company?—A. I was a director in the Bell Telephone Company, but not an officer.

Q. At what time did you become connected with the Bell Telephone Company?—A. Early in 1879; I do not remember the exact date. I think it was January or February, 1879; somewhere in the winter.

Q. By what company or in what way were the Bell telephone instruments controlled or managed before 1879?—A. Before 1879 the Bell Telephone Company owned the patents for all the United States except New England, and the New England Telephone Company owned the patents for New England, and in 1879 the two companies were merged into the National Bell Telephone Company, which company operated then the patents for the whole United States. Before that it was operated by the Bell Company and the New England Company, and before that by an association. I do not know what organization they had. They merely used the invention.

Q. You say it was in 1879 they were merged?—A. In 1879 they were merged into the National Bell. That was when I was associated with the company; almost immediately after I became associated.

Q. When was the Bell Telephone Company organized?—A. I do not believe I can tell you that from memory. The patents were held by an association after they were issued until somewhere about 1877 or 1878. I cannot tell you from memory about that.

Q. Were you a member of that association?—A. No; I had nothing to do with the patents until the winter or early spring of 1879. I can easily give you those facts from the records of the company, but I am not familiar with them.

The CHAIRMAN. I will ask to suspend the examination of Mr. Forbes for a few minutes. I want to call the attention of the committee to another matter. I have requested Mr. Linney, the reporter, to be present. I see he is here.

Mr. J. J. Linney came forward.

The CHAIRMAN (continuing). The Attorney-General called on me yesterday and gave me a clipping from the New York Tribune purporting to be a letter from Washington to the Tribune calling attention to certain omissions in the official report of the testimony of this committee. He desired that I should bring it to the attention of the committee and ask that the omissions should be inserted in the official record.

Mr. MILLARD. Omissions from the record?

The CHAIRMAN. Omissions from the record. The Attorney-General says they are omissions, and he desires to have them appear in the official record.

Mr. RANNEY. Did the Attorney-General say the articles are really omitted?

Mr. MILLARD. That the articles referred to in the Tribune should be actually inserted?

The CHAIRMAN. Yes; that attention should be called to them so that the record might be corrected. I want to present that with a further statement.

Mr. HANBACK. I have not seen it.

The CHAIRMAN. The first matter to which attention is called in this article is this. This appears in the printed testimony and was not in accordance with the statement made by the Attorney-General on the stand. I read from the article:

"I came back, moving my family here, early in September of that year (1883) to

put my children at school, as the schools all opened early in that month, and I remained here right along until Congress adjourned the next summer (1884). I had never brought my family here before then."

On his examination the Attorney-General stated he had returned here in November. On the morning after his examination I received a letter from the Attorney-General, which I will ask to have included in the record, and which I will now read if there be no objection.

Mr. RANNEY. Is the evidence of the Attorney-General in this volume (the volume of the printed testimony to date)?

The CHAIRMAN. Yes, sir.

Mr. HANBACK. At page 643.

The CHAIRMAN (reading.):

WASHINGTON, D. C., April 20, 1886.

Mr. BOYLE: In thinking over my statement before the committee yesterday, I find I made a mistake in one matter. It may not be important, but I think I had better call your attention to it.

In replying to your questions, when I came back here after leaving in March, 1883, I stated I came back that fall, in November. This is a mistake. That was the usual month in which I returned here for the meeting of the Senate; but that year I determined to move my family here and put my two children at school, and I moved them here early in September of that year, as the schools all opened during that month. I remained here right along until Congress met and adjourned, &c.

Show this to Colonel Ranney and others of the committee, and if it is deemed important at all, let it be noted as a correction.

Very truly, yours,

A. H. GARLAND.

Hon. CHAS. E. BOYLE,
House of Representatives.

I showed this letter to Mr. Ranney and to other members of the committee, and it was agreed by all the members of the committee to whom I showed it that the corrections should be made, as the corrections were material; so as to that particular matter, that correction was made with the consent of the committee. The other matters are as follows: The Attorney-General is asked:

"Do you not think you were a little over-sensitive? Answer. I might have been, but I was like Lorenzo Dow's man. I would be damned if I did and be damned if I did not."

It is alleged that that should be as follows:

"Don't you think that was a little over-delicate?"

"It might have been, but you see I was a little like Lorenzo Dow's man. I would be damned if I did and be damned if I didn't, and so you see I was in a bad fix."

The last part of it is left out.

"Were you more particularly sensitive at that time than you had been at any other?"

"No, sir; I have generally taken that course where I have been situated in that way."

The recollection of the Attorney-General is that that is a correct report.

Mr. EDEN. That you say is omitted?

The CHAIRMAN. Part of it is.

Mr. OATES. I remember distinctly his saying that.

The CHAIRMAN. Then another part is as follows:

"Do you know any reason why you should have kept silent on the subject after what had occurred?"

"Well, after what had occurred it seemed to me that it was of the utmost propriety that I should be entirely silent. I think it would have been extremely indelicate, if not impolitic, for me to have said a word to anybody about it."

The committee's record says what I have read. Then follows:

"Are you confident that you never said or intimated to anybody that as you could not act, and as you were going away, Mr. Goode would have to act?"

"I know I never said it to a living soul."

"It never occurred to you?"

"No, sir; I never thought about it at all."

That part is omitted. The testimony was given by the Attorney-General, and he desires to have it appear on the record. The word "impolitic," it seems, appears in the committee's report, and also in the report by which it is sought to be corrected, which I understand to be the report of the Bell Telephone Company. It should be the word "impolite," instead of "impolitic," as the members of the committee will remember.

Mr. EDEN. In what connection is that used? Read it with the connection.

The CHAIRMAN (reading):

"Do you know of any reason why you should have kept silent on the subject after what had occurred?"

"Well, after what had occurred it seemed to me that it was of the utmost propriety that I should be entirely silent. I think it would have been extremely indelicate, if not impolite, for me to have said a word to anybody about it."

Mr. EDEN. Oh, yes. Can that be inserted in the record, or will it have to come in now by way of explanation?

The CHAIRMAN. That can all be corrected in proof. As this matter is before the committee, I will say further that some attention is called in the article to the change of stenographers on that particular day.

Mr. RANNEY. Have you got through with the corrections.

The CHAIRMAN. Yes, sir.

Mr. RANNEY. Well, there are more than those.

The CHAIRMAN. I am on the article; excuse me.

Mr. RANNEY. Oh, certainly.

The CHAIRMAN. The change of stenographers was made in this way: There was allowed to this committee for its expenses, \$1,000. The stenographer's bill up to the day I have spoken of was something over \$1,500. I had learned that the official reporters had been appointed by the Speaker under the resolution of the House, and so I requested that we should be furnished with an official reporter, and the expense of a stenographer put an end to. In pursuance of that request, Mr. Linney was sent here as the reporter of the committee. I was under the impression that he was one of the official reporters, but learned afterwards he was not, but was a substitute for an official reporter who had met with an accident since his appointment. I do not know that there is any further explanation necessary in regard to the change of reporters. As far as I know, the reporter was not changed because of the coming of Mr. Garland on the stand, or for any other reason, except to save money.

Mr. RANNEY. There are some other corrections in this report of Mr. Garland's testimony, that we talked over the other day, that ought to be made at the same time. On page 643, at the bottom, in the last paragraph but one, this appears:

"I believe he mentioned the names of Mr. Harris, Dr. Rogers, and J. Harris Rogers."

Then he says he called afterwards and spoke to Mr. Harris.

"When I afterwards spoke to Mr. Harris—and when I say Mr. Harris, I refer to Senator Harris—he said that he desired me, being a poor man like himself, to enter this enterprise. I talked with him some time about it, and told him I had never undertaken to make any money at anything but law and poker; that I always lost at poker, but sometimes won at law; but I was willing to go into this thing if he thought it offered any good inducements. We then separated. The next day Senator Harris spoke to me about it in the Senate, and I made substantially the same response to him."

The error in that is, in omitting to state that in his first conversation with the Commissioner, Mr. Atkins, he made that statement to him, and then subsequently made it to Mr. Harris. I think it should be corrected at the bottom by saying that General Atkins says that he desires, instead of "he."

The CHAIRMAN. Strike out the word "him."

Mr. RANNEY. No; strike out "he."

The CHAIRMAN. Suppose you strike out "him" and say "General Atkins."

Mr. RANNEY. Yes, I say strike out "he" and say "General Atkins."

The CHAIRMAN. Where is that?

Mr. RANNEY. The last line but one.

The CHAIRMAN (reading): "I talked with him."

Mr. RANNEY. You ought to begin before that. "I talked with him, General Atkins." I think if you change the "he" to "General Atkins," it will do.

Mr. HANBACK. Mr. Garland never spoke to Harris; Harris spoke to him; but this makes him speak to Harris.

Mr. RANNEY. Yes, that is an error. It shows he meant the first conversation.

The CHAIRMAN. But he speaks with particularity there of having spoken to Mr. Harris and says whom he means by Mr. Harris; that he means Senator Harris. But say you let it stand as it is and it will read as follows:

"When I afterwards spoke to Mr. Harris—and when I say Mr. Harris, I refer to Senator Harris—he said that he desired me, being a poor man like himself, to enter this enterprise. I talked with him"—

Now say:

"I talked with General Atkins sometime about it, and told him," &c.

Mr. RANNEY. That would not do, because the next preceding line is what Mr. Atkins said:

"Mr. Atkins said he desired him."

The CHAIRMAN. I have no recollection of that remark. It is not very material, because it appears by the whole testimony that the first conversation was with Atkins and the next with Harris, and that he had made the same remark to both of them about law and poker.

Mr. EDEN. He did not repeat what he said, but said he remarked to Harris substantially the same thing.

Mr. RANNEY. The error is at the bottom of 643, in not making it appear that in the first place it was Mr. Atkins.

"Mr. Atkins said to Garland that he desired him, being a poor like himself, to enter this enterprise. I talked to Mr. Atkins some time about it and told him," &c.

He then repeated it. I think that should be corrected. Then in the next place, on page 647, at the bottom, before the remark made by myself, Attorney-General Garland said:

"I believe we all do it."

And then remarked, turning to me:

"I think I have seen you there."

And then I made the remark:

"I have always been ready to do it."

It looks as if I interjected that without any personal reference to me. There was a personal reference there. Looking at me he said:

"I think I have seen you there."

Therefore, I was justified in making that remark.

The CHAIRMAN. What change is suggested?

Mr. RANNEY. I think it should be, "I think I have seen you there. [Turning to Mr. Ranney.]"

I should not have made the remark I did except he made a personal reference to me.

There is one other correction, Mr. Eden. Where I put the question, and you said I had better withdraw it, and I said I thought it was a question I ought to withdraw, and said I would withdraw it. The Attorney-General requested that it be not withdrawn. They put in what you said, and omitted what I said.

The CHAIRMAN. It is towards the close, I think.

Mr. RANNEY. I think my remark was in substance like this:

"I think the question ought to be withdrawn, and I withdraw it."

Do you remember that, Mr. Eden?

The CHAIRMAN. I made the suggestion; it is on page 667, near the bottom of the page.

Mr. RANNEY. Oh, yes. After the remark of the chairman. The chairman remarked:

"I would suggest that the gentleman withdraw that question."

I said, yes, I would, I thought, and I withdrew it. Then the witness asked that it might not be withdrawn. I think the gentleman will remember the fact.

Mr. EDEN. I did not remember distinctly what it was.

The CHAIRMAN. Mr. Ranney put a question to the Attorney-General, and I suggested that the question should be withdrawn. Mr. Ranney said:

"I think it should be withdrawn, and I do withdraw it."

That is not here.

Mr. RANNEY. That is omitted.

The CHAIRMAN. The witness followed it by saying:

"Let it go."

Mr. RANNEY. The Tribune reporter brought me a report of his evidence and I compared the whole evidence with that statement, and while I think the sense or substance of the statement of Mr. Garland is not changed, and I see no evidence that it has been with any evil design, yet it is very evident that a good deal of it has been rewritten, or if not as it was given it was not correctly reported stenographically. The phraseology has the appearance of being changed, sentences changed, not with any design of making any substantial change, but it occurred to me the reporter possibly had himself probably done it, or submitted it to Mr. Garland, as they do in the House. He can state how that is. How is it, Mr. Linney?

Mr. LINNEY. I submitted this matter to the Attorney-General for revision, just as is the case in the House where members make speeches. They have the privilege of revising. But I did not know it was against the rules of the committee to do so until I saw it in the paper. It has been the custom in the other committees to do that. Some of the changes in phraseology are my changes in editing my notes and some are his. Every bit of that passed under his eye. As far as a "he" or a "him," or a little word like that being left out is concerned, it is possible. I am not infallible. I perhaps did not hear those questions.

Mr. RANNEY. The report bears evidence of having been revised.

Mr. LINNEY. Yes; that is correct. No two reporters' reports will ever agree. This thing of making one reporter's report a standard for all reporters is folly.

The CHAIRMAN. Have you the manuscript, as prepared by you, of the Attorney-General's testimony?

Mr. LINNEY. No, sir.

Mr. RANNEY. You submitted it to him and he revised it?

Mr. LINNEY. Yes, sir, I did; and he made those changes. And there have been other changes made in the other reporter's accounts.

The CHAIRMAN. That has no interest to us.

Mr. LINNEY. I just wanted to say—

Mr. RANNEY (interposing). I have compared the two very carefully, and I have always said there did not appear to be any material or substantial changes in the sentences.

The CHAIRMAN. Did the Attorney-General strike out these paragraphs which I called attention to at the beginning?

Mr. LINNEY. He struck out two or three questions when he put in that statement about 1883 and his family.

The CHAIRMAN. That we agreed to. That was done by the consent of the committee.

Mr. RANNEY (indicating). Did he strike out these two questions?

Mr. LINNEY. Those two? No, sir. It is possible in writing 18,000 words I may have left those out.

The CHAIRMAN. I will call your attention to this:

"Were you more particularly sensitive at that time than you had been at any other?"

"No, sir; I have generally taken that course where I have been situated in that way."

Did he strike that out?

Mr. LINNEY. Not to my knowledge. I do not think the Attorney-General struck very much out.

The CHAIRMAN (reading):

"Do you know of any reason why you should have kept silent on the subject after what had occurred?"

Mr. LINNEY. That word "impolitic" for "impolite" is a typographical error anyhow. It is not my error. It is either a typographical error or an error in hearing. It does not amount to anything.

The CHAIRMAN. Here are two questions [reading]:

"Are you confident that you never said or intimated to anybody that, as you could not act, and as you were going away, Mr. Goode would have to act?"

"I know I never said it to a living soul."

"It never occurred to you?"

"No, sir. I never thought about it at all."

Did the Attorney-General strike that out?

Mr. LINNEY. No, sir. I do not think the Attorney-General struck that out. I think the only question he struck out was about the date there.

The CHAIRMAN. That is, September and November?

Mr. LINNEY. Yes; that little statement in there. I think that is all.

Mr. RANNEY. Did you rewrite the whole thing, or is the manuscript at the printer's as he altered it?

Mr. LINNEY. Yes; just as he changed it.

The CHAIRMAN. Will you send for that and bring it here?

Mr. LINNEY. Yes; but I do not think the—

Mr. MOFFATT (interposing). Who suggested that you should submit this to the Attorney-General?

Mr. LINNEY. I have been doing it all through the committees. I did not know that there was any rule of this committee against it at that time.

The CHAIRMAN. Did anybody suggest to you to send it to the Attorney-General?

Mr. LINNEY. The other reporter suggested it.

Mr. MOFFATT. Who do you mean by the other reporter?

Mr. LINNEY. The official reporter, Mr. Welch.

Mr. MOFFATT. Did you submit the evidence of the other witnesses to them?

Mr. LINNEY. No, sir; some of them.

Mr. MOFFATT. All of them?

Mr. LINNEY. No, sir.

Mr. MOFFATT. Why did you not submit it to all of them?

Mr. LINNEY. Some of them went away—Mr. Humphreys, for instance.

Mr. MOFFATT. Who did you submit it to?

Mr. LINNEY. To the Attorney-General, to Mr. Clark, and to Mr. Vance. I did not think there was anything improper in that. It is the custom with the other committees. I did not know there was any harm in it. I just did it to be right; that is all.

The CHAIRMAN. There is no rule to the contrary.

Mr. RANNEY. We have required in the case of all other witnesses if they made any substantial changes it should be done before the committee. This reporter was not aware of that.

Mr. LINNEY. No, sir; I was not. I would say as to leaving out your remark that I have had a little difficulty in hearing you at all times.

Mr. RANNEY. I see you revised the answers, but you did not put in the ground of my question, nor the sense always.

Mr. LINNEY. I think taking the report itself and the volume of that report—18,000

Mr. RANNEY. (interposing). I see you did not get the names of the members of the committee correct either.

Mr. LINNEY. Yes, sir; I was sprung into this committee without knowing anything about it.

Mr. RANNEY (to the chairman). He has given me the credit of questions put by you to which I am not entitled.

Mr. LINNEY. That has been corrected. I discovered that myself.

The CHAIRMAN. I made those corrections. I did not want Mr. Ranney to be responsible for my questions.

Mr. RANNEY. I did not want to claim any credit I was not entitled to. I do not think Mr. Linney intended any wrong.

Mr. LINNEY. I think, taking it all in all, it is a good report.

Mr. OATES. It is a very good report.

Mr. EDEN. Yes; I think so, too.

The CHAIRMAN. Now, Mr. Forbes, we will resume.

WILLIAM H. FORBES resumed the stand.

By the CHAIRMAN:

Question. Did you state that you were able now, Mr. Forbes, to tell us who were the members of the association?—Answer. Mr. Gardiner G. Hubbard, Thomas Sanders, and I think Professor Bell. I am not sure who the third party was. I had nothing whatever to do with the affairs of this party. It is a mere matter of hearsay with me. I think those three gentlemen, at any rate Mr. Gardiner G. Hubbard and Mr. Thomas Sanders and some one else, either Mr. Bell or some one representing him, had an informal association.

Mr. RANNEY. That was the original association?

The CHAIRMAN. Yes.

Q. (Resuming.) I would like you to recall the name of the third person if you can.

—A. I could not testify positively about it.

Q. Had you any knowledge of it?—A. I had no knowledge of the transactions at all. I may possibly have become a director the 1st of January, 1879. It was in that winter. I did not know you wished to know anything except about the American Bell, and I have not refreshed myself; but the date may have been a little before the 1st of January, 1879. It was some time during the winter of 1878-'79.

Q. Do I understand you that the Bell telephone instruments were owned and controlled by that association up till 1879?—A. I think that the association did very little business in the way of putting out telephones. They were only beginning. They were trying to get the apparatus into working order. I think that about the time they were ready to develop the business they formed these two companies—the Bell Company and the New England, and those two companies, I think, were the first that did any material business at all. I think the association was simply formed as a matter of convenience for holding the property until the company started. I think those two companies took the patents and began to develop the business, to build exchanges.

Q. Do you know at what time those companies were formed?—A. I cannot give it to you from memory. It was during the year—well, it was 1877 or 1878; somewhere along there. I do not know. I had nothing whatever to do with the matter then. I do not recall it; I had no occasion to know, although I have been cognizant of that fact, though I have never had any reason to fix it my mind.

Q. Have you any knowledge as to who constituted those companies?—A. Well, they were substantially the same people who held it afterwards in the name of the National Bell. Gardiner G. Hubbard was the president of the Bell. Thomas Sanders was the president of the New England. George L. Bradley was the president of the Bell, and perhaps of the New England, both.

Q. Can you name the directors?—A. I can name some of them. The directors in the Bell were Gardiner G. Hubbard, George L. Bradley, Judge C. S. Bradley, of Rhode Island, Thomas Sanders; probably Francis Blake. I can give you the exact directors of the National Bell as soon as that was formed, because then I became familiar with the affairs of the company. I do not think I can give you any further. That group of gentlemen was with Mr. Alexander Graham Bell. I do not think he was an officer. I think he was simply the electrician at that time, connected with electrical matters. I do not think I can give you anything more precise than that up to the time I became connected with the company.

Q. Have you any knowledge of any officer of the United States Government being connected with the first association?—A. No.

Q. Nor any member of Congress?—A. No.

Q. Any judge of any court?—A. No.

Q. Do you know of any such officer or member of Congress being connected with either the Bell Telephone Company or the New England?—A. No.

Q. In any way whatever?—A. Not in the slightest.

Q. Do you know what was the amount of the capital of the Bell Company?—A. Four hundred and fifty thousand dollars.

Q. And of the New England Company?—A. I think \$250,000. I should not wish to state this as accurate information.

Q. Have you any means here of telling?—A. No, sir. The American Bell record is here, but I do not think we have the records that went before the formation of the American Bell Company.

Q. Your belief is that the capital of each company was \$450,000?—A. No; \$450,000 of the Bell and \$250,000 of the New England. I think the treasurer of the company will probably be able to give that accurately, because he has had dealings with the figures.

The CHAIRMAN. Yes; we will ask him.

Q. And these two companies were merged and the National Bell Company was formed?—A. In 1879.

Q. Then you became connected with it?—A. Yes, sir; I became connected with it shortly before that happened, in the winter, and I became director of the Bell Company, and shortly after the two companies were merged in the National Bell Telephone, which did business until the following year, in May, 1880; then the American Bell Company was formed.

Q. Have you any knowledge of any officer of the United States or member of Congress, or any public officer, being connected with the National Bell Company?—A. No.

Q. Do you say that there was or was not?—A. There was not to my knowledge; I do not think there could have been without my knowledge, either.

Q. Was the membership large as stockholders—numerous?—A. Well, it was some seven or eight hundred of the National Bell; I should say, from memory, that it increased some six or seven or eight hundred before it was merged in the American Bell; but that is mere memory.

Q. Have you any recollection of how many persons were concerned in the Bell Telephone Company?

The WITNESS. How many stockholders?

The CHAIRMAN. Yes.

A. Several hundred, but I cannot give you the number.

Q. And the New England?—A. That was much smaller. I do not know the number, but it was a much smaller number. I never was familiar with the affairs of the New England Company, but almost as soon as I became connected with the Bell—I never was an officer at that time. I never had to do with it until it was brought over into the National Bell. Therefore I was not familiar with the affairs of the New England Telephone Company.

Q. What was the capital of the National Bell Company fixed at?—A. Well, I do not carry figures very well. If you will refer that question to the treasurer you can get that. I do not remember that at all, because there was a large increase in the capital at the time the American Bell was formed.

Q. Yes; but I was speaking of the company that preceded it, the National Bell.—A. I have forgotten what that capital was fixed at, now.

Q. You were president of that company?—A. I was president of that company; yes, sir.

Q. Was it larger than the capital of the Bell and the New England combined?—A. Yes, sir; but it has passed out of my mind just what that transaction was. Just how much it was increased I cannot recall.

Q. Can you tell how the increased capital was taken, how distributed, at the time of the formation of the National Bell Company?—A. Some new capital was taken in; some new stock was sold. I cannot give you the particulars without referring to the record. It can be easily shown. We shall be happy to give you those figures exactly, if you desire them.

Q. You have the books here?—A. No; I should have to refer to Boston. I had no idea except that we were to be examined on the American Bell. I should much prefer to give you the figures from the record to giving them by memory.

Q. Perhaps you can tell whether any part, or what part, of the capital of the National Bell Company was allotted to the stockholders in the Bell and the New England?—A. The whole capital of the National Bell went to the stockholders of the Bell and the New England, with the exception of the new stock; that was sold at that time.

Q. Do you know what proportion was made new stock?—A. I have an impression that \$200,000 of new stock was sold at that time and taken in, and the rest went to the stockholders of the National and the American; but I do not wish that to go on the record as my exact testimony.

Q. I understand you. Can you not approximate the sum at which the capital of the National Bell was fixed?—A. Well, if my memory is right, the capital of the two other companies amounted to \$650,000 and \$200,000 added, making \$850,000. I believe I stated before that it was \$250,000 and \$450,000. That would be \$700,000. There is some little inaccuracy. There may have been \$450,000 and \$250,000, or \$450,000 and \$150,000. I think the capital of the National Bell, if my memory serves me, was \$850,000. But I cannot recall about that. It has passed out of my head.

Q. Do I understand you to say that that was the sum at which the capital was named in the charter or in the articles of association?—A. I think so; yes, sir. You see at one time in one of those changes there was a large increase in the value of the patents. As they became developed and the value was ascertained, they were found to be worth many times what anybody believed they were worth before, and when they were resold they were sold at the market value, or something a little less than the market value, in one of those changes. About six shares of the new company were paid for one of the old.

Q. So that it was increased sixfold?—A. It was increased sixfold.

Q. When was that?—A. I think it was when the American Bell was formed. But not expecting to testify on those points, I may be mistaken about it. It may be that that change was at the time of the National Bell.

Q. Was there any increase of that character at the time the National Bell was formed?—A. Oh, I say if I am not mistaken that change only took place once, and if I am not mistaken that took place when the National Bell sold out to the American Bell.

Q. Not when the two companies sold to the National Bell?—A. I think when those two companies sold to the National Bell it was sold share for share, and the new stock taken in was added, making \$850,000.

Q. Was that sold for money?—A. Sold for money. And I think the change we speak of, when the patents were put in at that price it made perhaps six millions of dollars, something like that—I could not give it from memory—was when the American Bell was formed. That is my recollection of it.

Q. That was because of the increased value of the instruments?—A. Yes; the stock of the National Bell was quoted as high as eight or nine hundred a share, and it was sold at considerably less than the market value of the stock when the new company was formed, in order to be within the market value.

Q. I suppose that was because of the extension of the business of the company?

The WITNESS. That was caused by the extension?

The CHAIRMAN. Yes.

The WITNESS. What do you mean? The increase in the market value?

The CHAIRMAN. Yes.

A. By the recognition of the value of the invention.

Q. You increased your stock to correspond with what you understood to be the increase in the market value of the property of the company?—A. And also sold additional stock from time to time as capital was wanted. Some \$4,000,000, if I remember, had been sold for actual cash and put into the treasury.

Q. That would be in addition to the six millions?—A. Yes; the capital of the American Bell is now ten millions, of which six millions in all has gone in in cash, paid in by the different companies, the early stockholders in the formation of the Bell. Those figures you can get from the treasurer.

Q. Four millions went to Mr. Bell?—A. No; four millions were paid to the early companies for their patents.

Q. As I understand you the original association was composed of Mr. Bell, a Mr. Hubbard, and another gentleman?—A. But you will understand the association was formed or composed of \$450,000, and they received their proportion of the stock. All the stock that was sold thereafter was sold for money and went to the people who put in money.

Q. Were not the original associations practically the owners at the outset of the stock of the New England and the Bell?—A. Well, a certain amount of money was put in by the people who preceded me in the business, besides Mr. Bell and Mr. Hubbard. Mr. Sanders, for instance, put in a considerable amount of money, and the other gentlemen put in considerable money, and they took stock to represent that money, so that the amount of shares left with Bell and Hubbard representing the patents was not the whole of the stock of the old Bell company and the New England, but only such part as had been awarded to them. The other patents represent the remainder for cash which the other gentlemen put in.

Q. You are not able to state how much was put in by the parties who were associated in the two original companies?—A. No.

Q. You do not know what proportion Mr. Bell and Mr. Hubbard received for the patent?—A. I had known, but I do not remember now. I think, if I remember rightly, Mr. Hubbard and Mr. Bell received a two-thirds interest in that old association.

and Mr. Sanders, or whoever the third party was, the one-third for the money he put in for developing the earlier part of the invention.

Q. You have stated so far as you know how many other persons were associated with that original company?—A. As far as I know those three were the ones. I recollect the history of it. I never had occasion to fasten it in my mind very much. As I understand it, it was composed of those three gentlemen, or some one in place of those three were the association that held those patents originally.

Q. Are there any books or papers in possession of your company which would give us this information?—A. I am not certain whether we took over the papers of those old associations or not. They gave us title to the property, but the records of the affairs of that association I do not think we have. I have never seen them.

Q. Is there any person now connected with the company who comes down from the beginning?—A. Mr. Gardiner G. Hubbard is a director of the American Bell. So is Mr. Thomas Sanders.

Q. Does he reside in this city or Boston?—A. He resides in Washington in the winter.

Q. Is he here now?

The WITNESS. In Washington?

The CHAIRMAN. Yes.

A. I do not know. Do you mean in this room?

Q. No, sir; I mean in the city.—A. I do not know.

Q. Your recollection is that the increase of the capital sixfold—

A. (Interrupting.) Mr. Bell tells me that he is in the city. Mr. Bell is present.

Q. Yes, sir; the increase in the capital sixfold took place at the time of the formation of the American Bell Telephone Company?—A. If my recollection is right that is the time it took place.

Q. And in addition to that, four millions of the stock have been sold, or how disposed of?—A. Of the ten millions the whole is now issued except one or two hundred thousand dollars.

Q. How was the additional stock issued; to whom; for what consideration?—A. All was issued to the stockholders; that is, offered to the stockholders at a hundred dollars a share. It is obliged to be offered first to the stockholders at a hundred dollars a share. It has all been sold at a hundred dollars a share.

By Mr. MILLARD:

Q. That is the par value?—A. That is the par value.

By the CHAIRMAN:

Q. It must be offered to the stockholders at the time of the increase at the par value?—A. Yes, sir.

Q. In cash?—A. It is substantially all issued now.

Q. Was the capital increased to the extent of four millions on the original basis?—A. When the American Bell Company got its charter, its charter gave it an authorized capital of \$10,000,000, of which enough was issued to pay for the patent rights put in at the valuation that I have named, something over \$4,000,000. If I am not accurate you can get that from the treasurer precisely. And the rest was a certain amount of cash that was subscribed and put in, and the rest has since remained in the treasury, and has been issued from time to time, sold and offered to the stockholders as it was desired.

Q. At its par value?—A. At its par value.

Q. At the time this additional stock was issued and allotted to the stockholders at \$100 a share, what was its market value?—A. Well, it has been a very fluctuating quantity. All the way from one hundred and forty to one hundred and fifty up to two hundred and seventy or two hundred and eighty.

Q. It has never been higher than two hundred and seventy or two hundred and eighty?—A. I think at one time it reached almost three hundred, but only for a few days.

Q. So that the ten millions of stock was really worth on the market thirty millions of dollars?—A. For a short time; yes, sir.

Q. Have you any knowledge of any member of Congress or officer of the Government being connected with the American Bell Company at the time of its formation?—A. No.

Q. Do you know of any member of Congress or officer such as I have named being a stockholder in the company at any time?—A. I have never known of it—never had occasion to know of any member of Congress being a stockholder.

Q. I do not ask you absolutely as to proving it by the books; but have you any knowledge of any member of Congress being associated with the company as a stockholder?—A. No; except the other day I received a telegram from Mr. Ranney asking me to look over the records and see whether he was a stockholder. As I understood, he was not.

The CHAIRMAN. I am not making this inquiry—

Mr. RANNEY (interposing). I waive that.

The CHAIRMAN. I speak of other members of Congress. I do not speak of Mr. Ranney.

Mr. RANNEY. I waive all objections.

A. Mr. Hudson, the general manager of the company, was requested to see if he was a stockholder. He looked over the record and saw that several years ago Mr. Ranney owned 20 shares. I was not aware of that.

Q. Since it has been brought out, I will ask you this: Has Mr. Ranney ceased to be a stockholder?—A. He is not a stockholder now, and, as I understand, has not been for two or three years. That is all I know about it.

Q. Now, is there any member of Congress who has been or is now a stockholder?—A. Not to my knowledge.

By Mr. RANNEY:

Q. Do you mean that I was an owner of stock or that I had a collateral for a debt?—A. Mr. Hudson simply said you received the stock. He found 20 shares standing in your name.

Q. As collateral or as owner?—A. He did not state as to that. I think he said perhaps a lot as collateral and a lot not stated as collateral. He did not state about that.

By the CHAIRMAN:

Q. Do you know in any way of any other public officer or member of Congress having any interest in your company?

The WITNESS. As a stockholder?

The CHAIRMAN. Yes.

A. No. It may be that there are stockholders who are members of Congress. I have not looked over the stock-list.

Q. Any interest other than that of stockholder?—A. Some two or three years ago we retained Mr. Patrick Collins to represent us before the legislature. When we had a bill before the State legislature to amend our charter Mr. Collins represented us, and from time to time since then Mr. Hudson, our general manager, has consulted Mr. Collins about matters in Massachusetts, but not matters outside of Massachusetts at all. Do I understand your question to be in regard to stock interests or being interested as officers in our company? Or do you refer to such occasions as that?

Q. Put it in both ways. I want to know of members of Congress having any relation of any kind.—A. As I say, Mr. Collins was, several years before he was a member of Congress; and from time to time since then, in regard to matters in Massachusetts, Mr. Hudson has consulted Mr. Collins; but if you wish to know of any consultations of that kind I have had with members of Congress, I can tell you.

Q. Oh, no; I do not care to go into private consultations, but I want to know the relations with the company.—A. As I say, I have had consultations on matters in Massachusetts, but not upon our general affairs.

Q. I do not care whether general affairs or not. If you ever had any relations with members of Congress, you can state it.—A. Last spring a bill was referred in the legislature to regulate our rates, and it was likely to be referred to the judiciary committee. It had been rejected by the committee on mercantile affairs. It went into the house with a minority report favoring it, and it was likely to be referred to the committee on the judiciary, and I asked Senator Hoar if, when it came before the judiciary committee, he could appear before the judiciary committee and argue the constitutional question.

Q. Before the legislature?—A. Before the legislature. Senator Hoar said he could do it, and held himself in readiness last spring to appear before the Judiciary Committee. The matter did not go before the judiciary committee, and therefore he was not called upon to act, and I think Mr. Storrow told me he had called upon Senator Frye several years ago upon some matter, and had seen him once.

Q. Senator Frye, of Maine?—A. Senator Frye, of Maine. Mr. Storrow, our lawyer, had consulted him upon some question he wished to have his opinion about two or three years ago. Those are the only instances where we ever retained or ever had anything to do with any members of Congress.

Q. You recall no others?—A. No; I am quite sure there have been no others.

Q. And you do not know, as I understand you, of any member of Congress being a stockholder in your company at that time?—A. No. With the exception I have mentioned, I do not think I have ever known of any member of Congress that I can recall being a stockholder in the company, although I think it is quite possible that they have been stockholders in our company.

Q. Has your company procured the publication in any newspaper of any matter affecting this investigation or connected with it?—A. No.

Q. Did your company procure the publication of any articles relating in any way to the Pan-Electric Telephone Company?—A. No.

Q. Do you know of any officer of your company having procured the publication

of articles relating to the Pan-Electric Company or to the gentlemen who became associated as the Pan-Electric Company?—A. No; the only article that we ever procured the publication of that touched upon that subject at all was an industrial article that appeared in the New York Times last January. At the solicitation of some agent of the New York Times, who stated that he was preparing industrial articles for the first of the year upon many branches of industry, and would like to put in a history of the telephone and our relation to the progress of it, we consented to pay for the introduction in the Times of an industrial article, published as such, not as an editorial article at all. It was published in the month of January.

Q. What year?—A. This last year; and in that there was a general history of the development of the telephone, and in that the Pan-Electric Company was referred to, as well as various other suits, but merely as a matter of history; not in connection with this investigation at all.

Q. Can you furnish us with that article?—A. Yes, I have a copy of it here.

By Mr. MILLARD:

Q. You have it here now?—A. Yes. Would you like to see it?

The CHAIRMAN. Yes. [Paper submitted by witness.] It appears to be an article of four columns. Will you leave this with us?

The WITNESS. Yes.

By the CHAIRMAN:

Q. Have you any objection to stating what was paid to the Times for the publication of that?—A. For the publication of it and certain copies that were bought for distribution, in the neighborhood of \$1,200.

Q. How many copies did you get?—A. Either one or two thousand, I do not remember which.

Mr. RANNEY (referring to the newspaper). This is dated January 1, 1886.

By the CHAIRMAN:

Q. (Resuming.) Do you know whether those were fair advertising rates and whether that was a fair price for the copies?—A. I do not know the particulars. He came on to see Mr. Hubbard, and Mr. Hudson, the general manager. The arrangement was made with them. I simply assented to it and had nothing to do with putting in the article.

Q. Mr. Forbes, have you procured in any way, directly or indirectly, by arrangement made with your company or some member of your company, or somebody in the interest of the company, the publication of articles relating to this Pan-Electric Company?—A. No, sir. There was an article published in a paper called the New York Commercial World which contained some account of this matter, and it was brought to me in New York on one occasion when I was there, written, completed and ready for publication, and the reporter, or whoever he was, happened to get me at the end of a long day's work when I was rather tired, and finally I agreed to take one thousand copies of the paper in that way at \$100, and they were sent over to Boston and burned up or stowed away. It was an article of no particular value and I paid no particular attention to it.

Q. Have you a copy of that article?—A. No, I haven't a copy here, but I can get you a copy of it. As I say, we had a thousand copies, whatever they were. I told him to send them to Boston and we simply did nothing with them.

Q. Can you furnish us with a copy?—A. I think so; yes, sir. Those were the only cases where we had anything to do, directly or indirectly, with the publication of any article connected with this matter. Mr. Dickerson you may have seen, over his own signature, had certain articles published in the Tribune; but not at our direction or with our knowledge at all.

Q. Were they paid for?—A. Not paid for by us.

Q. Have you any knowledge that they were ever paid for at all?—A. No.

Q. Mr. Dickerson was your attorney?—A. Dickerson was one of our attorneys. There were published several times interviews with Mr. Dickerson upon this whole question of the Government right to bring a suit.

Q. Has the company paid anything for the publication of any of those articles?—A. No. I had no knowledge of his intending to write such letters, and it was done without our desire and rather against our desire. Our policy has been to keep out of the newspapers in this whole matter. It has been a matter of policy with us.

Q. What officers of your company would look after matters of that kind?—A. Well, it being a matter of policy, nothing would be done without coming to me.

Q. Would such publications be made by your company without your direction, knowledge, or consent?—A. No; they would not. If they did, the person causing them would lose his connection with the company at once.

Q. The Bell Telephone Company seems to have a good deal of literature of one kind and another. Who looks after the publication of it?—A. What do you mean by literature? We have a great deal of printing of our law cases. Now we have the ad-

dress of Mr. Robert M. Morse, jr., who is our counsel in Boston, who is representing our company in Boston. His speech on the subject of rates has just been published at our expense in the Boston Advertiser. That was done by our knowledge and by our consent.

Q. There was recently a report made by yourself to the directors published in pamphlet?—A. Yes, sir.

Q. Has that report been published in the newspapers of the country?—A. There has been a short synopsis of it.

Q. Have you paid anything for that?—A. One local newspaper in Ohio sent in a bill for the printing of a synopsis of that report. We did not intend to pay anything for it. We simply sent it out to the newspapers to do as they pleased with it.

Q. You have sent out that report to the newspapers of the country?—A. Upon request we sent out several for information.

Q. You sent none without request?—A. Oh, yes. We were asked if we would send it out, and therefore we sent a considerable number of our reports to the newspapers. But in only one case did any of them charge anything, and that was unexpected to us.

Q. Have you a copy of that report with you?—A. No.

Q. Can you furnish us with a copy?—A. Yes.

Q. I would like to have a copy. Have you paid anything for the republication of articles appearing in any of the New York papers?—A. No.

Q. Touching this investigation or the matters out of which it grows?—A. No. I think I have stated to you the only cases where we have paid for any articles in newspapers at all, in any matter connected with this thing at all.

Q. Do you know of any arrangement by which they pay for the republication of any of their articles?—A. No.

Q. Do you know that that is done or has been done?—A. Not in our interest.

Q. In anybody's interest?—A. No; I do not know that it is done at all, but not in our interest.

Q. Well, I speak of paying in any way by any means whatever any kind of money?—A. We have not caused it to be done, and are not cognizant of its being done, by anybody in the way of compensation at all.

Q. Have you furnished to any New York papers, or to any newspapers of the country matter for publication, or given them information?

The WITNESS. In respect to this matter?

The CHAIRMAN. Yes.

A. No.

Q. Or in respect to the Pan-Electric Company?—A. With the exception of this industrial article in the New York Times, which did contain, among a history of our various matters, this matter you have before you. It was simply a matter of policy. We considered we had a perfect right to do so, but as a matter of policy we considered it would do us no good to go into the newspapers with our affairs at all.

Q. Have you in any manner aided in carrying on this investigation?—A. No.

Q. Did you have anything to do with having it instituted?—A. No.

Q. Did you have any consultation with anybody about having a resolution offered in the House?—A. No.

Q. Do you speak of your own conduct now or the conduct of the company?—A. The conduct of the company.

Q. Well, how as to yourself, individually?—A. Both. Neither myself nor the company has had anything to do in any way with the bringing of any investigation at all.

Q. Have your attorneys?—A. No; not to my knowledge. I think that the copies of the arguments of our counsel before Mr. Lamar have been furnished the committee, but, as I understand it, at the request of the committee.

Q. No; they have not to my knowledge.—A. Well, we have offered to. I told Mr. Storrow or told Mr. Swan, who was down here occasionally, that if the committee desired any information that we could furnish in any way, we should be happy to furnish it to them.

Q. You state, then, that so far as you know neither the American Bell Telephone Company nor any of its officers or stockholders, nor any person in its interest, has had anything to do with setting on foot the investigation or the carrying of it on?—A. Nothing about it at all, unless some members of the committee may have asked questions of our counsel who have been down here from time to time; but not with our knowledge or any authority of ours at all.

Q. I understood you to say that you would furnish or direct to be furnished to the committee, if they desired, the arguments of your counsel?—A. Mr. Storrow's and Mr. Dickerson's arguments before Mr. Lamar; yes, sir.

Q. Have companies for particular localities been licensed by the American Bell Telephone Company?—A. Yes.

Q. How many of them?—A. I cannot tell you from memory.

Q. Are there many?—A. Yes; in many cases they were individuals. In other cases they were companies, and at one time there were, I think, one hundred and fifty, or perhaps over one hundred and fifty, licenses of the American Bell, and gradually they were consolidated in larger ownership, generally into large companies covering quite a territory, sometimes more than a State, sometimes two or three States; and now I do not know the exact number—fifty or sixty perhaps, possibly a hundred.

Q. Have you any knowledge of the capital of those companies, the extent of it?—A. I think it is about fifty millions of dollars—that is, in round figures.

Q. That would be at its par value, that is, the capital authorized?—A. Par value; properly speaking, fifty millions of dollars; something over that. I can give you that with exactness if you desire it, Mr. Chairman.

Q. I would be obliged to you if you would.—A. I think very likely the treasurer can state that.

Q. I would like to have the names of the companies and, as nearly as you can, the persons interested in them, if you have any means of giving them.—A. That would be a pretty long list, because each of these companies is organized with stockholders all over the United States, and we do not keep any list of those stockholders ourselves. We simply know of the organization of the company, and each company has its own list of stockholders—sometimes hundreds of them—and we should have to make a regular search for them.

Q. Yes; but I do not ask that. I see the difficulty of that. I thought if you had any information in regard to it you might give it to us. Is the American Bell Telephone Company a stockholder in the subordinate companies?—A. In most of them.

Q. Do you know what amount of stock it holds in those companies?—A. I think about twenty-two millions of dollars, par value.

Q. Are you able to tell us what is the market value of that stock as it stands?—A. Well, that is very difficult to state, sir; I would not want to venture an estimate off hand.

Q. What is it valued at among the assets of your company?—A. Well, I should prefer to give you that from —. That is in our report.

Q. Oh, well, sir, how do you regard it; as worth how much money?—A. I think, sir, from fifteen to seventeen millions.

Q. Not worth par, then; not worth the face value.—A. No; not worth the face value. It may appear upon our trial balance as twenty-two millions; but there has been a considerable shrinkage in the value of telephone properties within the last year, and, if you ask my opinion, I should not estimate it at over fifteen to seventeen millions the last time I looked over it.

Q. There has been a shrinkage within the last year?—A. Within the last two years; yes, sir.

Q. Do you know of any member of Congress or public officer being interested in any of the telephone companies?—A. No. Do you mean any officer at all of the Government?

Q. Any officer of the Federal Government?—A. I have been told that Secretary Manning, of the Treasury Department, has always been a manager and stockholder of the Troy and Albany Company.

Q. Anybody else?—A. No one else that I recall. I do not think of any other.

Q. Does the American Bell Company itself occupy any territory to carry on telephonic operations, or is the whole territory of the United States occupied by telephone companies?—A. The whole territory is operated by outside companies. The American Bell, however, is now engaged in laying out a system of lines between the large cities, and has built a line from New York to Philadelphia, which is done almost wholly under its own ownership. For instance, in New York and New Jersey we have a firm, a company, to operate under the laws of those States. But we own the stock of those companies, and therefore practically it is a branch of our own business. But we are proposing to extend the ownership in the principal cities. That is not done under our name, but under the name of the American Telephone Company, of which we own the stock.

Q. You own the stock covering that territory?—A. No. Of the licenses of these different companies we reserve the right to connect one territory with another territory. This involves very large lines, and most of the companies do not care to engage in that work.

Q. Now state the present market value of the American Bell stock?—A. About one-sixty-two the last quotation I saw. That would be sixteen millions for the whole.

By Mr. MILLARD:

Q. What was it a year ago?—A. I think it was two-forty or two-fifty; something like that. The fluctuations are so great that I cannot tell you from time to time. It has fluctuated within a year down to one-fifty or one-sixty. I cannot tell you exactly what it was in April or May last year.

By the CHAIRMAN:

Q. What was your last dividend?—A. Our regular dividend is 12 per cent. per annum, and we have paid extra dividends as we earned them. Last year we paid 12 per cent.; 12 per cent. regular, and 4 per cent. extra. For the first three or four years there were no dividends at all.

Q. Are you accumulating a fund, or do you divide all your net earnings?—A. We divide most of the net earnings. We have accumulated some reserve fund.

Q. Do I understand you, then, that all the earnings of the American Bell Company come to it from the subordinate companies?—A. Yes, sir.

Q. As you occupy no territory yourself and carry on no telephonic operations?—A. It comes either from royalty on telephones or from dividends on stock that we hold in those companies.

Q. What proportion do you receive as royalties from telephones? You furnish the subordinate companies with the telephones, do you?—A. Yes; that is the bulk of our income—royalty upon telephones.

Q. I do not care to go into this, but it is suggested. Does your company own other patents besides those of Professor Bell?—A. Yes, sir.

Q. Does your company make disposition of its profits in any other way than by way of dividends?—A. No. Well, it has invested a considerable part of its profits in the construction of the plant that we own.

Q. But does any person receive payments from the Bell Company or money in any way from the Bell Company other than as dividends on stock?—A. Our lawyers get a pretty large part of it.

Q. I do not speak of expenses.—A. I do not think I quite catch the drift of your question. Our earnings are all gone into dividends or expended in the plant of the company, of which we have a considerable ownership.

Q. These other patents you speak of you say you own?—A. We have bought these patents. Part of our earnings have gone into the purchase of patents.

Q. Has any person from whom you purchased these patents a right to receive royalties, or have they been bought outright?—A. Most of them have been bought outright; upon some of them we pay royalty to the patentee, but I think no important one.

Q. Your capital is limited to ten millions, is it?—A. Yes.

Q. Have you made an effort to have it increased?—A. Last year.

Q. To what amount?—A. Thirty millions.

Q. Do you think your property is worth thirty millions?—A. It was only to be put in as we put in money against stock to be issued; it was only to issue twenty millions more at par and sell it as we wanted it. That was all we asked for. That was because we were contemplating this system of building lines between large cities, and we foresaw a very considerable outlay beyond our State. Therefore we desired authority to increase our capital from time to time as we desired.

Q. Do I understand you to say that that increase, if allowed, would have to be paid for in money?—A. Every dollar of it.

Q. At par?—A. At par.

Q. I understand you, then, to say that you propose to add to your means for carrying on your operations \$20,000,000?—A. No, I do not say we propose to do it. I say we asked authority to do it, because we saw that we were practically only at the beginning of the telephone business, and that our \$10,000,000 having been used up in the first five years, we desired authority to increase it as we desired. We saw opportunity to invest \$20,000,000 at once, in building lines between large cities.

Q. What is the name of the company controlling the city of Washington, your subordinate company?—A. The National Capital Telephone Company, I think it is called; no, the Chesapeake and Potomac. I beg pardon. It used to be called the National Capital. You must remember I have one hundred and fifty of these companies to keep in my head.

Q. Who are the officers of that company?—A. The president of that company is Morris F. Tyler, of Connecticut, and the directors are Mr. Theodore N. Vail and myself, Mr. Tyler, I think, and Mr. Faust is still a director, the manager here, Mr. Bryan, and one or two others that I do not recall at the moment. It can be easily furnished if you wish to have it.

Q. Do you know of any public officer or member of Congress having an interest in that company?—A. No, sir; I am not aware of a member of Congress or an officer of the Government having an interest in any telephone company with which I am connected except the case I have mentioned. It might easily happen that plenty would be interested in this company and I should know little about it, because I have very little opportunity to know about the details of these subcompanies.

The CHAIRMAN. Mr. Forbes, I believe that is all I care for. I turn you over to Mr. Ranney.

By Mr. RANNEY.

Q. Do not any newspapers or owners of newspapers own stock in your companies?—

A. I do not know of any of them.

Q. Does not the New York World own something in it?—A. I never heard of it.

Q. Or the Tribune?—A. I do not think so.

Q. Or the Sun?—A. I never heard of it.

Q. Or the New York Evening Post?—A. I think not.

Q. Does the Times?—A. I think not.

Q. As I understand you the only paper you paid any money to was the New York Times?—A. Yes, except for the purpose of that article in the Commercial World which we stowed away or burnt up when we got it in Boston.

Q. Does your company, as far as you know, or the men controlling it, own any interest in any of these newspapers?—A. No.

Q. Have you here the books showing the ownership of stock and the transfers of stock in the American Bell Telephone Company?—A. We have the stock list when the company was organized and the stock list to-day. That is what was asked for in the summons we had.

Q. Do you know of any member of Congress that ever has been or is now attorney for your company, or who represents you in any way?—A. Only those I mentioned just now.

Q. What were those?—A. I said Mr. Patrick Collins, who represented our company two or three years ago in Massachusetts, had been from time to time consulted by our company, and he is the one to-day that we should call upon.

Q. Some one appears to be anxious to find out whether I am an attorney for your company; do you know that I am an attorney for your company?—A. No.

Q. Have I ever been consulted, directly or indirectly, in any case?—A. Never.

Q. You spoke of some shares of stock held by me some years ago; have you looked at the record to see about that?—A. No; Mr. Hudson said he had received this telegram, and in looking at the list—

Q. (Interposing.) Did you find a transfer of shares?—A. I did not ask the particulars of it. He said it was three years ago, and since then there was no stock in your name. There were two lots; I think one was collateral and the other I do not know about.

Q. And that when the debt was paid it was retransferred?—A. I did not look into the question at all.

By Mr. MILLARD:

Q. Was this article in the New York Times that you have referred to republished in any other paper?—A. I do not think so. I do not know that it was.

Q. How came it to be published in the Times; how came this article to be written and printed in the Times?—A. A representative of the New York Times came to Boston in December and stated that the New York Times was proposing to publish a series or a set of industrial articles regarding certain industrial matters, and that they would like to prepare one and submit it to us for our examination and see if it was accurate according to our understanding of the telephone development, and if we approved of it and wished to have it done they would insert it at our expense.

Q. Did you yourself read the article before it was published?—A. I do not think I did. The matter was arranged by Mr. Bowditch, the vice-president of the company, and Mr. Hudson, the general manager. I had a few words with this man from New York. I do not think I ever read the article there.

Q. Let me call your attention to a statement. You say: "Up to the present time, in all the litigation in which the Bell telephone has been forced to engage it has been successful, and every point has been decided in its favor." Is that true so far as you know?—A. I think so; substantially. It is a matter of public record if I am mistaken.

Q. What cases do you know that have been tried in which the Bell telephone has been a party?

The WITNESS. What cases do I know?

Mr. MILLARD. Yes.

A. Well, a very long list of them; some twenty or thirty.

Mr. EDEN. Wait a moment. It does not occur to me that litigation ought to be gone into. It is matter in relation to bringing the Government suit.

Mr. RANNEY. It may turn upon the point whether there was sufficient reason and authority to bring it.

Mr. MILLARD. I am not going into the merits of those cases; I simply want to get at the fact whether in all these cases the decisions had been in favor of the Bell Telephone Company, and to know whether there was foundation for this article.

Mr. EDEN. I do not think we have a right to know whether the Bell Company was right or wrong.

The CHAIRMAN. It might be competent to inquire whether the Bell Company stated the truth in that statement.

Mr. EDEN. Well, in that light it may be proper.

By Mr. MILLARD:

Q. (Resuming.) I will put another question.

"It is of interest to know that every question which has been raised before the Interior Department in the present case has been elaborately presented and carefully argued in the United States courts, and that each and every one of them, without exception, has been decided in favor of Bell."

Is that true?—A. Yes, sir.

Q. You state also, further on:

"Moreover, each and every one of these questions is now on its way to the Supreme Court for final determination, and every such question is in a fair way to be finally and irrevocably settled by the Supreme Court before it will be possible to get it there, through a new suit founded upon a recommendation of the Interior Department, should such recommendation be made."

Now, what case do you know that has been carried to the Supreme Court in which your company has been a party?—A. The cases against what is entitled the People's Telephone, the Drawbaugh, the Molecular, the Overland, and the Dolbear. Those are several of the cases that I can recall.

Q. Had those cases been tried and appeals taken and perfected before application was made to the Interior Department to bring the Government suit?—A. I so understand. When you say perfected, I do not know exactly what you mean. I am not a lawyer, and, of course, I do not know about technical expressions.

Q. I mean surely on its way to the United States Supreme Court?—A. I understand those cases have been appealed, and are on their way to the Supreme Court, and will be heard early in October in the Supreme Court embracing these questions.

Q. That were before the Interior Department?—A. Yes, sir.

By the CHAIRMAN:

Q. All of them?—A. I think so. All that are material.

By Mr. MILLARD:

Q. Can you state how long ago the first appeal was taken?—A. I cannot give you the date.

Q. Several years ago?—A. Several years ago. That was the Dolbear, I think.

Q. Has your company issued any fictitious stock or has it issued and sold any stock for less than par value?—A. No. It issued stock for patents; took its pay partly in patents and partly in cash. But the patents were worth considerably more on the market than the amount of stock that we took for them at the time.

Q. And in case you should increase several millions you would sell for par?—A. We cannot sell for less than par value under the law of Massachusetts.

Q. Did you incorporate under the law of Massachusetts?—A. Yes, sir.

Q. If you issue one million or fifty millions of stock, you cannot divide it up among your stockholders, as I understand it?—A. It has to be offered to them at par first. If they fail to take it then there are other provisions about selling to outside parties. But it can be issued only for \$100.

Q. Well, must they pay for it like outside parties?—A. Yes.

Q. And as Judge Ranney suggests, if it is not taken in that way, it is sold at public auction? That is the law, is it?—A. Mr. Ranney—

Mr. RANNEY (interposing). I think the law provides giving it to stockholders first and then it has to be put on the stock.

By the CHAIRMAN:

Q. The question would be what your company has done, and not what the law provides?—A. As a matter of fact it has been taken by the stockholders at par.

By Mr. EDEN:

Q. Mr. Forbes, this article that you paid the New York Times for publishing was published after the suit had been ordered by the Interior Department, after the investigation there, and the Interior Department had decided in favor of bringing the suit.

The WITNESS. What do you say about it?

Mr. EDEN. I say that this article that you paid the New York Times for publishing was published January 1, 1886, after the order had been made by the Interior Department in favor of bringing the suit.

A. No; I think Mr. Lamar's decision came out in the middle of January some time.

Q. Well, the matter was pending in the Interior Department when it was published, was it not?—A. Yes. The arguments were heard in December, I think, and it was about that time that this industrial article was written.

Q. Are you acquainted with Dr. J. W. Rogers?—A. No.

Q. Or with J. Harris Rogers?—A. No.

Q. When did you first learn of the publications made in the New York Sun and the New York World attacking the Pan-Electric Association, or the gentlemen composing it?—A. When I saw them published in the papers themselves.

Q. You had not heard anything of it prior to seeing the articles in the papers?—A. No. I will state that an opportunity was given to us to use that matter that was published in the World and we declined to use it.

Q. When was that given to you?—A. Some time before the publication in the World; I do not remember when it was; a similar statement to that published in the World was offered to us for the purpose of publication, and we refused to have anything to do with it.

Q. By whom was it offered to you?—A. It was sent to me from Washington by Mr. Gardiner Hubbard. Some one offered it to him here; I do not know who it was; probably the same person who offered it to the World.

Q. You got your information from Mr. Hubbard, who was an officer of the Washington branch of your company?—A. Yes; similar information to that published in the World was offered to us for publication, and we declined to use it.

Q. Did you learn who offered it?—A. No; I do not know who offered it. We declined it not because we thought it was improper to use it, but merely as a matter of policy we decided we would have nothing to do with any publication of that kind. We simply said, "We do not care to know anything of it."

Q. Did you learn what the price of the material would be?—A. No; I did not ask any questions about it at all.

Q. How long was it before these publications were made in the New York papers that they were offered to you?—A. I do not remember how long it was. It was three or four weeks, or two or three weeks, I think.

Q. Two or three weeks before the publication?—A. Yes; I had some thought of learning the price and buying it to suppress it. I did not care anything about it myself. At that very time it was published in the World and whoever it was had it for sale sold it to them. As matter of fact I did not wish that agitation to take place, because I had taken the course of going to the President about the Pan-Electric matters, as I understood them, before that time. Therefore I did not follow this clue up at all, and did not attempt to find out the price about it; but, as I say, it occurred to me that it might be well to buy that article and suppress it. But in the mean time the article was published in the World without our knowledge or expectation.

Mr. EDEN. That is all.

By Mr. RANNEY:

Q. Are you a son of J. M. Forbes?—A. Yes.

Q. John M. Forbes?—A. John M. Forbes.

By the CHAIRMAN:

Q. You state that these Rogers letters were sent to you by Mr. Hubbard?—A. No; it was similar information to the first article that appeared in the World. It contained no letters at all, if I remember rightly. It was simply quite a long statement in regard to the bringing out of the Pan-Electric Company. It was the first World article that attracted considerable attention. I think it was somewhere along at the end of January, but I do not think it contained any letters at all.

Q. Was that article sent to you?—A. A statement similar to that. It was not exactly the same. It was substantially the same statement.

Q. Sent to you by Mr. Hubbard?—A. By Mr. Hubbard; yes.

Q. Was there a price fixed upon it?—A. No.

Q. Any compensation?—A. Oh, I assume that some one wanted to sell this information to us, but I decided to have nothing to do with it.

Q. I understand that. Have you Mr. Hubbard's letter transmitting it?—A. I do not know whether I have or not. I think very likely nothing was said about any price for it at all.

Q. If you can produce the letter I should like to have it.—A. I do not know that I kept the letter. It was simply asking if we desired to use it. I told Mr. Hubbard I did not care for it.

Q. Was that article submitted to your directors?—A. I think I read it to the directors; certainly to the executive committee—three of us.

Q. You say the impression made upon you was that it was offered for sale?—A. We assumed that that kind of information generally was expected to be paid for. But we were not, as I say, in that business. We did not make any inquiry as to the person.

Q. On what date was that sent to you?—A. I do not remember. It was some weeks, or perhaps a month, before it appeared in the New York World.

Q. You returned it to Mr. Hubbard? What did you do with it?—A. I do not re-

member what I did with the copy. I think I sent it to Mr. Storrow, and asked him if he had any use for it. I generally turn such matters over to him. Mr. Storrow said he did not wish to use it.

Q. What was the object of it; for publication?—A. To see if we wished to use it in any way.

Q. You declined to use it and simply kept it?—A. I sent it to Mr. Storrow and he declined to use it.

Q. Then what was done with it?—A. Nothing.

Q. You did not decline the article then; you put it in the hands of your attorney?—A. I placed the copy of it in the hands of Mr. Storrow.

Q. But you did not decline it. You say it was offered to you for any use you thought proper to make of it?—A. Yes.

Q. And you put it in the hands of your attorney, where you thought it might be used?—A. I supposed if we were to publish it we should have to pay for it. But we did not publish it, did not make any offer for it. Mr. Storrow has the copy now.

Q. Did you think you might use it through your attorney without paying for it?—A. No; I did not have any such intention.

Q. It comes to that, that your company did not decline the article; you retained it?—A. We declined to publish the article.

Q. Yes; but you retained it and put it in the hands of your attorney for any use that he saw proper to make of it?—A. Yes; that he saw proper to use it for.

Q. Have you any knowledge that that article was not published in the World (the very article you had) through the agency of Mr. Storrow or somebody else?—A. I know that it was not.

Q. How do you know?—A. Because Mr. Storrow told me so.

Q. Did you not put it in the hands of Mr. Storrow to have it published if he thought it advisable?—A. I have already stated that we did not wish it to be published; we did not wish to make use of it at all.

Q. What use did you think Mr. Storrow could make of it?—A. I simply turned it over to him as counsel; Mr. Storrow thought it best not to use it; I thought so, too, and nothing was done about it.

Q. Your company did not decline the article?—A. I do not think I can state any differently; we did not use it, and I think Mr. Storrow still has the copy; we did not use it in any way, shape, or manner at all.

Q. Do you know that fact?—A. Yes.

Q. How do you know it?—A. Because I know no one has any authority to do anything but our executive committee, except Mr. Storrow himself.

Q. And all you know is what Mr. Storrow told you?—A. Yes; he considered the matter and decided it should not be used.

Q. You say you had an interview with the President in relation to this Pan-Electric Company?—A. Yes.

Q. For what purpose?—A. To tell him what I thought of it, and the facts, as I understood them.

Q. With what view?—A. The Government was proposing to bring a suit against our company. I thought it proper to state to the President what the facts were, as we understood them.

Q. Do I understand you to say that you had the interview with the President because of the fact that public officers were connected with the Pan-Electric Company?—A. No; it was because the President was proposing to take the unusual course of bringing a suit against our company—which we understood to be out of the usual course—that our lawyers advised me they had no authority to do it, and they were proposing to bring it, so it was said, in a remote part of the country, away from the place where our company resided, and I desired to place the facts—all the facts, as I understood them—before the President.

Q. Did you do that by direction of the board?—A. I do not think I consulted the board.

Q. Did you consult your executive committee?—A. I do not think I consulted the executive committee. I do not remember whether I did or not.

Q. I wish you would try to remember it.—A. No vote was passed about it. I probably talked it over with the executive committee before I came down here.

Q. Then the fact is that the Bell Company, through a private interview with the President, sought to prevent the bringing of this Government suit?—A. No, sir.

Q. If that is not the fact, what is the fact?—A. I sought to let the President understand the facts as we understood them.

Q. For what purpose?—A. I presented to him the question of jurisdiction. If they thought proper to bring a suit, I put it to him that there were some fifty or sixty millions at issue; that we had been through this issue once, and that we were now about to bring it to the Supreme Court for final determination, which could be done long before this matter could be brought to trial before any court that the Government could begin in, and I pointed out to him that the manifest intention of the Pan-

Electric associates was to stop—not to get our patents tried; but to get them not tried—to get our suits stopped that were already in progress, and that I thought the Government ought not to lend itself to a scheme of that sort. I pointed out to him that the name of the Government had been used before the court at Baltimore, and Judge Bond had been asked to suspend the suit just being brought by the Pan-Electric Company; asked for a stay of proceedings, hoping to get the telephone suits hung up during a long and tedious trial in the name of the Government, and that Mr. Storrow and Mr. Dickerson, who were in New Orleans at that time, and Mr. Bayne and Mr. Simms, our counsel down there, were confident that the same game was going to be tried before Judge Pardee, because the Government was going to bring this suit. I explained the motive of that whole gang, because I desired him to know what kind of use had come to be made of the Government name and power, and pointed out that the whole of this was going to be thrown in the scale before the Government courts as between two private parties, and I asked him if he proposed that the whole matter should be carefully considered. If the Government was interested in the fraud between its own officials in the Patent Office, that was one thing; if they proposed to open up these other inventions that were already on their way before the Supreme Court, that we had to face enormous cost and enormous damage, and that our people represented some fifty or sixty millions invested in legitimate business, and that we ought not to be subjected to that long and tedious investigation. Then I pointed out to him if that was to be done, that our counsel advised us that we could only be sued in Massachusetts, where our company belonged, and I asked him to have the scope of that inquiry at that time considered very carefully before the Government entered into such a plan as that.

Q. Then of course all that was, in the first instance, for the purpose of preventing bringing the suit?—A. It was for the purpose of making the Government understand what we understood about the matter.

Q. I suppose you did not care whether they understood or not. But I ask you to state as a witness now whether your purpose was not to prevent bringing a suit?—A. No; I had no expectation of preventing bringing a suit.

Q. Then what did you want to accomplish?—A. I wanted the President to understand what was being done in the name of the Pan-Electric.

Q. What for?—A. I thought it was for the interest of the Government that he should understand.

Q. What interest had he in bringing suit?—A. I saw perfectly well that an attempt was being made to make use of the Government influence, the influence of people associated with the Administration, to bring pressure upon the Government to bring suit against us. I thought probably the President had never had an opportunity, perhaps never had his attention called to the matter or been induced to look into it, to understand the justice and injustice of this proceeding, and I thought it was proper that our company should once more come and lay its case, as we understood it, before the party proposing to bring the suit in that way.

Q. You thought the use of the Government name in a suit of that kind was wrong?—A. Wholly.

Q. And you wanted to prevent it?—A. I should have been very glad to do so.

Q. Was that your purpose?—A. No.

Q. What was your purpose, then?—A. I thought in the first place the President would see through it. In fact there were two things I asked of him. I asked him to consider the scope very carefully; whether to drag us over this long and tedious road of investigation, or whether it was only a question to investigate fraud in one of his own Departments.

Q. You considered the suit was to be brought?—A. Yes. That was one of the things I asked. And in the next place I asked him to see to it that there would be no unnecessary delays. I thought there would be influence used to have this thing dragged, and dragged along to the great injury of ourselves, and I asked that no unnecessary injury should be inflicted by causing long and improper delays; and I asked him if anything could be done to prevent it before the United States courts, where these parties were claiming that our suits should be hung on the ground that it was the intention to try this suit; that it was proper for the Administration to say that it was not the intention of the Government to have any existing suits stopped. It seemed to us a great injustice would be done if these suits were delayed, and I asked him to have the subject of jurisdiction carefully considered also.

Q. Then you say you assumed that the suit would be brought?—A. Yes, sir.

Q. And you advised the President as to the place of bringing it; that is, you did not want it brought in a remote part of the country?—A. I told him—

Q. (Interposing.) Just answer my question. You have gone over it twice. Did you not object to bringing the suit in a remote part of the country?—A. I objected to its being brought anywhere except in Massachusetts.

Q. You wanted to advise as to the place where it should be brought?—A. I simply

wanted it understood that we did not think it could be brought anywhere except in Massachusetts.

Q. I understand you also advised the President as to the scope of the issues to be tried in that suit?—A. I did not advise him; I simply asked him to see that that should be very carefully considered.

Q. I used the word "advised" in that way. Yes, but you advised him to have the matters to be tried in that suit confined to certain issues, did you not?—A. Well, I simply told him what I have said to you.

Q. In other words, you assured him that certain issues had already been determined?—A. I told him that the very question involved was already on the way to the Supreme Court in the cases already being tried.

Q. Did you not state that you wanted the suit confined to the question whether the patents had been obtained fraudulently?—A. Let me state that once more. I think I can state it so you will understand it.

Q. Very well. Do not go over the same matters. I have no objection to your stating it.—A. I asked him to have it very carefully considered whether the scope of this thing was to be limited to the question of fraud in the Patent Office, or whether it was to go into the question of priority of invention, which would involve years and years of litigation, all of which would involve great expense, over sixty days of argument by the best counsel we could get, and we felt it was a great injury to us to be asked to go over that again under these circumstances, and therefore I asked him to consider very carefully what the scope was to be.

Q. Did it occur to you that there was any impropriety in your advising the other side as to a suit to be brought against you?—A. Not in the least.

Q. In the first place to select the forum and in the next place to have a voice in what was to be tried; did not that occur to you as somewhat improper?—A. No.

Q. When was it that you had this interview with the President?—A. It was shortly after Mr. Lamar's opinion was published; I think towards the end of January.

Q. Did you make any suggestion as to the change of any officials under the Administration?—A. No.

Q. Did you make any suggestion as to who should be employed as counsel against you?—A. No.

Q. Did you discuss the conduct of the Attorney-General in the matter?—A. No.

Q. Did you make any allusion to it?—A. Simply in saying that we felt that an attempt was being made to use Government officers who were near the Administration in the interest of one of the parties, and that we felt that great delays would be caused if they were allowed to have any voice in the controlling of this suit; that we were entitled to be protected against it. You will find that all stated in the report to the stockholders.

Q. You thought, then, that the Government ought not to bring this suit or allow the use of its name?—A. I certainly thought not. I thought it was an outrage.

Q. And you so stated to the President?—A. I did not use those words.

Q. Substantially?—A. I told him that great injury was being done to the interest I represented in the name of the Government.

Q. You thought it better for you to have the suit brought in Boston than elsewhere and you so stated to the President?—A. I did not so state to him, or that I thought so.

Q. Why did you want it brought there?—A. In the first place, there would be a great deal of delay in the argument of the question of jurisdiction.

Q. If you raise it?—A. We certainly shall raise it.

Q. You need not raise it.—A. That is a matter for our lawyers to say. Perhaps they will not raise it.

Q. Then, in addition to that, you made some suggestion as to what should be tried in this suit—the question to be raised.—A. I pointed out the objections to all the questions that were for matter of delay.

Q. Did it occur to you that you could have made any other suggestion, except as to counsel who were to be employed?—A. It did not occur to me to make any suggestion of that sort.

By Mr. EDEN:

Q. Did anybody accompany you when you went to have this interview with the President?—A. Only to introduce me; the Secretary of War; I asked him to introduce me.

Q. You did not take any attorney with you?—A. No.

Q. Was any one present at the interview?—A. No.

Q. That was after the matter had been decided so far as the action of the Interior Department was concerned?—A. Yes. It was after Mr. Lamar had made his recommendation.

Q. And do you know whether the Department of Justice had also made any order at that time?—A. I think no order had been made. I think simply that Mr. Lamar

had written a letter advising that the Government had power to bring the suit and recommending that the suit be brought. That is all I remember.

Q. That was as far as it had progressed at that time?—A. Yes.

Q. Well, had this question been raised and discussed about the scope of the suit—how much it should embrace—before you went and saw the President? That matter had been discussed before the Interior Department, I suppose. Of course the papers will show that.—A. Yes; I think if I remember rightly that the principal ground upon which Mr. Lamar made his advice was that there was some impropriety on the part of some of the officers of the Government, which could only properly be investigated by the Government itself, and therefore I simply said if that was all the investigation it could be done in a short time.

Q. And you presented that view to the President?—A. Yes; that if that was all, that could be done in a short time, and that if the other course was adopted great injury would be done.

Q. How long did the interview last?—A. About three quarters of an hour.

Q. Did the Secretary of War remain?—A. No.

By Mr. HANBACK:

Q. What did the President say about it?—A. Well, I do not think I have a right to quote Mr. Cleveland. Mr. Cleveland was non-committal. I should prefer not to quote Mr. Cleveland's language in that conversation. I am perfectly willing to do so if the committee insist.

Mr. MILLARD. I think if the committee can require this witness to say what he said to the President, we ought to have what the President said to him.

The WITNESS. I have denied even to the directors quoting what Mr. Cleveland said at all.

The CHAIRMAN. That is not material.

Mr. HANBACK. I ask him what the President said in response to this witness.

The CHAIRMAN. I have no objection to that.

Mr. HANBACK. If the witness prefers not to answer; if he has a delicacy about it, I shall not care to press it.

The WITNESS. As to the matter what he said I should not have the slightest objection, but as a matter of propriety it seems not proper to quote the President.

Mr. EDEN. It is simply as a matter of propriety, then?

The WITNESS. That is all. I am perfectly willing to state the substance of it.

The CHAIRMAN. That is for the witness. The rule would be that the whole matter should come out.

The WITNESS. If the committee desires to insist I shall give the whole conversation, but as a matter of propriety I have never quoted what the President said at all.

Mr. EDEN. I do not insist on it at all.

The WITNESS. His answers were entirely non-committal.

Mr. HANBACK. I think that question is largely answered.

The CHAIRMAN. I yield to the witness.

Mr. HANBACK. Yes, and I yield also; and then, another thing, the witness has said Mr. Cleveland's answers were entirely non-committal, and he said very little, I suppose.

The WITNESS. Yes, sir; he said very little.

By the CHAIRMAN:

Q. You say you were introduced by the Secretary of War?—A. Yes, sir.

Q. Did he remain during the interview?—A. No.

Q. Or any part of it?—A. Perhaps to exchange a few words of courtesy; that was all; not during the business part of the conversation.

By Mr. RANNEY:

Q. You spoke about furnishing to the committee the printed record of the Interior Department, or the proofs?—A. Yes; the arguments of Mr. Storrow and Mr. Dickerson before Mr. Lamar. Would you like to have them?

Q. To any member of the committee, or to all the committee?—A. To all the committee. We have printed copies of them.

Q. I understand you those were the documents printed in the Interior Department?—A. Yes; it was simply for your convenience.

Mr. RANNEY. I got mine from Professor Gray.

The CHAIRMAN. I have not had any. I would like to have one.

Mr. HANBACK. If you have them to spare you might send one to each member of the committee.

Mr. RANNEY. If the rest of the committee have not got it, I wish you would furnish the committee the second volume.

The WITNESS. In what case?

Mr. RANNEY. It is the one I showed to Mr. Van Benthuyzen.

The CHAIRMAN. If you have the letter of Mr. Hubbard, forwarding that World article, we would be obliged to you if you will send it.

The WITNESS. If I can find it; I do not think I kept a copy of it.

Mr. HANBACK. It was information similar to the World article.

By Mr. HALL:

Q. Do I understand that your company retained that original letter, or that you have a copy now?—A. I think so; a copy in manuscript or type-writer, and I think Mr. Storrow has one.

Q. And you sent the original copy back to Mr. Hubbard?—A. No; this was a copy I had and sent it to Mr. Storrow.

By Mr. EDEN:

Q. Was Mr. Hubbard in Boston?—A. No, Mr. Hubbard was in Washington.

Mr. HALL. I suggest that you produce the Hubbard letter if you have it, also the reply to that letter.

The WITNESS. I think I gave that to Mr. Hubbard personally when I was in Washington, and told him I thought it was best not to use it in any way. I do not think any reply was sent to him. Copies of the Dickerson and Storrow arguments and the paper called "Proofs and replies;" is that what you want?

Mr. RANNEY. Yes; I think that the committee has some copies of the first volume; it is the second volume I want.

By Mr. MILLARD:

Q. Have you seen the bill in the Government suit?—A. I have seen it, but I have not read it through.

Q. Do you know whether there are any facts or allegations or charges in that bill that have been passed upon by other courts?

Mr. EDEN. Oh, I do not think that is proper.

Mr. MILLARD. It certainly is proper if he knows.

Mr. EDEN. The decision of the courts and the appeal itself will show.

The WITNESS. I do not think there is anything.

The CHAIRMAN. Wait a moment.

Mr. HANBACK. It was the opinion of the president of the company that every issue had been covered.

Mr. MILLARD. That is why I ask it.

By Mr. MILLARD:

Q. I am questioning you of your interview with the president. You spoke to him in regard to the questions to be tried, with a view of not trying old questions and involving you in unnecessary expense?—A. To let him understand that that would be the result if he should reopen the question.

Q. And that it had been passed upon by different courts on its way to the United States Supreme Court by appeal?—A. Yes.

Q. Now, in what State have those decisions been made and the same questions passed upon?—A. In Massachusetts.

Q. By what judge in Massachusetts?—A. By Judge Lowell and Judge Gray.

By Mr. HALL:

Q. Did you state these facts to the president?

Mr. MILLARD. It is competent outside of that.

A. No, I did not state that.

Mr. HALL. Then I object to it.

Mr. HANBACK. The fact what courts it was before would be proper.

The CHAIRMAN. I do not think it is material.

Mr. MILLARD. In my judgment, it seems to be a remarkable proceeding to bring a Government suit to determine questions that have been once tried before a competent tribunal, and appeals taken to the United States Supreme Court.

The CHAIRMAN. If it was a material matter you would have to prove it by the records of the United States court. It is only an expression of his opinion.

Mr. MILLARD. I only ask what is within the knowledge of the witness.

Q. (Resuming. What courts and before what judges?—A. In Massachusetts before Judge Lowell and Judge Gray. In Pennsylvania before Judge McKennon. Before Judge Butler and Judge Nixon. I think Judge Butler sat with him—Judge Nixon, in New Jersey. Judge Wallace in New York. Those are all I recall.

By Mr. MILLARD:

Q. Now has Roscoe Conkling been employed by you to defend this suit?—A. This Government suit? No. He is retained by our company generally and would be consulted generally. Not necessarily to argue this suit. That is entirely a matter for the future.

By the CHAIRMAN:

Q. You do not mean to say that any of these questions were decided in the suit before Judge McKennon; he only heard one side?—A. He had all the evidence before him on both sides.

Q. He only heard the argument upon one side?—A. He heard arguments and I listened to them for four days on both sides in Philadelphia, in which the whole ground was gone over.

Q. Yes, in the Pittsburgh suit. He only heard one side, and ruled it upon the ground that it had been decided by other courts.—A. No, I beg pardon. He ruled it upon the ground that he heard it four days previous, covering the whole ground, and that he would not hear argument covering the whole ground.

Q. I cannot understand that. Sometimes courts refuse to hear the party they intend to decide in favor of. But that is not material.—A. That is matter for Judge McKennon and not for me.

Q. It has been stated that some of these cases which you say were determined in your favor, were decided after an arrangement had been made between you and the opposite party, by which practically you were on both sides; is that correct?—A. It is wholly untrue.

Q. As I understand you, in any suits in which the Bell Company has been a party, you have not made any arrangement with the opposite party?—A. No, except in the settlement made with the Western Union in the Dowd case.

Q. In what case?—A. Well, it was called the Dowd case, because he was the man called for the Western Union. We had a long controversy with the Western Union and final settlement.

Q. And then you say a decision was not had there?—A. Well, that was one of the cases. It has been quoted before Judge McKennon. In one of these cases quoted by the overland company as a case of collusive settlement—no, it was in one of the earlier cases. Mr. George Gifford, whom you all know, is one of the most upright, one of the most able patent lawyers in the United States, was the senior counsel for the Western Union, and upon it being set up that that was a collusive settlement, a collusive suit, he stated that the proceedings were adversary throughout; that the Western Union, after a long controversy, upon his advice and upon it being ascertained that in his judgment the Bell patents were valid, he recommended them to make the best settlement they could, and upon that decision they made a settlement with us in the Dowd case in which they put in certain valuable properties and other patents. We put in the Bell patents and other properties. I think an arrangement was made by which they took part of the royalties.

Q. Was not the case settled before the decision was made?—A. As I said, there was no decision. It was settled in that way.

Q. Was there not a decision?—A. Decree was entered by consent of both parties afterward.

Q. That is what I ask; after you obtained control of both sides, then the decree was entered?—A. Decree was entered by consent of both parties.

Q. That is one of the cases quoted in these numerous suits?—A. No, that is one of the cases quoted; that is not one of the cases that is on its way to the United States court.

Q. It is not on its way to the United States court?—A. No, sir.

Q. Is the Western Union Company a stockholder in the American Bell Telephone Company?—A. No.

Q. Is the American Bell Telephone Company a stockholder in the Western Union?—A. No.

Q. Do you know of any of the parties owning stock or interest in both companies, any single individual having stock in both companies?—A. I do not think I can tell you of one; I have from time to time heard some of our stockholders saying they had some Western Union stock, some small amount; but there is no mutual holding of the two shares.

Q. You have a contract with the Western Union?—A. Yes.

Q. By which you exclude other telegraph companies, do you not?—A. Yes. I should like to state, since you raise the point, what that is. At the time we made that there was no other telegraph company in the field except one firm put up by Mr. Gould to be sold, and there being none of any force in the field we made the Western Union agree to open all of its offices throughout the United States to our telephone companies and to give connection so that every exchange could by the best telegraph facilities then in the country reach the telegraph system of the country. They bound themselves to do that.

Q. And you agreed that you would not connect with any other telegraph company?—A. Yes, practically; there was none at that time; since then others have started.

Q. When was the time since we have had telegraph companies at all that we have not had more than one in the country?—A. About the time the Western Union consolidated with the American there was none.

Q. I see you have had a number of suits, some at least, by which an attempt was made to compel you to admit certain other companies?—A. Yes, and laws have been passed in several of the States compelling us to give—

Q. (Interrupting.) The Baltimore and Ohio?—A. Yes; we have no objection to giving these connections whenever we are requested.

By Mr. EDEN:

Q. In these suits between your company and other companies were there not other patents involved than the Bell patent; was that the only patent you had on your side of the case that you referred to?—A. I think the two Bell patents are the main patents we have rested our cases on.

Q. But you did have other patents to support your suits with these parties?—A. Yes, sir.

Q. Your suits were in part supported by other patents besides the Bell patents in the controversies you had had?—A. I think the Bell patent is the one relied upon in our cases. I do not think the others have been brought in to any extent. I am not posted thoroughly upon that question.

Q. The other patents were used in the suits to sustain the issues on your side?—A. I do not think they appeared on our side. I think the Bell patents have been the ones entirely. But I may be mistaken about that.

Q. In those suits you did not use the Bell patents of 1876-'77?—A. Yes; those are the patents on which we have made our suits, especially the first patent, of 1876, which is the principal patent that we have availed of in our suits. Whether any other patents have been used or not I cannot tell you. But I know that that is the principal thing. Whether other patents have been brought in or not I cannot tell you.

By Mr. HALL:

Q. You used the original patent in the suits; but have you not abandoned that? Have you not adopted and used another device than the original patent?—A. No; simply an improvement on it.

Q. That is what I mean.—A. The original drawing in the Patent Office, which is described in that first patent, is as much behind the telephone of to-day—it involves a hundred improvements, and we hope to have a hundred more. But we still rely on that patent as underlying the theory, and the thing that controls the use of those other instruments we are using to-day.

Q. Your company has been purchasing quite a number of inventions on the subject of telephones?—A. Yes.

Q. About how many has it acquired?—A. I cannot tell you, I am sure; probably a hundred or two.

Q. And that has been its policy, whenever there is any invention of any practical use to purchase it?—A. Nearly every inventor who has a telephone brings it to us, and we examine it and find out if it is practicable, and we buy it if we can.

Q. And if you do not buy it it is of no value to him?—A. We do not think so.

Q. So that you absolutely control the use of the telephone?—A. We think so.

Q. Those you think proper to buy without competition you buy and those you do not think proper to buy you do not buy?—A. Well, our patents have seven years to run and those patents have seventeen years to run; so that it is not wholly without competition.

By Mr. MOFFATT:

Q. Were these inventions of the Pan-Electric offered to you?—A. A negotiation was proposed to us by the Pan-Electric Company at one time.

Q. State to the committee what you know about that?—A. I personally know very little about it. It was Mr. T. N. Vail who saw Senator Harris. There was some correspondence between them.

The CHAIRMAN. You had better not state that.

The WITNESS. I have looked over the original letters.

The CHAIRMAN. Have you those original letters?

The WITNESS. All the original letters were put together and given to Mr. Storrow. Those letters simply proposed negotiation. No terms were agreed upon and the matter was dropped.

By Mr. MILLARD:

Q. What was the date of that interview, or negotiation; was it before or after the Government suit?—A. Long before. It was in 1883 or 1884. Somewhere along there.

The CHAIRMAN. In the view of the Bell Company there is nothing else to do but to sell out.

The WITNESS. I should like to go back to Boston to-night, unless the committee intend to call me again.

The CHAIRMAN. Does any gentleman desire to call the gentleman again?

Mr. RANNEY. I do not know of any reason for calling him again.

The WITNESS. Mr. Chairman, the president of the company has just reminded me of a matter on the question of dividends. As I stated just now under the agreement with the Western Union we pay a percentage of our royalty to the Western Union; Under the Edison patent they take 20 per cent. of the royalty. I think the question you asked was in a totally different direction; whether we ever diverted our earnings to buying up any others.

By the CHAIRMAN:

Q. What were the terms of that contract?—A. It ran from November 1879. It runs to 1894.

Q. So that the Western Union really receives 20 per cent. of your earnings?—A. No. 20 per cent. on the royalties for our telephones.

Q. What amount do you receive for royalties?—A. About sixteen hundred thousand.

Q. You say you bought from Edison?—A. Yes; they put in everything telephonic they had.

By Mr. MILLARD:

Q. Does it include the Gray claim?—A. Yes.

By the CHAIRMAN:

Q. Did Gray sell out everything he had?—A. Yes; he sold out once. He is trying to sell out again now.

By Mr. RANNEY:

Q. Did he include that in his caveat?—A. I think so. It is all there.

The CHAIRMAN. It is not desired that we go into that.

Mr. MILLARD. That was called out by the chairman.

Mr. EDEN. The patent?

Mr. MILLARD. No; the contract. The chairman called out the relations between the Western Union and them.

WILLIAM R. DRIVER sworn and examined.

By the CHAIRMAN:

Question. What is your relation to the American Bell Telephone Company?—Answer. I am the treasurer.

Q. How long have you been treasurer?—A. Since its organization in 1880.

Q. Have you been connected with any of the companies preceding the American Bell?—A. I was for about six weeks the treasurer of the National Bell, which sold out to the American Bell.

Q. Have you the books of the original association?—A. I have not.

Q. Have you the books of the two companies which succeeded the New England and the Bell?—A. I think I have the books of the Bell and the New England.

Q. Will you produce them, sir?—A. I beg pardon; I understood you to ask if I had them in my custody. They are in Boston.

Q. Have you any means of showing who were the stockholders in those companies?—A. Not here. In the summons nothing was said of any other company than the American Bell.

Q. That was because I did not know but that it was the original company. So you have come then with nothing but the American Bell?—A. That is all.

Q. You were an officer of the National Bell Company?—A. I was the treasurer of the National Bell for about six weeks before it went out of business.

Q. You have no books or papers of that company with you?—A. Not here. The stock list of the American Bell Telephone Company, at its organization, is substantially the stock list of the National Bell Telephone Company at the close of its business.

Q. Well, sir, we will begin where you began. What was the capital of the National Bell?—A. Eight hundred and fifty thousand dollars.

Q. Can you state, from your personal knowledge or recollection, who were the holders of the stock?—A. There were about seven hundred of them. I could not name them.

Q. Did you know any of them?—A. Yes, sir.

Q. Can you state whether there were any members of Congress or United States officers among them?—A. I do not remember that any were officers of the United States.

Q. You say you have the stock list of the American Bell Company?—A. The first stock list; yes, sir.

Q. Will you produce it?—A. (Producing and submitting stock list.) Probably my estimate of the number was a little large; I had seven hundred in my mind; I should not think there were as many as that.

Q. I see the name Francis here without more?—A. You will find the surname at the right, farther down, without repeating there.

Q. Yes; Francis Blake.—A. We took some little time to get that up; of course we took the shortest way.

Q. Who was George L. Bradley?—A. He was a director of the company.

Q. Did you know him?—A. Yes, he was the son of Judge Bradley, of Rhode Island.

Q. What was Judge Bradley's name?—A. Charles S.

Q. He was a stockholder?—A. He was a director.

Q. You say he is a judge?—A. He was chief justice. I do not know that he was at that particular time, though.

Q. A. Cochrane & Co. Do you know who they were?—A. Yes.

Q. Who were they?—A. Manufacturers of chemicals in Boston; Alexander Cochrane & Co.

Q. I see the name of S. B. Dana. Do you know who he was?—A. He is a dry-goods merchant in New York. My impression is his firm is Upham, Tucker & Co., in New York. I do not know him personally.

Q. Is he still a stockholder?—A. I think very likely he is a small one. I do not remember.

Q. I see the name of George D. Edmunds. Who is he?—A. Well, I do not know him personally; he is a Boston man; a brother, I think, of J. Wiley Edmunds, formerly a large manufacturer in Boston.

Q. William P. Endicott. Do you know who he is or was?—A. Yes; he is a Salem man, a relative of the Secretary of War, I think.

Q. Is he a stockholder?

The WITNESS. Who; the Secretary of War?

The CHAIRMAN. No, sir; William P. Endicott. Is he still a stockholder?

A. Well, I can tell. I have a stock list here. I think he is. [After referring to stock list.] He is; he has fifteen shares.

Q. Richard S. Fay. Who was he?—A. He was treasurer of the Middlesex Company in Boston. He has been dead some three or four years.

Q. I see some stock here held by certain gentlemen as trustees—held by W. H. Forbes, Alexander Forbes, and Charles P. Bowditch—fourteen thousand shares.—A. Yes; they were trustees for the National Bell Telephone Company.

Q. That was the company which preceded this?—A. That was the company which took the stock in payment for its property. That was the company that sold off to the American Bell and took stock of the American Bell property and business.

Q. Was that the full consideration?—A. The full consideration was six millions and a half.

Q. Out of a capital of ten millions?—A. Out of a capital of \$7,350,000.

Q. The capital was ten millions?—A. The authorized capital was ten millions. It was originally fixed at \$7,350,000.

Q. Is that stock still so held?—A. Part of it. One thousand and fifty shares is still so held, but the trust has been changed. It is now held in trust for the American Bell Telephone Company.

Q. What was done with the rest of it; you say there are 1,050 shares of the 14,000?—A. One thousand and fifty are still held—\$1,142,000, I think, is the exact amount that was exchanged for convertible notes of the American Bell Telephone Company, which were issued at two different times; \$500,000 at one time and \$642,000 at another, issued for money, dollar for dollar.

Q. I am not sure that I understand the transaction.—A. This trust was changed some years ago, so that it finally became a trust for the American Bell Telephone Company. The American Bell Telephone Company in 1880, I think, issued, its convertible notes for \$500,000, payable, I think, in five years. At all events the effect was, if at any time previous to the maturity of the notes any increase in the capital was made, the holders of these notes should share and the notes should then become convertible. An increase was made and the stock was issued in exchange for the notes—\$500,000. A similar issue of convertible notes, differing somewhat in terms, amounting to \$645,000 was made and converted at maturity. These notes were all issued for money, as I said, and converted into stock as the time came around.

Q. Who is Horace Gray?—A. Horace Gray, of New York.

Q. Who is he?—A. I think he is a merchant there.

Q. Is he in any way connected with the Boston Grays?—A. I do not know whether he is a connection of Judge Gray or not. He is not the judge.

Q. He has the same name?—A. The same name.

Q. Is he still a stockholder?—A. (After referring to stock list.) Yes.

Q. Who was Francis C. Gray?—A. I do not know him.

Q. Maurice Gray?—A. I do not know him. I think they are Boston people.

Q. Samuel S. Gray?—A. He is a broker in Boston, I think.

Q. Do you know whether any of these people are related to the judge?—A. I do not know that they are.

Q. S. R. Hawley. Do you know who that is?—A. I think he is a ready-made clothing man in Boston. It isn't F. A.?

Q. S. R.—A. Oh; the man I was thinking of was F. A. Hawley. I do not know who that Hawley is.

Q. James R. Hooper. Do you know him?—A. No, I do not.

Q. John S. Hooper?—A. I think that was the stationery man in Boston; Hooper, Lewis & Co.

Q. Formerly of the firm of Hooper, the Congressman from Boston?—A. Yes; that was Samuel Hooper.

Q. Do you know whether he had any connection with the company?—A. I should judge not. He is dead anyway.

Q. Do you know George D. Ladd?—A. He is a shoe man in Haverhill.

Q. Still a stockholder?—A. I think so. [After referring to stock list.] He is; yes, sir.

Q. Abbott Lawrence; do you know him?—A. I do not know him.

Q. Is he still a stockholder?—A. No.

Q. Do you know Augustus Lowell?—A. Yes, sir.

Q. Who is he?—A. He is a brother of Judge Lowell, son of John A. Lowell, treasurer of several manufacturing companies in Massachusetts.

Q. Is that the Judge Lowell who decided one of the Bell cases?—A. Yes, sir.

Q. Judge Lowell and Judge Gray, I believe, sat together, did they not?—A. I think they did.

Q. That was Judge Lowell's brother; is he still a stockholder?—A. Yes, sir.

Q. Who is Abbott Lowell?—A. A son of Augustus Lowell.

Q. As I understand you, this is a list of the stockholders at the organization of the Bell Company in 1879?—A. The date is on the outside. I think it is May 1, 1880.

Q. Abbott Lowell?—A. He is a son of Augustus Lowell.

Q. Who is John A. Loring?—A. He is a lawyer in Boston; a brother, I think, of Dr. Loring.

Q. Was he ever in office that you know of?—A. I do not know; I do not know him.

Q. Here is John A. Lowell, trustee?—A. Yes.

Q. Who is he?—A. He has been dead for several years; he was the father of Judge Lowell and Augustus Lowell.

Q. When did he die?—Oh, I do not know; in 1883 or 1884, I think; possibly earlier. That was in his name as collateral, I think you will observe.

Q. Trustee—"Tr."—A. Yes, sir; but it was collateral. I am quite confident it was.

Q. Trustee for what?—A. He was trustee for large funds and he loaned money on call. People put this stock up as collateral.

Q. Here is Percival Lowell?—A. He is a son of Judge Lowell.

Q. Is he still a stockholder?—A. Yes.

Q. Do I understand you to say then that the father and the brother, and a son of Judge Lowell were stockholders in this company at the time the judge decided this suit?—A. If I am right as to the relationship, and they are on that list.

Q. Who were J. W. McIntosh & Co.?—A. They are brokers in Boston; Noah, McIntosh, Klous & Co.

Q. William T. Mason; do you know him?—A. Yes.

Q. What is his business?—A. He has no business.

Q. Do you know of him holding any office at any time?—A. I do not think he ever had a public office in his life. I do not think he ever worked.

Q. Here is Nathaniel Maverick?—A. [Laughing.] It is the National Maverick Bank probably.

Q. Oh, do you know the officers of that bank?—A. Mr. Potter, I believe, is president. I do not know who the officers are.

Q. What Mr. Potter?—A. Asa P. Potter.

Q. Robert B. Minturn?—A. He is of New York.

Q. A New York man?—A. Yes, sir.

Q. Did he hold any office?—A. I do not know whether he did or not.

Q. Ella M. Morgan, do you know who she is?—A. Yes; I believe she is the wife of Albert O. Morgan, of South Acton, Massachusetts.

Q. Who is John P. Morse, jr.?—A. He is a lawyer in Boston.

Q. I don't know whether this is S. Endicott Peabody or Peabody S. Endicott?—A. S. Endicott Peabody.

Q. Charles E. Perkins, who is he?—A. The president of the Chicago, Burlington and Quincy Railroad Company.

Q. Who was Henry Saltonstall?—A. He is treasurer of a manufacturing company there; I forget which one.

Q. And William G. Saltonstall?—A. He is a treasurer in this company and director in the American Bell Telephone Company.

Q. I see the names of J. J. Storrow and C. E. Hubbard, trustees. Do you know

whom they are trustees for?—A. I do not know the nature of the trust; I do not know who they are trustees for.

Q. L. D. M. Sweet, who is he?—A. He is from Portland, Me.

Mr. EDEN. It has been a long time since he was a member of Congress.

Q. (Continuing.) Was he a member of Congress?—A. I do not know.

Mr. EDEN. I served with him in Congress twenty-two years ago.

Q. (Continuing.) He had only seven shares. Is he still a stockholder?

Mr. EDEN. The gentleman I speak of was from Maine. It may be the same man.

A. He is a stockholder.

Q. How many shares?—A. Ten.

Q. He has seven here. Who is Thomas A. Watkins?—A. He was an electrician; formerly electrician of the company.

Q. Clarence S. Whitney?—A. I do not know who he is.

Q. E. Herbert Whitney?—A. He is a Boston man. I do not know what his business is.

Q. Israel G. Whitney and James L. Whitney?—A. Israel G. Whitney is a merchant in Boston. James L. Whitney I do not know. I suspect though he is a relative of the water-power man there.

Q. You say the paper you produce is the list of the stockholders at the formation of the American Bell Telephone Company?—A. It is the list of the stockholders at the formation of the American Bell Telephone Company.

Q. Had these parties all been interested in the National Bell Telephone Company?—A. Most of them; some of them have.

Q. And acquired their stock by transfer of the National Bell property?—A. By dividend of the National Bell Telephone Company.

Q. How did they pay?—A. In money.

Q. Out of dividends from the National Bell Telephone Company?—A. I do not know where they got their money. The National Bell Telephone Company never paid a cash dividend.

Q. Did they in fact pay any additional money?—A. Eight hundred and fifty thousand dollars to make the balance of the stock at the organization of the American Bell Telephone Company would make the balance of the money.

Q. What was the stock?—A. Seven million five hundred thousand dollars.

Q. Of the National?—A. Eight hundred and fifty thousand dollars.

Q. Then there was seven million five hundred thousand made out of six hundred and fifty thousand dollars?—A. Six and a half million of this seven million five hundred thousand dollars was the profit and stock.

Q. Its capital was only six hundred and fifty thousand dollars?—A. Exactly.

Q. And the American Bell paid them six and a half million?—A. But that capital was selling in the market above the par of one hundred.

Q. So that it was simply increasing?—A. Simply taking the market value and making it par value.

Q. It was not paid in money?—A. Eight hundred and fifty thousand dollars was paid in money.

Q. But the six and a half million was not paid in money?—A. Six and a half million was paid off by the property of the National Bell Telephone Company—patents, accounts, machines.

Q. Without any actual increase of property at all?—A. No.

Q. You are merely giving its market value?—A. That is all.

Q. And its market value had been originally six hundred thousand?—A. Its market value had been one hundred and twenty-five thousand.

Q. Only \$25 a share?—A. I think so.

Q. So that its entire value was at one time only about \$150,000 then?—A. Yes, sir. That is an impression; anywhere from twenty-five to fifty.

Q. And by increase in the value of the property it became worth \$6,500,000?—A. Yes.

Q. And the persons who were stockholders in the American Bell Telephone Company became holders of stock to the amount of \$6,500,000 without the payment of any additional money?—A. Yes, sir. No; I am mistaken about that. This six and a half million was not all divided among the stockholders of the National Bell Company. Six shares of the American Bell were given to each holder of one share of the National Bell. That made \$6,500,000. This \$1,400,000 was left by vote in the hands of the trustees.

Q. These 14,000 shares?—A. These 14,000 shares were left in trust subject to the disposition of the American Bell Telephone Company.

Q. It actually belonged——?—A. (Interrupting.) Belonged to the National Bell Telephone Company.

Q. Belonged to the American or National Bell?—A. It was part of the price paid to the National Bell by the American Bell for its purchase.

Q. So that this capital, then, of the American Bell Telephone Company was not paid in money; it was paid by an increase in value between the par value of the stock

of the National Bell and the American Bell?—A. It was paid off in property at the market value.

Q. And it had increased in market value?—A. It had originally been much lower.

Q. From \$150,000 to \$6,500,000?—A. It would not be a hundred and fifty; \$25, you see, would be \$212,500.

Mr. HANBACK. What is the point of these questions?

The CHAIRMAN. We will consider that when we come to look at the whole matter.

Mr. HANBACK. I object to the questions. I object to sitting here all day upon this. I object to it as being wholly irrelevant.

The CHAIRMAN. I think the point is quite clear. I am endeavoring to show that this other company we were talking about—

Mr. HANBACK. I withdraw the objection if that is the purpose.

The CHAIRMAN. That is the purpose.

By the CHAIRMAN:

Q. Will you show me the present list? [A paper was submitted by the witness to the chairman.] I see a number of Allens here.—A. Yes, sir.

Q. I believe there was an Allen a member of Congress from Massachusetts?

Mr. RANNEY. I believe there was one Judge Charles Allen a number of years ago.

Mr. HANBACK. There is one now.

Mr. RANNEY. There is one now.

By the CHAIRMAN:

Q. Do you know Judge Charles Allen, of Massachusetts?—A. No.

Q. You do not know, then, whether any of these Allens are related to him?—A. I do not.

Q. I see here there is a Sarah R. Ames. Do you know William Atherton?—A. I do not, unless he is a Shaker. I have in mind the head of a Shaker village up in Worcester County somewhere. It may be him.

Q. Do you know whether the man you speak of is an officeholder?—A. No; except as I say I think he was the head of this village. I do not know of any other office.

Q. I see Alexander Graham Bell set down as holding one share; is that the extent of his holding in the company?—A. I presume so. That list I believe to be correct.

The CHAIRMAN. It will take a long time to go over this, and I do not wish to detain the committee. Can you not leave this list with the committee?

The WITNESS. Yes; if you wish it.

The CHAIRMAN. We will not give it out for publication.

By Mr. MILLARD:

Q. You have a stock-book that that is taken from?—A. Oh, yes.

Q. So that if anything should happen to it you would have it?—A. Oh, yes; I could have another one made with labor. I would rather get that one back.

By the CHAIRMAN:

Q. Do I understand that you have no knowledge of the company which preceded the National Bell?—A. I have no knowledge. I was not connected with it except for a few weeks. I was treasurer of the National Bell just before it sold out.

Q. Do you know in what manner the National Bell Company was organized?—A. By consolidation of the Bell Company and the New England Company.

Q. Was there any increase of stock at that time?—A. I think there was two hundred thousand then.

Q. It was increased two hundred thousand at that time?—A. I think so; yes, sir.

Q. And how paid for?—A. In money. Sold, I think.

Q. Sold to other parties not stockholders?—A. You see that was before my time, and I had nothing to do with it. I think it was sold to parties other than stockholders.

Q. It was sold, then, for money?—A. I mean it was sold for money to the persons to whom it went. I cannot say.

Q. It was not disposed of in the manner the stock was at the time of the transfer of the stock of the National Bell to the American Bell?—A. Well, the same manner; it was exchanged for property.

Q. I want to know whether it was the same.—A. It was for cash in the National Bell case, I think. I haven't any doubt that it was for cash; but as I did not receive the cash and deliver the stock I cannot say further than that.

Q. Do you know whether any money has been paid by the American Bell Telephone Company for the publication of newspaper articles within the past three years?—A. The article that has been testified to in the New York Times, and within a week or two an argument by our counsel before the Massachusetts legislature was published and paid for. With those exceptions, no money.

Q. Could money be paid by your company without your knowledge for that purpose?—A. Not if I was well and attending to business.

Q. Might it not be paid apparently for another purpose?—A. Well, I do not speak of possibilities; I speak of probabilities. Of course, that would be entirely possible.

Q. All you can say, then, is that it does not appear from the direct transactions of the company that money has been paid that way?—A. Yes, sir; all payments are made by me.

Q. All appear to be for some other purpose, I suppose?—A. Yes.

Mr. MILLARD. I understand him to say he does not know, of his own knowledge, of any money being paid.

The CHAIRMAN. That is what he stated; no money appears from the books of any transactions.

The WITNESS. The question was whether it could be done. All I meant to say was it has not been done. I have no doubt it is entirely possible.

By Mr. MILLARD:

Q. It has not been done, so far as you know?—A. Yes.

By the CHAIRMAN:

Q. I take it the money transactions of the company are quite large?—A. Yes.

Q. Money paid out for different purposes?—A. Yes; all purposes that a large corporation would be likely to have.

Q. You do not know, then, of money having been paid in any way—I say you do not; I ask you whether you do know of money having been paid in any way for the publication of newspaper articles?—A. I can say that no money has been paid.

Q. You can say that?—A. I do say it.

Q. Do you know that all the money that has been paid out by your company has been for the very purposes which it appeared to go for?—A. Yes, sir.

Q. How could you know that?—A. I am tolerably familiar with the transactions of the company, and, as I say, all the money that is paid out is paid by me.

Q. Can you state the general place of residence of your stockholders; where does the body of these stockholders live?—A. In New England; in the New England States, although they are scattered all over the northern part of the country.

Q. Are they not principally in Massachusetts?—A. Very likely.

Q. They mostly live in Boston, I take it?—A. No. Oh, you say mostly; Boston has a very large number; I never had occasion to determine whether Boston had a majority of the shares or not.

By Mr. RANNEY:

Q. Do you speak of the American Bell or subordinate companies?—A. The American Bell Company,

By the CHAIRMAN:

Q. Can you state accurately the aggregate capital of the subordinate companies?—A. I cannot.

Q. Have you no books here to show?—A. No.

Q. It was stated by the preceding witness that he thought it was about fifty millions?—A. I should think that was about the sum.

By Mr. RANNEY:

Q. Does that embrace the foreign companies?—A. We have nothing to do with any foreign company except that in Canada; we are stockholders in that in Canada, but in no other foreign company.

By the CHAIRMAN:

Q. I see that it was stated that an effort was made during the session of the last legislature to have your limit of capital enlarged to thirty millions.—A. Yes.

Q. Was it designed to sell the stock, or to convert the present stock at its market value into new stock?—A. As new capital was required, our design under the law was to sell for cash. Under the law, I think, we could sell for nothing less than par.

Q. Could you not convert the present stock into new stock?—A. If we could find a company that would buy our present property at our value it would be entirely possible.

Q. Find a company?—A. Yes, sir.

Q. The persons who should take the new stock, then, as I understand, would be compelled to pay cash for it?—A. Any increase of capital by the existing company can only be issued for cash or property at par.

Q. Did this increase of capital contemplate a change of companies or reorganization?—A. I never heard it suggested. The object of the increase, if I may be allowed to say, was to raise money, not to raise shares.

Q. To raise money. Well, the purchasers of new stock, I assume, would be put on equality with the present stockholders then; or would the holding of the present stockholders be increased?—A. I do not know of any way in which it could be done.

I think the law of Massachusetts is that value shall be received for every share that is put out. At all events there was nothing of that sort, so far as I am aware.

Q. I see the present stock is worth considerable over its present par value?—A. Yes, it is about a hundred and sixty-two to-day.

Q. And the purchaser of the new stock could— A. (Interrupting.) The purchasers of new stock would be in the first instance holders of the present stock; they are entitled to buy the stock at par; if they do not wish to hold the stock they can sell the right to do so.

By Mr. RANNEY:

Q. Do you know whether your company holds any interest in any newspapers?—A. It does not, nor are there any newspapers holding any substantial amount in the company.

Q. Or any amount or interest in it?—A. None whatever.

Q. Did you have the paying for the publication of this article in the New York Times?—A. Yes, sir.

Q. Do you know whether it was paid for at the usual rates?—A. I do not, because I do not know what the usual rates are.

Q. It seems to cover four full columns.—A. I know the publication was solicited.

Q. Solicited by whom?—A. By a man who claimed to be the agent of the Times people.

Q. Did he come to Boston from New York for it?—A. I suppose so; he came to me first and made his proposition.

Q. What was his proposition?—A. Generally that the Times wanted to publish an article on New Year's day—a New Year's article on industrial matters—and wanted to publish an article upon the telephone.

Q. Were they publishing industrial matters generally or yours exclusively?—A. Oh, I understood him that he had other enterprises that were going to do the same thing.

Q. Do you know who wrote this article?—A. I do not.

Q. Who fixed the price of it?—A. I suppose the Times Company; I do not know. I referred him to the vice-president of the company, and that was the last I knew of it until I paid the bill.

Q. Did he decline to say anything about any other company paying him?—A. I did not ask him. He did not say anything, as I remember. I did not go into it at all. My notion was that we did not want it.

Q. Had you seen anything in the Times about the Pan-Electric Company at that time?—A. I do not recall anything at that time. I would like to make one correction. I think the question was asked if I knew about payment for any newspaper articles. We did have an arrangement with an electrical paper which lasted for one year. We did not pay for any particular article, and it was simply to have an electrical paper that our licensees could have. To that paper we subscribed a sum of money, but not any special article. It was simply to have an electrical paper to be depended upon.

Q. Has any present member of Congress ever held any stock in the company that you know of?—A. I do not remember any except yourself.

Q. And when was that?—A. Either in 1882 and 1883 or 1883 and 1884. I do not know. I gave a statement of that fact to the general manager.

Q. You looked it up, did you not?—A. I looked it up.

Q. It was held as collateral?—A. One hundred shares were held as collateral. There were 20 shares which did not appear.

Q. (Submitting a paper to witness.) There is a dispatch from your manager. The papers seem to be very anxious to know about it and I want to gratify them?—A. (Looking at the dispatch.) I saw that dispatch as it was sent.

Q. Just state what the facts are?—A. (Reading dispatch:)

BOSTON, MASS., April 14, 1886.

Hon. A. A. RANNEY:

Telegram received. Books show twenty shares standing in your name from November 23, 1880, to August 13, 1883, transferred to you by Howard, Walter & Co. and retransferred by you to same. Also that you held one hundred shares from March 15, 1883, to April 24, 1883, pledged to you by Rollins, Morse & Bro., as collateral to their note. Except as above your name does not appear on the books from organization of company to date.

JOHN E. HUDSON.

Q. That is, transferred and retransferred to the parties as collateral?—A. The collateral was transferred to you by this party, and by you retransferred to the same.

The CHAIRMAN. And the other twenty shares were retransferred?

Mr. RANNEY. Yes.

Q. (Resuming.) Did you ever see the note in which they were specified as collateral?—A. I did not.

Q. Who were Howard Walter & Co.?—A. They were a company in Boston.

Q. And who were Rollins, Morse & Bro.?—A. Brokers in Boston.

Q. And while I held it as collateral did I ever receive any dividend?—A. The dividend checks on the twenty shares were transferred by you to Walter & Co., except the first one. The first one was deposited by you; by your clerk, I think. I presumed him to be your clerk. I think the indorsement is your name by somebody else for deposit.

Q. For them?—A. I do not think the first one stated. The first one was indorsed by you to them, and the other by your clerk to them.

Q. That was during the time I held it?—A. That was during the time you held it.

Q. Do you know whether the whole business was done by my clerk in behalf of a trust that was held?—A. I do not know.

Q. And that was the only entry?—A. The only one I found.

Q. Have you any personal acquaintance with me at all?—A. I have not; so little that I did not know you this morning.

Q. The newspapers have me as attorney for your company?—A. I did not know you by sight until this morning.

Q. Who are attorneys for your company in Boston?—A. Mr. Storrow and Mr. Chauncey Smith.

Q. Is there any member of Congress that has ever been attorney for your company?

The WITNESS. Any present member?

Mr. RANNEY. Any present member of Congress that has ever been attorney for your company, directly or indirectly?

A. I do not know of any.

Q. Something has been said about Collins?—A. I believe Mr. Collins was employed as counsel for us before the Massachusetts legislature in 1883, I think it was, or 1884.

Q. Are Walter Howard & Co. in business in Boston now?—A. Not as Walter Howard & Co., I think.

Q. And Rollins Morse & Co.?—A. They are still in business.

Q. I see by the reports published in the newspapers that you considered the matter, and concluded to have nothing to do with this investigation; how was that?—

A. That was a matter for the directors to determine, and as I am not a director I do not know.

Q. Are you clerk of the company?—A. I am treasurer of the company.

Q. Did your company have anything to do with it?—A. Nothing whatever.

By the CHAIRMAN:

Q. I believe your company is having a report of these proceedings made; or do you know that fact?—A. I do not know. We probably find out the proceedings, whether through the newspapers or how, we propose to keep posted upon its proceedings the same as anybody else would. If we are having a special report made of it I do not know.

By Mr. EDEN:

Q. When did you first see or know of these articles that were published in the New York World and the New York Sun attacking gentlemen connected with the Pan-Electric Association?—A. At the time of their publication, either on the same day or the next day.

Q. Had you any knowledge of the matter before it was published?—A. No.

Q. The first you heard of the publication, or of any intention of such publication, was when you saw it in the paper?—A. Yes, sir.

By Mr. HALL:

Q. Has there been any claim preferred upon your company from any of the subordinate companies for any money expended on publications in the papers?—A. I think I paid a bill of \$100 or \$115 for the publication by one paper of a synopsis of the president's report for 1886. I do not think of any other.

Q. Well, that scarcely answers the question. I asked if any claims had been preferred by any of the subordinate companies claiming to have paid out any money for any of these publications?—A. Not to my knowledge; no.

By Mr. HANBACK:

Q. At the time the National Bell Company made its transfer of stock to the American Bell Company the National Bell Company owned a valuable franchise, did it not?—A. Patents.

Q. Well, patents, and it had a large number of telephones in existence?—A. A large number of telephones, some accounts, some cash.

Q. And the stock was of high value?—A. The stock was of high value.

Q. And quoted so upon the market?—A. Yes.

Q. It had an ascertainable value quoted in the stock reports?—A. Quoted in the stock list.

Q. From six hundred thousand to one million?—A. Yes, sir.

By Mr. HALL:

Q. How long had it that value?—A. At that time perhaps nine months.

Q. Do you know anything about the organization of the original two companies that made these transfers?—A. No; that was before my time.

Q. Do you know whether when they were organized the parties who subscribed or secured stock paid in cash for the stock?

The WITNESS. The original stock in the association?

Mr. HALL. Yes.

A. I do not know whether there was any cash paid for that or not.

Q. Do you not know that the consideration for the original stock was the patents transferred to the company?—A. Certainly; part of the consideration.

Q. And since then the company has been securing other patents?—A. Yes, sir.

Q. And had been enlarging their operations organizing these subordinate companies and agencies?—A. Yes.

Q. Increasing their royalties?—A. Oh, increasing the number of instruments put out.

Q. So that when the reorganization of the Bell Company occurred the property that was transferred to it had become very valuable?—A. Oh, yes. The value of the property that was transferred met the approval of the State authorities.

By Mr. HANBACK:

Q. At the organization of that first company, the first practical organization had, do you remember what the capital stock was?—A. There were two companies then; one was \$450,000 and the other \$200,000.

Q. That was divided into shares of \$100?—A. One hundred dollars each.

Q. And taken by purchase?—A. Well, I do not know; that was before my time. Of course, part of it, I presume, was paid for by the patents of the association.

Q. Well, by the patents?—A. And some money.

Q. Yes; under the law of the State?—A. Under the law of the State.

Q. Under the law of the State you have to pay in property and money?—A. Yes.

Q. In order to organize it?—A. Yes.

Q. That is you cannot organize upon a simple patent alone, can you; you have to have a stock organization?—A. The value of the property given for the stock has to be approved by the commissioner of the corporations of the State, who is the treasurer, I think, of the State, or the deputy commissioner, I do not know which.

Q. You do not know how much money was paid in in addition to the property?—A. I am not certain about it. I think it was \$50,000. Of course this is not of my personal knowledge.

By the CHAIRMAN:

Q. The actual property paid for the \$6,500,000 was the telephones and the franchises of these two companies?—A. Yes; and the property that had been purchased with the three or four hundred thousand dollars.

Q. What property was that?—A. Stocks in other companies, and telephones and telephone supplies, accounts collectible—various properties; about \$500,000 of property.

Q. What stocks did you hold in other companies?—A. We had some stock in the Bell Telephone Company of Philadelphia. Well, I do not know at that time. Most of our stocks that we now have have been acquired since.

Q. You say there may have been \$500,000 of property?—A. About \$500,000 of property, and about \$600,000 for the patents. That is the way I commenced my accounts.

Q. So that the patents at that time had really become—A. (Interrupting.) They were worth that in the market as determined by the value of the stock quoted on the stock board.

Q. The organization of the two companies were supposed—A. (Interrupting.) The organization of the two companies was \$450,000. That was the property of the two companies. Part of that was cash.

Q. That was after the association had expired, the patents were supposed to be worth \$450,000?—A. Not quite that, because part of that was money.

Q. That was in 1879?—A. That was in 1878. The National Bell was organized in March, 1879.

Q. Yes, that is right. On a capital of how much?—A. Eight hundred and fifty thousand dollars.

Q. That was not much of an increase, only \$200,000?—A. Only \$200,000.

Q. And the following year the American Bell was formed, and at that time you counted the same franchises?—A. No.

Q. The same patents?—A. Oh, no. There were other patents; all the patents acquired under this Western Union agreement.

Q. Was the Western Union arrangement in that year?—A. November 10, 1879. That was the date of the contract.

Q. Counting this in it was six million five hundred thousand?—A. Six million five hundred thousand was property—tangible.

Q. Have you any recollection of the highest rate that the American Bell stock has reached in the market?—A. Two ninety-nine and a fraction.

Q. Call it three hundred.—A. It never did. We were hoping to get it to three hundred, but it didn't go.

Q. That was on the ten million?—A. On the seven million three hundred and fifty thousand. Nine million eight hundred and two thousand one hundred is the actual capital.

Q. How was the difference between the six million and the nine million paid?—A. In money.

Q. At par?—A. At par, \$100 for each share; and more than that in some places, because some of this trust stock was sold at a premium.

Q. By holders of this stock?—A. By holders of this stock and by those to whom it was transferred. Part of this went out in notes.

By Mr. RANNEY:

Q. It is charged here by Mr. Van Benthuyzen that you control all the courts. Is that true?—A. I haven't anything to show it.

Mr. RANNEY. If any member of the firms of Rollins, Morse & Co., or Howard Walter & Co. is summoned the committee will find that I loaned them money on the notes; that these stocks were put in as collateral, and when the notes were paid the stock was given up, and while I had it they enjoyed the dividends, and I think you will find that one of them certainly, and I believe both, were taken by a clerk of mine who had charge of a trust estate. I have no interest in the stock, and never had. If the committee want to examine me I am willing to be examined on it.

Mr. EDEN. I am satisfied.

Mr. RANNEY. I never had any interest in the company other than taking it from the man from whom I got it, and I thought it was good, and I do not think I should have gotten that idea except I sent to ascertain; I never, directly or indirectly, counseled this company or did any business for them; I never had the good fortune to be employed by them; I should not recognize either of the men who have been here—unfortunate for me; I could not have told who a single director or officer of the company was, except as I have seen it in these records. Although it is not open to investigation, to satisfy the gentlemen of the press I hope you will summon those men and verify it, or, if you wish, I am perfectly willing to be examined.

The WITNESS. May I make one inquiry?

The CHAIRMAN. Certainly.

The WITNESS. Mr. Forbes understood that I said that one of these Lowells was the son of Judge Lowell. That is an error. I should have said the son of his brother, Augustus Lowell, who appears as a shareholder. He is a brother of the judge, and these other Lowells were brothers of Augustus Lowell, and not sons of the judge.

The CHAIRMAN. You did state he was a son of the judge.

The WITNESS. I did not understand it so.

(The witness here left the stand.)

Mr. RANNEY. I hope the committee will call every one of the members of Congress whose names have been connected with this investigation.

Mr. EDEN. I want to get through with the investigation.

Mr. RANNEY. I think we are in duty bound to call every one of the members of Congress whose names have been connected with this Pan-Electric Company.

The CHAIRMAN. Do you not think the evidence already in exonerates them?

Mr. RANNEY. I should like the facts and circumstances about it.

The CHAIRMAN. We cannot get Mr. Cox.

Mr. RANNEY. We have his letter. That is enough for him.

Mr. EDEN. What about Mr. Randall?

Mr. RANNEY. The Speaker, Mr. Randall, and Mr. Hewitt.

Mr. EDEN. I do not think there is anything before the committee that affects them at all.

Mr. RANNEY. I as one member of the committee desire to have them called and find out just what occurred. We called Mr. Dunn. We ought not to be invidious.

Mr. HANBACK. And Mr. McComas.

Mr. RANNEY. And Mr. McComas.

The CHAIRMAN. I have no objection.

Mr. RANNEY. I think the committee ought to call also Charles P. Huntington.

Mr. EDEN. We ought not to call a Senator unless he comes at his own suggestion.

Mr. RANNEY. I do not mean to summon them. Give them an opportunity.

Mr. EDEN. Of course, give them the opportunity.

Mr. RANNEY. Then I think you ought to call Charles P. Huntington. I understand—by the by I do not know him—that he has been here. We ought to examine Mr. Beckwith and the printer from New Orleans.

The CHAIRMAN. It is agreed that you may prepare the questions to be sent to them.

Mr. RANNEY. All of those witnesses ought to be summoned. Then Dr. Rogers has to come again. Senator Harris's letters also ought to be put in, and there are a lot of letters that are material to the case that ought to go in.

The CHAIRMAN. You can make the selection.

Mr. RANNEY. Most of them are printed. It was left to Senator Harris that when his were put in he would like to be here. (Turning to Mr. Driver, the treasurer of the American Bell Company.) Have you the correspondence of Senator Harris and Mr. Vail?

Mr. DRIVER. I will see if they are in the records.

Mr. FORBES. I had those letters sent down to Mr. Vail, or Mr. Storrow, or somebody last week.

Mr. RANNEY. The original ones? Somebody said they were copies of the correspondence; we want the original letters.

Mr. FORBES. The letter-press books?

Mr. RANNEY. Those will answer; then there was a Mr. Gustine, or Augustine, I do not remember which.

Mr. FORBES. You have copies of the originals already.

Mr. RANNEY. Yes; copies won't do; Senator Harris might not remember the copy. There is a man by the name of Augustine ought to be sworn.

Mr. EDEN. I understand the only purpose of having Mr. Beckwith and the printer from New Orleans is to ascertain the time that bill was passed.

Mr. RANNEY. We ought to have Mr. Huntington because of the interview with the President on the 28th.

Mr. EDEN. We had better telegraph him at once.

Mr. RANNEY. And the man who put up this Pan-Electric telephone in the Capitol.

The CHAIRMAN. I am afraid you are cutting out a summer's work; so far as I am concerned I have no objections. Just give us the names of the witnesses you wish summoned.

Mr. RANNEY. And if you could, allow this witness (Mr. Driver) to swear to the press copies and the letters he wrote and then send on Senator Harris's letters. [To Mr. Driver:] Did you make out these copies that were sent here?

Mr. DRIVER. No.

Mr. RANNEY. (To Mr. Forbes.) If you can swear these are correct copies and send the originals here we will preserve them and send them on to you.

Mr. FORBES. Would you like to have me take these copies back and have them attested and send them back to you?

Mr. RANNEY. Well, Senator Harris might not like that. Senator Harris would like to have the letters.

The CHAIRMAN. Let us try that first.

Mr. RANNEY. We will let you know.

At this point the committee adjourned to meet to-morrow at 12 m.

WASHINGTON, D. C., *Wednesday April 28th, 1886.*

A quorum being present, the chairman called the committee to order at 12.45 p. m.

Prof. ALEXANDER GRAHAM BELL sworn and examined.

By the CHAIRMAN:

Q. What is your present place of residence?—A. No. 1500 Rhode Island avenue, Washington.

Q. How long have you been a resident of Washington?—A. I have been a resident for some years. I cannot, from recollection, say exactly how long. I suppose five years or more.

Q. At what place did you reside at the time the letters patent of 1876 were issued?—A. I am not sure whether at that time I resided in Boston or Salem. I had resided previously to that time in Salem, coming into Boston every day for my professional duties. I think I resided then in Boston.

Q. Had you obtained patents for electrical inventions prior to what is known as the patent of 1876?—A. I had applications, and I think one, if not more, patents.

Q. I notice in the application for the patent of 1876, reference made to an application made in 1875; what was that application for? What manner of invention?—A. I had a number of applications at that time, sir.

Q. And the particular one referred to?

The WITNESS. To which one do you refer?

The CHAIRMAN. I will call your attention to it; the one referred to in the application of '76.

The WITNESS. It is hardly necessary for you, Mr. Chairman, to trouble yourself; I know the one, I think, to which you refer; it was one of the applications I had in reference to my invention with regard to multiple telegraphy; the one referred to in my specification of 1876.

Q. Yes; you state that the letters patent had been granted on the 6th of April, 1875?—A. Yes; I was under the impression that I had at least one at that time.

Q. The application of 1876 was made on what day?—A. It was sworn to January 20th, 1876, and filed in the Patent Office, February 14th, and granted March 7th—dated March 7th.

Q. The patent bore date the 7th of March?—A. That is my impression.

Q. You seem to have obtained a patent in 1877. Will you state what that patent was for; the one that is known as the 1877 patent?—A. That was for improvements in the form of apparatus.

Q. Improvements on the invention of 1876?—A. Yes, sir.

Q. I observe that the word telephone is not used in the application for the patent of 1876, and it does appear in the application for the improvement in 1877; at least I think it is not used in the application of 1876. Will you state at what time you made that word or came into a knowledge of it.

Mr. EDEN. Just wait a moment. Is it the design of the chairman to go into the question of the issue of the patent?

The CHAIRMAN. Oh, not at all. This is merely preliminary.

Mr. RANNEY. If you are going into the trial of that question that is one thing. If not, it should not be done partially.

Mr. EDEN. I supposed it was preliminary. I did not suppose the object was to go into that question.

The CHAIRMAN. Yes; it is merely preliminary. I agree that it is not proper to go into that question here. The resolution does not refer to patents or anything relating to patents.

A. The word telephone was a word well known at the time. I termed my apparatus a speaking telephone to bring it under the same general head with the earlier attempts with regard to the transmission of sound, the distinction in my case being, I termed it, a speaking telephone. The world has since called it a telephone. I never called it so.

Q. You say you called it a speaking telephone. When did you so term it; in what paper, if any?—A. I cannot say from recollection. I have for many years termed it so.

Q. It is not so termed in the first applications?—A. Probably not. I cannot undertake to say from recollection.

Q. After obtaining the patent of April, 1876, what steps did you take towards putting it into use?—A. Before the patent of 1876 I had parted with the invention to an association.

Q. At what time did you part with it?—A. I think in 1874. I made arrangements by which I had parted with all those inventions to an association, of course retaining an interest myself, so that I had nothing whatever to do personally with putting the invention into practical operation. That is what I mean.

Q. Was this assignment or contract by which you parted with your inventions in writing?—A. I am not certain. I always thought it was a verbal arrangement; but I have a recollection that in some case, some lawsuit or other, we found it was in writing.

Q. I infer, then, that you do not have the writing or a copy of it?—A. No, sir; I do not have that.

Q. Do you know where it can be had?—A. I do not.

Q. You may state what it was you parted with at that time.

Mr. RANNEY. Well, now, is this competent? You are going into the history of the patents.

The CHAIRMAN. No, I am not going into anything affecting the patent. It is only for the purpose of beginning at the beginning and showing the organization in which the Bell Company finally resulted. That is all. It is the same line of examination we had yesterday.

Mr. RANNEY. That is outside of this inquiry. I call your attention to it. The investigation thus far has been limited.

The CHAIRMAN. I have no desire to conceal the purpose I have in view in this line of examination. I am not prepared to say just how nearly it is within the resolution, but I intended to pursue the same line of inquiry as to the formation of the Bell Company, and the successive steps taken in its development, as was pursued in regard to the Pan-Electric Company.

Mr. RANNEY. The inquiry should be such as will answer the demands of the resolution.

The CHAIRMAN. I think it is as much within the scope of the resolution as the other inquiries. I do not want to be partial.

Mr. RANNEY. I did not object to the other thing, and I state I do not object now, except to suggest that we ought to pursue the same line—

Mr. HANBACK. The chairman wants to show that the Pan-Electric was organized upon the basis of the patent alone.

The CHAIRMAN. I have no particular desire to show it.

Mr. RANNEY. You see this inquiry does not cover the Bell telephone at all. [Reading:]

“To make inquiry into any expenditures upon the part of the Government incurred relative to the rights of the Bell and Pan-Electric Telephone Companies to priority of patents.”

The CHAIRMAN. It mentions the Bell Telephone Company in the same connection that it does the Pan-Electric.

Mr. RANNEY. I do not see why, if these parties are in contest now in the trial of cases, as it appears there, we should attempt to go into any matter which may relate to those controversies, especially if it is necessary to be partial.

The CHAIRMAN. It is not my purpose to do that. I have said all I desire to say in regard to the patents, and certainly have asked nothing that reflects on the Bell Company or Pan-Electric Company or any other company. It is only with a view to explaining the formation of the company,

The WITNESS. I am perfectly willing to give any information you desire in the matter.

Mr. RANNEY. We do not doubt that, but we want to get through with the inquiry some time.

The CHAIRMAN. I will proceed in the same line. I will go further. I think I have not gone so far as in the other branch of the inquiry, and I certainly shall not take so much time. With that statement I will proceed.

Q. (Resuming.) You are unable to produce the writing, if there was one, showing what it was you disposed of in 1874?—A. I made an arrangement with two gentlemen, Mr. Sanders and Mr. Hubbard, to pay the expenses of experiments and patents for the inventions that I was then at work upon.

Q. Inventions of any particular kind?—A. Yes, sir; the inventions which you are inquiring about to day.

Q. Did it include inventions other than telephonic inventions?—A. I think not.

Q. It did not include your invention of 1875, then, for multiple telegraphy?—A. That is a telephonic invention, sir.

Q. Can you remember the name by which you called the invention, or the way in which you designated it, that you intended to transfer to Mr. Hubbard and Mr. Sanders?—A. I do not recall the way in which I designated it. The substance of the arrangement was that I would transfer to them my inventions relating to the production or transmission of sound by electricity.

Q. Transmission of sound?—A. Sound; yes, sir.

Q. It did not include all your electrical inventions—any that you might make?—A. No, sir; it did not. Well, I could hardly say that, because these were the inventions which I was specially working.

Q. It was restricted to inventions upon which you were then at work?—A. It was.

Q. Mr. Hubbard and Mr. Sanders, you say?—A. Yes.

Q. Who was Mr. Sanders?—A. Mr. Thomas Sanders was a gentleman of Haverhill.

Q. Was he a public officer?—A. No, sir; he was in business in Haverhill. He had personal relations with me. A son of his was a pupil of mine.

Q. Who was Mr. Hubbard?—A. Mr. Hubbard is now my father-in-law.

Q. Was he at that time?—A. He was not at that time.

Q. Was he a public officer?—A. No, sir; not that I know of.

Q. Has he ever been?—A. I do not know. He has been connected with the board of education in Massachusetts.

Mr. HANBACK. You mean an officer of the United States?

The CHAIRMAN. Yes, sir.

The WITNESS. An officer of the United States? I do not know exactly what you mean by an officer of the United States. I know he has been connected with postal railroad arrangements; I believe so. I do not know anything about it.

Q. (Resuming.) I mean an officer under the Federal Government?—A. Yes. I am sure I cannot answer.

Q. Has he ever been a member of Congress?—A. I cannot answer. However, Mr. Hubbard is here. He will be able to answer those questions better than I, of course.

Q. What part or proportion or what interest in your inventions did you transfer to these gentlemen?—A. We were each to have one-third.

Q. And the consideration to be paid, you say, was—A. (Interrupting.) Was that those gentlemen between them were to pay the expenses of experiments, to pay all expenses of patents and litigation of patents, and to put the inventions on the market when completed and perfected.

Q. Were they to be at the whole expense of putting the inventions on the market, or were you to contribute your third?—A. No, sir; they were to pay the whole expense.

Q. So they paid you no direct consideration for the interest they obtained from you?—A. Nothing further than that.

Q. They were to contribute to the prosecution of the business which would result to their advantage as well as yours?—A. Yes, sir.

Q. Now, sir, were any steps taken by this association to put on the market or to make valuable the patent of 1875, with regard to multiple telegraphy?—A. I think not. I do not know.

Q. After the patent of April, 1876, was obtained, were any steps taken by the association to give it a value by putting it into operation?—A. Yes, sir.

Q. At what time?—A. I think in the autumn of 1876 I was requested to exhibit the apparatus to create an interest in the subject. In 1876 I explained my inventions to a number of prominent gentlemen and exhibited it at the Centennial Exhibition, and that was in pursuance of recommendations from these gentlemen.

Q. Did you exhibit it anywhere else?

The WITNESS. Than at the Centennial?

The CHAIRMAN. Than at the Centennial.

A. Yes, sir.

Q. Where?—A. I exhibited it at Harvard College to some professors there. I also made an exhibit to the American Academy of Arts and Sciences. In fact that was before the Centennial Exhibition. That was on the 10th of May, 1878.

Q. Did you exhibit it in Washington?—A. I do not think I exhibited that in 1876. I did in 1877.

Q. At what time?—A. If my recollection serves me it was in January, 1877.

Q. That was before the granting of the patent of 1877 then, or what was the date of the patent of 1877, if you recall it?—A. It was January; I do not remember the date.

Q. Where did you exhibit it in Washington?—A. Before the Philosophical Society of Washington.

Q. Any place else?—A. I may have done so privately at the rooms of Mr. Gardiner G. Hubbard, and perhaps at the Smithsonian. But I am not certain.

Q. Did you exhibit it to any members of Congress?—A. Oh, I do not know. It was a public exhibition.

Q. Do you recall the fact of having invited members of Congress to the exhibition?—A. Oh, no; I invited no one. I was invited myself by Professor Henry to exhibit it before the Philosophical Society.

Q. When was the telephone first put into use as a business venture?—A. I do not think, sir, that I could give accurate information on that point. It is probable Mr. Hubbard may be able to answer more accurately. I have never had anything to do with the business matters of the telephone. I only know it was some time early in 1877.

Q. Some time in 1877?—A. I think so.

Q. Do you know where it was first set up for that purpose?—A. I remember the place, but I could not venture to give the name, I am sure, from memory.

Q. You do remember the place?—A. Yes, sir.

Q. Where was it?—A. In Boston.

Q. At that time had any other persons been admitted to the association?

The WITNESS. At which time; 1877?

The CHAIRMAN. At the time in 1877 when you began to put it into operation as a business matter?

A. Yes; I think at that time another person had been associated.

Q. Who was it?—A. That was Mr. Thomas Watson.

Q. Who was he?—A. He was a workman in the employment of Charles Williams, electrician. He had assisted me with my experiments, and it was determined that it would be a good plan in order to gain the advantage of the services of this good mechanic to give him an interest in the invention; so each of the three parties gave him a small interest.

Q. Did he pay anything for it?—A. In services; yes, sir.

Q. No money consideration?—A. No; no money consideration.

Q. So he became owner of one-fourth?—A. No, not one-fourth; it was one-tenth. I am not sure; that is my recollection.

Q. Did you take an active part in the business management of your association?—
A. No, I never had any part in that.

Q. Who had?—A. Mr. Hubbard and Mr. Sanders were the business managers.

Q. How long were your instruments managed by the association you have spoken of?—A. I do not know.

Q. First, before I ask that, were any other persons subsequently admitted to the association or partnership?—A. Not to my knowledge, sir. I think not.

Q. You would know whether you transferred any part of your interest. Did you do it?—A. I think not. I may say that I went abroad in the year 1877 and during my absence abroad the association was changed into a company.

Q. When did you return, sir?—A. I staid abroad for more than a year; I do not know how long. I think it must have been a year and a half, or more. I was away during nearly the whole of 1878, if not the whole of it.

Q. You say that while you were abroad a company was formed?—A. I believe so. It may have been organized about the time I left, for I have a recollection of having made permanent arrangements in regard to my interests before leaving for Europe.

Q. What company was that?—A. Oh, I do not know the names of the companies. I cannot answer technically. I think it was simply called the Bell Telephone Company—one of the companies.

Q. There seem to have been two companies preceding the National Bell, one called the Bell Telephone Company and the other the New England Company. And you think this was the Bell Telephone Company?—A. I think this was the Bell Telephone Company.

Q. Do you remember the original capital of the Bell Telephone Company?—A. No, sir; nothing about it.

Q. Do you remember transferring your interest in the property to that company?—
A. I made a gift of my interest to my wife before I left for Europe.

Q. Do you know of your wife transferring that interest to the Bell Telephone Company?

Mr. MILLARD. Mr. Chairman, is this evidence admissible under the order?

Mr. RANNEY. Let it go.

The CHAIRMAN. It is admissible.

Mr. MILLARD. We are directed to make the investigation as to the Pan-Electric stock, but no such direction is given in this case.

Mr. RANNEY. You remember in the case of the Washington Telephone Company we were prohibited from going into the stockholders, or what was done, or whether anything was transferred to Government officers.

The CHAIRMAN. I know we did go into the stock in the Washington Telephone Company and the subordinate companies very largely.

Mr. HANBACK. This is one of the matters springing out of the Pan-Electric Company. I am in favor of going ahead myself.

Mr. MILLARD. I am in favor of investigation, but it does not seem exactly proper unless we are authorized and directed to make investigation in this case, in a suit pending between the Government and this company.

The CHAIRMAN. It does not touch the suit at all—nothing connected with the suit. I think we had better go on.

Q. (Resuming.) You may state, Mr. Bell, if you know of your wife transferring this interest which she acquired of you to the Bell Telephone Company.—A. No, sir; she retained her interest in her own name.

Q. Her interest in the association?—A. Well, I do not remember of having transferred shares, so I presume that shares were issued to my wife originally in the old Bell Telephone Company.

Q. I presume that the ownership in the invention was transferred to the Bell Telephone Company, the corporation that you speak of as having been organized?—A. Certainly.

Q. That is what I am trying to get at. Do you remember of your wife joining in that transfer?—A. She probably left a power of attorney before leaving for Europe at that time.

Q. Do you remember the fact whether she did or did not?—A. She left power of attorney to manage all her patents. I say I am not absolutely certain whether that interest remained at that time in my name or my wife's; but the power of attorney was left before we went abroad, so that the power could be given to act for us.

Q. What amount of stock did you or your wife receive in the Bell Telephone Company in lieu of the interest which you had in the association?—A. We received an equivalent interest. The amount of stock I do not know at this time. Of course it might be ascertained, but it was equivalent to the interest that we held in the association.

Q. Which was the third, less your contribution to the one-tenth to the mechanic?—A. Exactly.

Q. And you do not remember the capital at which the Bell Company—A. (Interrupting.) No; my recollection is that the whole Bell telephone had gone into other hands before I returned from Europe. I am not sure as to that, but I have very little knowledge as to that first Bell Telephone Company. I was abroad during the greater part of its existence.

Q. You say your wife has never parted with her interest that you transferred to her?—A. No; she has sold some portions, but she is still one of the largest stockholders in the company.

Q. Do you remember the fact of the organization of the New England Telephone Company?—A. No, sir; I know nothing about that company.

Q. As I understand you, you do not know what the capital stock of the Bell Telephone Company was?—A. No, sir.

Q. Do you know who were the stockholders?—A. No, sir; no further than the old members of the association.

Q. Only those?—A. I only know of those; I do not know of other stockholders; there may have been others.

Q. You say that your wife has parted with certain portions of her stock. Has she ever sold or disposed of any to any member of Congress?—A. No, sir.

Q. Or to any officer of the Federal Government?—A. No, sir; all that she has sold has been sold in public market.

Q. Do you know how long the Bell Telephone Company continued to exist?—A. No, sir.

Q. Do you know what company succeeded it?—A. I am afraid I shall expose my ignorance of the business matters of the telephone a great deal. I could not answer with certainty. I only know it was another Bell Company.

Q. I presumed, sir, that you did not know about that. Do you know when the present American Bell Telephone Company was organized?—A. No, sir; not of my own knowledge. I heard Mr. Forbes testify yesterday it was in 1880.

Q. Do you know how much stock your wife obtained in the National Bell Telephone Company in place of her interest in the Bell Telephone Company?—A. It was the equivalent of what she held in the other company.

Q. Well, can you state the amount?—A. No, sir; not of that company.

Q. Then do you know what amount of stock your wife obtained in the American Bell Telephone Company?—A. It was again the equivalent of what she held in the preceding company.

Q. Can you state the number of shares?—A. Not from recollection; I could by consulting the stock book; I do not know how many shares she held when the company was organized.

Q. Can you state about how many?—A. No; I cannot even approximate.

Q. Had she disposed of any part of her interest prior to the organization of the American Bell Company?—A. I do not think she disposed of any portion prior, but I would not like to state with any positive certainty.

Q. If you are correct as to that, she must have obtained very nearly one-third of the capital of the American Bell Telephone Company?—A. No, sir; I do not think that, because she obtained her proportion of what she held in the original association, and money had been brought in extensively in the intermediate stages.

Q. Yes; I believe \$200,000 had been added?—A. I do not know. You can calculate it probably. We can ascertain exactly by consulting the American Bell Telephone Company stock list.

Q. But she must have been a very large holder of the Bell Telephone Company stock?—A. I presume so.

Q. And whatever may have been her proportion of the ten millions of dollars had grown from the original one-third of the value of these instruments?—A. Yes, sir.

Q. From 1876 until 1880, I believe was the date—some time in 1880?—A. Yes, sir.

Q. Passing through two or three companies?—A. Yes, sir.

Q. Have you ever known, Mr. Bell, of any member of Congress having an interest in the American Bell Company or any companies that preceded it?—A. Not to my knowledge, sir.

Q. Have you known any of the stockholders at all except the original ones?—A. I have met a few of them from time to time, but I have no general knowledge of the stockholders.

Q. Have you any connection with the company now?—A. None whatever save as a stockholder.

Q. I see you have but one share of stock?—A. Yes, I was proud to keep my name on the list of stockholders; therefore I retained one share.

Q. You are not an officer of the company?—A. No, sir.

Q. And have nothing to do with its management whatever?—A. Nothing whatever.

Q. Are you acquainted with its practical operations and its business operations?—A. I do not quite understand the distinction, sir.

Q. Do you know what instruments it uses?—A. I think so. I know the instruments

in ordinary use: I do not pretend to know all the instruments possessed by the company or that may be used in different parts of the country.

Q. Does it use the instrument invented in 1876?—A. Substantially the same, sir.

Q. Substantially the same? How substantially the same; to what extent?—A. Well, its mode of operation.

Q. Is there anything more in the instrument used now by the company—anything that is identical with the instrument invented by you, except the mere fact that they both transmit sounds?—A. The mode of operation is substantially the same as that described in my original application. Of course there are valuable, very valuable details of construction in which they differ.

The CHAIRMAN. I believe that is all.

By Mr. RANNEY:

Q. Professor Bell, at the time that you were making these inventions and these gentlemen took hold with you—you will pardon me for the inquiry—I want to know whether at that time you were poor or had means?—A. I was poor, sir. Before they took hold I was in receipt of a comfortable income from my professional services, but I had to give up my professional work a great deal to devote myself to my experiments, and as these gentlemen had made no provision for paying me for my time, I soon found myself in very poor circumstances.

Q. You speak of your profession. You will pardon me. What was your profession that you refer to?—A. I was professor of vocal physiology in the Boston University, and teacher of articulation.

Q. What had called your attention to this matter of the theory of sound?—A. My professional work in studying the mechanism of speech led me, of course, to study the works of others who had written upon the subject.

Q. Well, I do not care to go into the history of your theory now. You spoke of exhibiting this invention at the Centennial Exhibition; was Prof. Gray present when you exhibited it?

The WITNESS. Mr. Elisha Gray?

Mr. RANNEY. Elisha Gray.

A. Yes, sir; he was present.

Q. When the telephone was exhibited there did it talk?—A. Yes, sir; it spoke.

Q. Did Prof. Gray test it?—A. Yes, sir. He listened at one of the instruments. I do not know that of my own knowledge, for I was at the transmitting end of the line. I know Prof. Gray was there.

Q. Oh, I do not care to go into the details of it. You were at the transmitting end and he was at the receiving end?—A. Yes; he was at the receiving end.

Q. You spoke of Prof. Henry, that is Prof. Henry at the Smithsonian Institute?—A. Yes, sir.

Mr. RANNEY. We won't go into the caveats because it is not a subject of substantial inquiry here. I do not know as I need to put you any more questions.

The WITNESS. You understand, gentlemen, I have no hesitation in answering any question you think proper to put.

Q. Has your wife any difficulty in hearing? I have read somewhere that your attention was called to the matter on account of the difficulty of hearing of your wife, or some one.—A. Yes, sir; my wife is unable to hear.

Q. Did that have anything to do with your giving attention to this study?—A. No, sir; it had particular reference to my meeting my wife in that I was instructing persons who could not hear.

Q. You had been studying the ear, instructing persons who could not hear?—A. Yes, sir.

Q. And that led you in the line of study which resulted in your acquiring the invention?—A. Yes, sir.

By Mr. OATES:

Q. Any question with reference to the originality of your invention or discovery would be involved in this suit that has been brought by the Government, would it not?—A. I think not. That has been decided so often by the courts—

Q. (Interposing.) Well, is not that question one involved in the adjudication to come?—A. I do not quite understand the purport of your question, sir. Would you repeat it once more?

Q. I say any question here with reference to the originality of your invention or discovery would be a question involved in that suit, would it not? Is not that question involved, in other words, necessarily?—A. Well, I do not know. I do not know about this suit. I have not had the opportunity of seeing anything except what has been stated in the newspapers. I do not know exactly what the questions are in this new suit. But that question has been decided by the courts already, so I suppose it would hardly be involved.

Q. Not in any Government suit, though?—A. I cannot quite catch the drift of your question, sir.

Q. Well, I won't press any question on that point because I think it is involved in the adjudication.—A. I should like to understand the point and answer to my best ability, but I do not quite understand it.

Q. I would press the question, but my own opinion is that it is involved in the suit, therefore I won't press it?—A. Well, I should like to consult counsel on that point, and I would prefer you would not ask me any questions to which my counsel would object. But I am ready otherwise to answer.

Q. You are ready to prove that you are the inventor?—A. I am ready to answer any question you think proper to ask.

Mr. OATES. I think that is beyond the scope of our inquiry, anyhow.

Mr. MILLARD. I think it would be a great outrage on the part of this committee to make inquiry or seek as to facts involved in this suit. I do not think this committee has any right to go into that.

Mr. OATES. No further than the resolution instructs.

Mr. MILLARD. No further than the resolution instructs.

Mr. EDEN. There is no controversy among the committee about that.

Mr. RANNEY. I shall claim hereafter, whenever we come to pass upon the proceedings before the Secretary of the Interior, the right to discuss the question, whether he was justified in—

Mr. OATES (interposing). That question is not open now.

Mr. RANNEY (continuing). Trying the question of invention, and the justification the Department of Justice had in ordering this suit either. That will be determined on the record which is in.

Mr. HALL. It is important to find out whether his action was induced—

Mr. OATES. Mr. Chairman, that question is not open now.

The CHAIRMAN. The only matter before the committee now is the examination of Prof. Bell.

Mr. MILLARD. I have no questions.

Mr. EDEN. I do not want to ask anything.

The CHAIRMAN. That is all.

By Mr. HALL.

Q. I would like to inquire whether you have been connected with all the corporations organized since your patent was issued that were interested in the Bell Telephone Company.

Mr. MOFFATT. I think he answered that before you came in.

Mr. HALL. That is simply introductory.

A. Oh, yes; I have been interested in all as a stockholder.

Q. Do you know whether it has been the policy of those organizations to acquire all subsequent inventions or devices and improvements upon your original patent?—

A. It has been their policy to purchase and adopt any improvement that seems to be real improvement.

Q. And have you a general idea about how many patents have been acquired by these corporations since then?—A. No, sir. I have no doubt there are very many; I suppose nearly a couple of hundred or more.

Q. You are an electrician?—A. Not professionally. I do not profess to be an expert.

Q. You have not pursued the subject since you obtained this patent?—A. Oh, I have pursued the subject in experimenting, but I mean to say I am not a professional electrician.

Q. Have you not pursued the subject by experiment with patents that have been subsequently submitted to your investigation?—A. No, sir.

Q. Then the questions involved have been decided by some other authority than yourself?—A. Yes, sir.

Q. As I understand, you invented the original principle by which human speech could be transmitted by electricity over the termini of wire or battery?—A. I claim to have invented the method and apparatus shown in my patent of 1876.

Q. Have you ever invented or devised any instrument other than that which you submitted to the Patent Office and upon which your patent was issued?—A. Oh, yes; a number of different forms.

Q. And did these corporations subsequently acquire those patents?—A. Yes, sir.

Q. Well, they all consisted in improved methods of carrying out the original principle invented by you as claimed?—A. Yes; improvements in the apparatus.

Q. Does the American Bell Telephone Company now use generally any device invented by you; I do not mean the principle, but I mean the instrument?—A. Yes, sir; certainly.

Q. Does it not use others than those invented by you or patented by you?—A. Oh, undoubtedly, sir.

Q. Do you know which device is most generally used by the American Bell Telephone Company?—A. I think my apparatus is the only one that is universally used.

All the other instruments have to be used in connection with it. The hand telephone that is used as a receiving instrument is used everywhere.

Q. Then your corporations have simply been buying up these other inventions to lay them on the shelf and have not put them in practical operation?—A. It has tested them, but nothing has yet been discovered that exceeds, in sensitiveness—

Q. (Interposing.) They purchased them before testing them?

The WITNESS. Do you allude to my invention or to other persons'?

Mr. HALL. Other persons'.

A. Oh, I do not know. I presume they tested them.

Q. Are you not aware of the fact that the American Bell Telephone Company and those corporations which it succeeded have purchased a large number of inventions other than yours?—A. Oh, yes; a large number.

Q. Now, is it true that these inventions have simply been laid upon the shelf and are not in use?—A. Oh, no; the best of them have been put in use.

Q. About how many have been put in use?—A. I do not know; I cannot answer that.

Q. Have you no general idea? Have not a considerable number of them been put in use?—A. A very great number; so many that I would not even venture to guess at the number.

Q. But there are none in use possessing such excellent qualities as those invented by you?—A. I beg pardon, sir.

Q. Are these that have been acquired from other parties, to some extent, or any extent, regarded as superior or inferior to those invented by you?—A. Well, I hardly know how to answer that question. The Blake transmitter is in very general use everywhere with mine. The two go together. The Blake transmitter would be of no use whatever without a receiving instrument.

The CHAIRMAN. Well, that is all, sir. [Turning to Mr. Driver, a witness examined yesterday.] Mr. Driver, I desire to ask you some questions.

WILLIAM R. DRIVER recalled and examined.

By the CHAIRMAN:

Q. Are the lists of the stockholders which you submitted to the committee yesterday correct?—A. I believe them to be.

Q. I did not want to leave any doubt as to the matter that I called out in examination, or have any injustice done. I see that Horace Gray owns two hundred and thirty-six shares of the stock of that company. Will you state who Horace Gray is?—

A. I do not know him personally; I understand him to be a merchant in New York.

Q. How do you understand that; by what means?—A. His address upon my books is given as in New York; well, I do not know who told me that he was a merchant there.

Q. That is the address of this person, Horace Gray—New York?—A. Of that person, yes, sir.

Q. Who is the present Federal circuit judge in Boston?—A. I think his name is Nelson.

Mr. RANNEY. He has the district court. Judge Colt, of Rhode Island, is circuit judge.

The WITNESS. I do not know.

Mr. RANNEY. He is a Rhode Island man.

Mr. MILLARD. Is Massachusetts in that district?

Mr. RANNEY. Yes, sir; that is the district of Rhode Island and Massachusetts and New Hampshire and Maine, I believe.

By the CHAIRMAN:

Q. You say the district judge is Judge Nelson?—A. There is a Judge Nelson in one of the courts; I have no means of knowing.

Mr. RANNEY. I know him. It is Judge Nelson, of Worcester. He is district judge; Colt is the circuit judge.

Q. (Resuming.) I see that Thomas Nelson held twenty-four shares of stock on the 1st of May, 1880, when the American Bell Company was organized, and Thomas Nelson now holds ten shares; do you know who Thomas Nelson is?—A. I do not know.

The CHAIRMAN (to Mr. Ranney). Do you know what the judge's first name is?

Mr. RANNEY. I do not know; I do not think he holds any shares.

Q. (Resuming.) I see Henry W. Nelson owns forty shares at this time; do you know who he is?—A. I do not know who he is.

Q. Do you know where he resides?—A. I do not remember; our records at home will show.

GARDINER G. HUBBARD sworn and examined.

By the CHAIRMAN:

Q. What is your present place of residence?—A. My place of residence is Washington, sir.

Q. How long have you resided here?—A. I have resided here off and on for about fifteen years. I have a home in Cambridge, Mass., as well as here, residing generally here in the winter and in Cambridge in the summer.

Q. Are you the gentleman referred to by Prof. Bell as one of the original associates in the Bell Telephone enterprise?—A. I am, sir.

Q. What interest did you receive from Professor Bell?—A. I received one-third.

Q. What did you pay for it?—A. I paid a great many thousand dollars; I cannot say how much, sir.

Q. At the time of the purchase?—A. No, sir; nothing at the time of the purchase; but I came under obligations to provide the means for the development of the enterprise. I came under agreement to provide the means for the development of his invention.

Q. There seems to have been another gentleman associated with you?—A. Yes, sir.

Q. Who was he?—A. Mr. Thomas Sanders.

Q. Do you know whether he paid anything to Professor Bell for his interest?—A. I know nothing, sir. I presume he did not.

Q. To what extent do you say you became liable at the time of the purchase or at the time of the gift?—A. For one-half of the expense of prosecuting and developing the enterprise.

Q. When was that arrangement made?—A. I am not certain. I think it was made in 1874; but I may be mistaken, sir.

Q. You say that you became responsible for half of the expense?—A. One-half.

Q. Who was to pay the other half?—A. Mr. Sanders.

Q. What did Professor Bell pay, or was he to pay?—A. He was to contribute his services in the development of it; nothing pecuniary; his services and knowledge being considered an offset to the money furnished by us.

Q. At the time of that arrangement had he made any invention?—A. Whether he had made any inventions or not I cannot say. He was at work upon inventions.

Q. Have you stated when that arrangement was made?—A. I said I was not certain, but I thought it was in 1874.

Q. Was it in writing?—A. I think the original agreement was not in writing.

Q. Was it afterwards reduced to writing?—A. I think it never was.

Q. Why do you distinguish, then, in answer to the preceding question, by saying that the original agreement was not in writing?—A. Subsequently to the original agreement there was an agreement for the formation of a joint stock company called the Bell Company, and the original agreement was merged in that.

Q. Was that the first agreement that was in writing?—A. I think it was.

Q. When was the Bell Company formed?—A. I should say in 1886 or 1887 probably.

Q. In 1876 or 1877 you mean?—A. 1876 or 1877. It was not a corporation. It was a joint stock company.

Q. Was the Bell Company never incorporated?—A. No, sir.

Q. Have you the articles of association?—A. I have not.

Q. Do you know where they could be found?—A. I do not.

Q. Were they ever recorded?—A. At the Patent Office?

Q. No, sir. Was it a mere partnership, or was it an association formed under some statute?—A. It was formed under the common law. It was a joint stock company in which there was a trustee, and I was the trustee holding the title to the patents.

Q. Now, sir, do you know where the writing can be had?—A. I do not. I have not seen or heard of it for years.

Q. You say it never was recorded?—A. It may have been recorded in the Patent Office here, but I do not know.

Q. Were the patents held by the partners—the three of you—transferred to that joint stock company?—A. I think they were. The records at the Patent Office will show.

Q. Was there any effort made prior to the formation of the joint stock company to put these inventions on the market?—A. I think there was not.

Q. And you say that that company was formed either in 1876 or 1877?—A. Yes, sir.

Q. Can you not be more particular as to the time?—A. No, sir; I cannot. The same parties are interested in the company that were interested in the joint stock company. It was merely for the purpose of facilitating the carrying on of the business.

Q. As I understand you, then, no person had been admitted prior to the formation of the Bell Company?—A. No, sir; unless it was Mr. Watson. I do not know when he was admitted.

Q. Can you not state whether he signed the articles of association?

Q. Well, after the formation of the Bell Company—the joint stock association—how long did it continue?—A. It continued until the formation of the National Bell Company.

Q. When was that?—A. That was in 1879.

Q. Was it incorporated?—A. That was incorporated.

Q. Where?—A. In Massachusetts.

Q. Under a special or general law?—A. We have no special laws in Massachusetts, sir. They are all general.

Q. Incorporated, then, under a general law in Massachusetts?—A. Under general law.

Q. That, you say, was in 1879. Had any person been admitted before that time?—A. I think a few parties had been. There had also, prior to that time, been formed in New England a telephone company, which owned the telephone for New England.

Q. That was while the joint stock———A. (Interrupting.) Was in existence; yes, sir.

Q. Formed under a license granted by that joint stock company?—A. Under license under that company granted by myself as trustee.

Q. Who constituted the New England Company?—A. I do not remember who. I was president.

Q. Were there any other persons interested in that company besides those interested in the Bell Company?—A. Yes, sir; a number of others.

Q. Can you not name some of them?—A. Mr. Bradley is the only one I recollect.

Q. Who is Mr. Bradley?—A. Judge Bradley.

Q. What Judge Bradley?—A. Charles L., I think, of Providence, R. I.

Q. Was he a judge at that time?—A. He was not.

Q. He had been?—A. I think he had been.

By Mr. RANNEY:

Q. Chief justice of the supreme court of the State?—A. I think he was.

By the CHAIRMAN:

Q. You say there were a number of members, but you cannot recall them?—A. I cannot recall them.

Q. Can you state whether any of them were public officers?—A. I do not think they were, sir.

Q. Were any of them members of Congress?—A. They were not.

Q. Did you state whether any person had been admitted into the joint stock company before the formation of the National Bell?—A. I think possibly one or two parties had been.

Q. Will you name them?—A. The only one that I remember is my brother. But I do not mean to say there were not others; that is the only one I remember.

Q. On what terms was he admitted?—A. He bought some shares and paid for them.

Q. From whom?—A. From the company; from myself as trustee for the company.

Q. Will you state whether you can recall the name of any other person who became interested in the joint stock company?—A. I cannot, sir.

Q. But you think there were others?—A. No, sir; I do not think there were, and yet there may have been. It is some eight or ten years ago and I have not charged my memory with it.

Q. Was there a capital fixed for the joint stock company?

The WITNESS. Was there a capital fixed for it?

The CHAIRMAN. Yes, was there any sum fixed for the capital of the joint stock company?—A. I do not remember that. I presume there was, but I am uncertain.

Q. I infer, then, that you could not state the amount?—A. No, sir, it was divided into shares, and therefore there must have been a capital.

Q. Now, sir, I would like you to state the capital, if you can.—A. I cannot, sir.

Q. Or about how much?—A. I have no recollection, sir.

Q. Do you know how many shares your brother got?—A. Only a few.

Q. Do you know what proportion of the capital he got?—A. I said, sir, only a small proportion. It may have been a hundredth part, or something of that kind.

Q. You do not know how many shares constituted that hundredth part?—A. No, sir.

Q. Do you know how many shares you had, if you had any individual holding of shares in the association?—A. I do not, sir.

Q. Did you hold any shares individually?—A. Why, of course, sir. I said that I had a third interest originally, less the tenth parted with to Mr. Watson.

Q. I asked you that question because you stated that the shares were held by you in trust and that the company sold your brother whatever shares he had. If the shares were held individually the company did not have any to sell.—A. You misunderstand me, or perhaps I did not state myself correctly.

Q. Perhaps I did not understand you?—A. What I meant to state was that I was trustee for the company, and as trustee the patents, I think, were transferred to me and the property stood in my name as trustee for the shareholders of the company. I held individually, not as trustee, a portion of those shares.

Q. You stated a moment ago that the shares purchased by your brother were purchased from the company?—A. They were not purchased from the company but from the individual members of the company.

Q. From each one of them?—A. From myself, I presume.

Q. Then you are not able to state how many shares you held?—A. I am not, sir.

Q. Nor what the capital was?—A. I am not.

Q. When the National Bell Company was incorporated, what was its capital?—A. I do not know, sir.

Q. Can you not state what the capital of the National Bell Telephone Company was?—A. I cannot, sir.

Q. Have you any means of ascertaining?—A. I could tell by applying at the office of the company. I am one of the directors of the American Bell.

Q. Do you know how many shares of stock you had in the American Bell Telephone Company?—A. I do not, sir. If necessary, I can ascertain those facts and give them to the committee.

Q. And you do not know the amount of the capital of the Bell Company?—A. I do not.

Q. Was it four hundred and fifty thousand dollars?—A. I do not remember anything about it, sir.

Q. Do you remember the amount of capital of the New England company?—A. I do not. I think it was three hundred thousand dollars. But I may be mistaken.

Q. Was it merged with the Bell Company in forming the National Bell?—A. It was merged into the National Bell.

Q. Along with the Bell Company?—A. Along with the Bell Company.

A. Was there any money put into the National Bell Company at the time of its formation?—A. There was.

Q. How much?—A. I do not know, sir.

Q. Can you not approximate it?—A. I cannot. There have been a great many hundred thousand dollars paid into it, but how much I do not know.

Q. I speak, sir, of the time of the formation of the company?—A. I do not know, sir.

Q. Can you state whether it was a hundred thousand or a million?—A. I cannot. I can ascertain and inform you, sir, if you would like to know.

Q. I would like to know.—A. If you will address me a note for the information which you wish I will have it answered.

Q. I would like to know the amount for which the property transferred by the Bell Company to the National Bell Company was capitalized?—A. If you will address me a note for the information which you wish it shall be furnished.

Q. Can you not approximate the capital of the National Bell Company?—A. I cannot, as I have already answered.

Q. Was it a million of dollars?—A. I have answered the question, sir.

Q. Well, sir, answer that if you please.—A. No, sir; I have already answered.

Q. Do you decline to answer that question?—A. I do, on the ground that it has already been answered several times.

Mr. HANBACK. The witness has said he would furnish everything.

The CHAIRMAN. The gentleman will excuse me. I am examining the witness.

Mr. HANBACK. I understand; but I am a member of the committee, too.

The WITNESS. If there is a member of the committee who says I have not answered it, I will answer.

Mr. HANBACK. I propose to say that the witness has said he will answer everything you want seriatim, and then you continue to ask questions.

The CHAIRMAN. I have seen you sit here and a question repeated over twenty times without objection.

Mr. HANBACK. I do not think you have, sir.

The CHAIRMAN. I have, sir. I know of a cross-examination that covers two hundred pages and over.

Mr. HANBACK. I do not object at all.

The CHAIRMAN. I understood you to object. If you do not object there is nothing to talk about. There is no objection on the part of the witness to answering the question more than once.

Q. (Resuming.) I ask you whether the capital of the National Bell Company amounted to a million dollars?—A. I have already answered that I did not know.

Q. You will not say whether it was a million?—A. I do not know.

Q. Will you say whether it was more or less than a hundred thousand dollars?—A. I could not say. I have no doubt it was more.

Q. Are you unable to say because you have no recollection of it?—A. It is eight or nine years since it was formed, and I have not charged my memory with it.

Q. Now, I ask you again how much money was added at the time of the formation of the National Bell Company?—A. I have answered that I could not recollect.

Q. Can you not approximate it?—A. I cannot. I do not know that I ever knew.

Q. Was the property of the Bell Company and the New England Company transferred to the National Company?—A. It was.

Q. At what amount; do you know?—A. I do not.

Q. Can you not approximate that?—A. I cannot. I will furnish the information if requested, on a note from the chairman of the committee.

Q. And you cannot state what amount of money capital was added at that time?—

A. I cannot.

Q. And you cannot state the amount of the capital of the National Bell Company?—

A. I cannot.

Q. Can you state whether any other persons came into the company at the time the National Bell was organized?—A. There were a number of others.

Q. Can you name them?—A. Mr. Forbes came in at that time.

By Mr. RANNEY:

Q. Which Forbes?—A. The gentleman that was here yesterday and his brother. I think Lee & Higginson came in at that time. There were a great many came in about that time.

By the CHAIRMAN:

Q. Do you remember any others?—A. I cannot recall their names, sir; I know them perfectly well, too.

Q. I would like you to answer whether you can name others?—A. I do not recall the names of any others now, and yet as I remarked, sir, I know them perfectly well.

Q. Can you tell how many shares you had of the stock of the National Bell Company?—A. I cannot, sir.

Q. Can you approximate it?—A. I cannot.

Q. Can you come anywhere near it?—A. I will furnish it if you will send me a note requesting that information, sir.

The CHAIRMAN. Then I will have to ask you to appear before the committee with the information and also to state who were the stockholders and the amount of capital.

Q. (Continuing.) How long did the National Bell Company continue to exist?—A. I think it continued about a year, sir.

Q. And what company succeeded it?—A. The American Bell.

Q. Was the property of the National Bell disposed of or transferred to the American Bell?—A. It was.

Q. For how much and what amount?—A. I think the capital of the American Bell was ten millions of dollars, but I am uncertain whether it was all issued at that time.

Q. What part of that was paid for the rights and property of the National Bell?—A. That I do not recollect, sir.

Q. Are you able to state the purpose of the merging or the transfer of the property of the National Bell to the American Bell?—A. I am not, sir; I was not an active director at that time, and do not know.

Q. Well, I will ask you, sir, whether it was not done for the purpose of increasing the capital stock without the payment of money?—A. I do not think it was, sir.

Q. Do you know of any other purpose?—A. It was to acquire more money to carry on the business in part, sir. It was undoubtedly one purpose to bring the par of the stock nearer to its then selling value. My impression is that six shares of the new were issued for one of the old, that being at that time the market value of the stock.

Q. Do you remember the par value of shares in the old companies?—A. I think they have always been one hundred.

Q. So that the holder of a hundred shares in the old company became entitled to six hundred in the new?—A. I think he did, sir.

Q. Without the payment of any money?—A. I am not certain but what there was more money paid in at that time for which more stock was issued.

Q. But not for that part of the stock?—A. Not for that, sir.

Q. Well, I would like you to state your best recollection as to whether any additional stock was issued at the time of the formation of the American Bell Company?—A. I have just said, sir, that six shares of the new stock were issued for one of the old.

Q. I say additional stock, stock besides that which was issued to the old stockholders?—A. I think there was some cash stock issued at that time.

Q. Can you state to what amount?—A. I cannot. I am not certain that I was in this country at that time, sir. At any rate the headquarters of the company was at Boston and I was residing in Washington.

Q. Have you not always been a director of the company?—A. I have always been a director; yes, sir.

Q. Have you not been the president?—A. No, sir.

Q. Were you ever the president of the company?—A. Never.

Q. Or of any of these companies?—A. Never; that is, I was never president of either the National or the American. I may possibly have been chosen president of the National and immediately resigned on its organization. I am not certain how that was.

Q. But they were the only two corporations?—A. Yes, sir.

Q. Can you name any of the persons who came into the American Bell Company at the time of its incorporation?—A. I do not know anything about that, sir.

Q. Do you know whether anybody did?—A. I do not know, sir. I have no doubt they did, but I have no knowledge of it at all.

Q. Mr. Hubbard, did you not, up until the time of the incorporation of the American Bell Telephone Company, manage the business of the company?—A. I did not.

Q. Did you not manage it up to the time of the incorporation of the National Bell Telephone Company?—A. I did.

Q. Did you have an active part in the formation of the National Bell Company?—A. Yes, sir; I had an active part in it.

Q. There seem to have been but very few of you at that time?—A. I do not recollect, sir, how many there were; there were a good many interested in the New England Company at that time, and I think most of those interested in the New England Company were interested in the National.

Q. Did you not superintend the organization or incorporation of the National Bell?—A. I did not, sir.

Q. Did you not originate the movement by which the Bell Company was transformed into the National Bell?—A. I assisted in it.

Q. You were president of the Bell Company?—A. I was the trustee of the Bell Company.

Q. Trustee of the Bell Company. You held all its property in your name, you say, as trustee?—A. Yes, sir.

Q. Were you not the principal man in the formation of the National Bell?—A. I was one of the parties largely interested in it.

Q. As trustee, you transferred to the National Bell the rights?—A. I did.

Q. And you do not know what amount?—A. I do not.

Q. Or the valuation of it?—A. I do not.

Q. That is only seven years ago. You cannot approximate it?—A. I cannot.

Q. You cannot say whether any new stock was added, or if so, how much?—A. I cannot; but, as I before remarked, it can be ascertained.

Q. You and Professor Bell and these other gentlemen were the principal holders of the stock, were you not?—A. We were.

Q. Prof. Bell seems to have had nothing to do with it?—A. He had nothing whatever to do with the business management of it at any time.

Q. Did the other gentleman have any active part in the formation of the National Company?—A. He had a good deal to do with it; yes, sir.

Q. As much as you?—A. I think he had more, as he was on the spot and I was here.

Q. Do you remember of any interviews between you with a view to fixing the capital of the new company?—A. I do not remember any. I know we must have had them.

Q. You do not remember any conclusion reached as to the amount of the capital?—A. I do not, sir.

Q. Are you a stockholder in the American Bell?—A. Am I? Yes.

Q. How many shares have you?—A. I hold one thousand shares.

Q. And what is the whole number of shares?—A. I think the capital is ten millions of dollars and the par is one hundred dollars.

Q. Are you a director in the company?—A. I am, sir.

Q. Have you taken an active part in its management recently?—A. I have not taken any part.

Q. Have you looked after its interests in the city of Washington?—A. I have not.

Q. Have you taken any part in, or done anything looking to, the interests of the American Bell Company latterly in the city of Washington?—A. I have not. I have, of course, seen the counsel and the president once or twice when they have been here this winter.

Q. Have you taken any part in the matter of the bringing of a Government suit against your company?—A. I have not.

Q. Have you tried to prevent it in any way?—A. I have not.

Q. Have you had any consultation with any public officer in regard to it?—A. I have not.

Q. Have you attempted to procure any newspaper publications?—A. I have not.

- Q. Did you send an article to the president of the company?—A. I did.
- Q. Where did you get it?—A. I got it from Mr. Bell.
- Q. From Mr. Bell?—A. Yes, sir.
- Q. Do you know who prepared it?—A. I do not.
- Q. When did you get it from Mr. Bell?—A. I should say it was some three or four months ago.
- Q. Was it the same article which afterwards appeared in the New York World?—A. I think it was, sir; but I cannot say certainly, as I never examined it with much care.
- Q. Was it the article which was called the history, the connected article, giving a sort of history of the Pan-Electric enterprise?—A. As I say, I think it was, sir; but I do not know.
- Q. You say that was three or four months ago?—A. I think so.
- Q. How long was it before the article appeared in the New York World?—A. I should think it was at least a month; it may have been six weeks.
- Q. Have you a copy of the letter which accompanied the article when you sent it to the president of the company?—A. I do not think I have, sir.
- Q. If you have will you produce it?—A. I will, sir.
- Q. Did you receive a reply from the president or any officer of the company in regard to it?—A. I either received a reply or heard from Mr. Forbes in regard to it.
- Q. Was that article ever returned to you?—A. It was not.
- Q. You stated it was given to you by Mr. Bell?—A. Yes, sir.
- Q. Do you know where Mr. Bell got it?—A. I do not.
- Q. Did he tell you?—A. I think he did, sir.
- Q. Well, what did he say?—A. He told me that general somebody gave it to him—a gentleman that lived directly opposite to him, I think.
- Q. The generals in Washington are so numerous you will have to be more particular.—A. I do not recollect his name. [Turning to Professor Bell.] What was it, Mr. Bell?
- Professor BELL (to witness). General Sypher.
- The WITNESS. General Sypher was his name, sir.
- Q. Do you know where General Sypher lives?—A. He lives directly opposite Mr. Bell. I think he is a lawyer in this city, sir.
- Q. Do you know whether he prepared it at Mr. Bell's instance?—A. Mr. Bell told me that he did not. That is all I know about it, sir.
- Q. Do you know how he came to give it to Mr. Bell?—A. As I say, he was a friend of Mr. Bell, or an acquaintance, rather. I won't say a friend. He was an acquaintance of Mr. Bell and as such gave it to him.
- Q. Did you learn whether General Sypher prepared the article?—A. I did not, sir.
- Q. Did Mr. Bell state to you who had prepared it?—A. He did not, excepting that he told me he had received it from General Sypher.
- Q. And it was delivered to him without a request from Mr. Bell. Was it a voluntary offering?—A. It was a voluntary offering; sent to him in a letter.
- Q. What purpose had you in sending it to the company?—A. I thought perhaps they would like to use it, sir.
- Q. Was any price fixed on it?—A. There was not.
- Q. Did you know that it was to appear in the New York World?—A. I did not, sir.
- Q. Did you know that fact before it did appear?—A. I did not, sir.
- Q. Were you not surprised to see an old acquaintance turn up in the World?—A. I was not very much surprised, sir.
- Q. Had you an intimation that it would appear in the World?—A. I had not.
- Q. What did the president of the company say to you, either by letter or when he talked to you face to face; what did he say about the article?—A. That they were unwilling to use it, as they did not wish to appear in public or have anything to do with the press.
- Q. Did he give any reason for not returning it?—A. He did not.
- Q. Did he tell you he had given it to the counsel for use?—A. I do not think he did, sir.
- Q. Did you ask him to return it to you?—A. I did not.
- Q. Had you retained a copy of it?—A. I did not.
- Q. Had Prof. Bell?—A. I do not know.
- Q. Can you give the conversation between yourself and Mr. Bell at the time of the delivery of the article to you, substantially?—A. I think he told me he had a curious or an interesting paper relating to the Pan-Electric Company which he thought I might like to see.
- Q. Well, anything further?—A. I think not.
- Q. There was nothing said about sending it to the company?—A. There was nothing.
- Q. Did he know you were going to send it to the company?—A. He did not.

Q. Were you to return it to him when he handed it to you?—A. There was nothing said about returning it.

Q. Did you understand that he gave it to you to use or merely gave it to you to see?—A. I supposed he gave it to me for me to use—to do what I thought fit with it.

Q. Was there anything said between you as to the use you might make of it?—A. There was not, sir.

Q. What was your view about it; you say you supposed he gave it to you for any use you might see fit to make of it?—A. He gave it to me as a curious document. I laid it away for some time in my drawer, and then I thought proper to send it to the president for any use he thought fit.

Q. I understand you no copy was retained?—A. No copy was retained by me. Whether Mr. Bell retained one or not I do not know.

Q. Was the first knowledge you had of the article when Prof. Bell gave it to you?—A. It was the first knowledge that I had of this paper that Mr. Bell handed me; yes, sir.

Q. Did you not know before that that an article was to be prepared?—A. I did not.

Q. Why do you say it was the first knowledge you had of this paper?—A. Because I did not know but by "article" you referred to the piece that appeared in the paper. I wish to make a distinction between a newspaper article and a paper handed me.

Q. This article did not refer to any other piece that appeared in the paper?—A. I do not know that the paper I had and the article in the newspaper were the same.

Q. I understood you a moment ago to say you thought them to be the same?—A. No, sir. I understood them to be the same. It was merely a memory of something six or eight weeks apart.

Q. Substantially the same?—A. Substantially. I said this was substantially the same thing I saw before.

Q. Did you not know before Prof. Bell handed you this paper that some article or something in relation to this matter was being prepared, or to be prepared?—A. I did not.

Q. Had such a thing been talked of?—A. It had not.

Q. The advisability of making a publication of that kind?—A. It had not. It was deemed inadvisable to publish anything on behalf of the American Bell.

Q. That you learned after you sent the article?—A. I had been so informed by the president.

Q. Then why did you send this article?—A. Because I thought that was of peculiar interest, and he might think fit to change his mind.

Q. Of peculiar interest?—A. Yes, sir.

Q. Had the substance of it appeared previously?—A. I think the substance of it had all appeared, but not in the form and order of arrangement.

Q. You stated that the company had concluded before that not to publish anything?—A. Yes, sir.

Q. Were you present at that meeting?—A. I was not.

Q. How did you know it?—A. I was so informed by the president.

Q. How were you informed, by letter or orally?—A. Orally.

Q. Where?—A. Here.

Q. How long before you sent on the article?—A. I cannot say, sir; I do not recollect.

Q. Well, was it a long time or a short time?—A. Oh, it could not have been a very long time.

Q. When the president informed you of that fact, was there any talk of any particular matter for publication?—A. No, sir; all that was said was that the American Bell had better keep out of the newspapers in every way.

Q. How was that question brought up between you and the president, if you can remember?—A. I think it was in discussing the policy which we had better adopt in regard to these suits.

Q. And you say there was no particular matter for publication then talked of?—A. Nothing; no, sir.

Q. Only the general question of policy not to publish anything?—A. The general question of policy.

Q. And yet you thought that this was such a peculiar article that the company might change its policy.—A. I did.

Q. Although it contained nothing new, nothing that had not already appeared?—A. I do not say it contained nothing new. I say the substance of it had already appeared at different times.

Q. What made you think, then, that the company would change its policy?—A. I did not think so. I merely thought it was my duty, having received this document, to turn it over to them to let them act upon it.

Q. When you had your subsequent conversation with the president, was nothing said about the return of the article?—A. No, sir.

Q. Or what disposition was to be made of it?—A. No, sir.

Q. You did not feel bound to return it to Professor Bell or General Sypher?—A. did not.

Q. Is there more than one General Sypher or Lawyer Sypher in this city that you know of?—A. I am not aware of more than one, sir.

A. Do you allude to General Sypher who was a former member of Congress from Louisiana?—A. I do not know whether he was or not, sir. I think I have heard that he had been, sir.

Q. Did you ever have any other articles or papers or letters in your possession submitted to you by Mr. Bell or by anybody else with reference to the Pan-Electric?—A. I have not, sir.

Q. Did you call Professor Bell's attention to the article after it appeared in the New York World?—A. I have no recollection that I did, but I haven't any doubt that I did, sir. It is rather singular if I did not.

Q. Did you have any knowledge as to how it got into the newspaper?—A. I did not.

Q. As you had sent it to your company and your company had determined not to publish it, did it not surprise you a little that the article should turn up in the World?—A. It did, sir.

Q. Did you make any inquiry about it?—A. I do not think I did.

Q. I wish you would try to remember whether you did or not?—A. Will you repeat the question, please, sir.

Q. You say you were surprised to see the article turn up in the World after you had sent it to the company and the company had determined not to publish it. I want to know whether you gave expression to that surprise to any person or made any remark about it whatever?—A. I have no recollection of any, sir, yet I should not be surprised if I had.

Q. Well, that is only quite recently.—A. That is only quite recently, sir.

Q. Did you never talk to the World representative here, sir?—A. I do not know him, sir.

Q. Or the editor of the World?—A. I do not know him.

Q. Or anybody connected with the World?—A. I do not know them, sir.

Q. You never asked how he got it?—A. I never asked how he got it.

Q. If I recollect the testimony of Mr. Pulitzer, that article was in his possession a couple of months before the time you fixed as sending it.

Mr. MILLARD. This is a copy of the original, as testified by Mr. Forbes yesterday.

The CHAIRMAN. He said he knew of no copy retained.

Mr. MILLARD. Mr. Forbes?

The CHAIRMAN. This witness.

The WITNESS. I said what?

Q. (Resuming.) I believe that you said that you did not know of any copy being retained?—A. I did not, sir. There may have been a dozen for all I know.

Q. But I want to call your attention with a view of refreshing your memory to the testimony here. That for two months prior to the time you sent it to the company at Boston it was in the possession of the New York World, in Mr. Pulitzer's desk, according to his testimony. Did you know that fact?—A. I did not, sir.

Q. Was it in manuscript or type-writing?—A. I do not know; I rather think it was in type-writing, but I am not certain; I do not think I should have read it if it had not been.

Q. Was it in print?—A. It was not in print.

Q. Did you concur in the policy of the company not to go into the newspapers?—A. I did, sir.

Q. Why did you send this article on, then?—A. I have already said that I wished to have them determine.

Q. And yet you thought its publication would have been a mistake?—A. I have not said that, sir.

Q. Well, you have agreed that that was the better policy?—A. I have said that I agreed that it was the best policy for the American Bell not to, sir; I have not said that it was not a good thing to have that published.

Q. Well, did you think it was a good thing to have it published?—A. I think it was, sir.

Q. Well, did you undertake to have anything else published?—A. I did not, sir. I did not undertake to have that published, if you please, sir.

Q. That seemed to be a step towards its publication.—A. No, sir.

Q. Well, did you assist or forward the publication of anything with relation to this matter?—A. I did not, sir.

Q. You thought it was a good thing to do by somebody else than the company?—A. I thought it was. I still think so.

Q. Why might the company not have published it as well as anybody else if it was or the benefit of the company?—A. Because, as I have before said, the company had

decided that they would not in any way enter into a newspaper controversy in regard to this matter.

Q. And you thought that was wise?—A. I thought that was wise; I thought so.

Q. And yet you think it would be well enough for somebody else to publish it?—

A. I did.

Q. Then why might not the company have done it as well as an individual?—A. As I have before said, sir, we did not wish to appear in public in the press.

Q. But you would like to have it done by somebody else?—A. I personally should. Whether the company would or not I cannot answer. The same way that I am very glad that this investigation has gone on before this committee.

Q. I am glad to find somebody is pleased with it; perhaps you have helped on the investigation?—A. I have not, sir.

Q. Have you had any consultations with any person—I do not speak of members of the committee, but any outside persons—with a view to bringing matter before the committee?—A. I have not, sir.

Q. Have you made any suggestions to anybody?—A. I do not remember any, sir; I do not think I have even spoken to our counsel and Mr. Forbes; I may, possibly, but I have no recollection of having done so.

Q. With a view to bringing in matter before the committee?—A. I have not that I recollect of, sir.

Q. You thought the investigation was a good thing?—A. Yes, I do think so.

Q. You did not attempt to help it in any way?—A. No, sir; I had other matters to attend to.

Q. Have you other matters more important than the Bell Telephone Company?—A. I have paid but very little attention to it. I have not attended a meeting of the directors for eight months, I think—nine months. Some time since I offered to resign my position as director because I could not attend to it.

Q. I understood you to say, Mr. Hubbard, that you have not communicated with any public officer in any way in relation to the Government suit?—A. I have not, sir.

Q. Or with a view to procuring the discontinuance of what is called the Memphis Government suit?—A. I have not, sir.

The CHAIRMAN. That is all, sir.

By Mr. HANBACK:

Q. After you three organized your company, did you approach members of Congress and offer to give them a large amount of stock?—A. We never gave anybody any stock, sir, unless we had value received for it.

Q. You did not have any United States Senators and Members of Congress by gift or otherwise?—A. No, sir.

By the CHAIRMAN:

Q. You were not giving anything; your part of that transaction was in taking everything?—A. I do not know what you mean.

Q. Mr. Hanback has asked you whether you gave away any stock. Of course you did not. The original transaction seems to have been a transfer of interest to you without the payment of any present consideration?—A. I beg your pardon; it was not, sir. It was for the payment of a large consideration.

Q. *In futuro*. There was no consideration paid at the time, you have stated already?—A. There was not at the very day, but, as I have said before, there were many thousand dollars paid by me under that contract.

The CHAIRMAN. That is all.

By Mr. HALL:

Q. Wait a moment, please. You say that contract was a verbal one?—A. I think it was, sir.

Q. That is to say you entered into an obligation———A. (Interrupting.) With reference to the inventions of Mr. Bell.

Q. You entered into obligations to pay many thousand dollars?—A. No, sir.

Q. Well, now, that is the impression that your statement made?—A. I did not mean to make that. I said I entered into an obligation under which I subsequently had paid many thousand dollars; I did not at the time I made it expect to pay anything like I did.

Q. You acquired how great an interest in his invention?—A. I acquired one-third.

Q. And the only obligation you entered into was to pay such sums of money from time to time as were necessary for its developing?—A. In taking out patents and developing the invention.

Q. How much does it cost to take out a patent?—A. Well, sir; it depends upon who your counsel is.

Q. Well, I do not mean your counsel; that is not a part, properly speaking, of taking out a patent; I speak of the amount paid the Government?—A. Really I do not know, sir.

Q. Is it a large or an inconsiderable sum?—A. It is an inconsiderable sum, sir; but the counsel fees are very large; that is a considerable part.

Q. Are counsel fees for procuring a patent which is not contested by anybody considerable?—A. I have always found it so whenever I have been interested in any manner; I know I have always charged pretty well myself.

Q. Then you probably had to take some of your own medicine?—A. Yes, sir; I did.

Q. Now, in this agreement that you speak of, was there any limit to your obligation that it should go to any extent, or to what extent it should go?—A. There was not.

Q. Was it left to your discretion to pay as much money or as little as you pleased?—A. Substantially it was. There were three of us, all friends, working together.

Q. And you became a third owner and the whole thing was left in your discretion to pay as much or as little money as you saw might be to your interest in connection with the other gentlemen?—A. Yes, sir.

Q. So that at any time you could have stopped and said, "I will pay no more?"—A. I suppose I might. In that case I should have been obliged to return my share of the patents, however.

Q. Yes. That is, you would do that when you found out that it did not amount to anything?—A. Yes.

Q. But as long as you thought there was value in it you would experiment and proceed?—A. Yes.

Q. When you came to organize the corporation—I do not remember what the first was?—A. The first was the joint-stock company, called the Bell Telephone Company.

Q. Now, as I understand your testimony, instead of transferring this property to that company it was transferred to you in trust?—A. Because it was a joint-stock company.

Q. That, I suppose, was in pursuance of law?—A. Yes, sir.

Q. Now, at that time some other individuals were admitted?—A. Well, I do not think there were any at that time. If there were they were very few in number.

Q. At that time there was no new consideration paid, as far as you were concerned?—A. There was not. We were continually spending money in the development of the invention. Every month more and more sums were called for.

Q. The invention was gradually making progress, and its property was increasing in value?—A. Constantly.

Q. And finally, by reason of its development, it had increased to such value that you went through the process of forming several organizations until it finally terminated in the American Bell Company?—A. No, sir; only one.

Q. That was the intermediate company?—A. Yes; then it was thought best, and the two were merged into the Bell Telephone Company and the New England.

Q. The Bell Company owned ten millions of that stock. Six shares were issued for one?—A. I do not think there were ten millions issued at that time. I do not want to say that I am correct about these figures.

Q. I understand that. That, however, would represent the capitalization of the former stock, this six hundred and fifty thousand dollars. Was there that much stock there?—A. No, sir; there was not. It might have been a million perhaps. So that six for one for the new stock would make six millions.

Q. So that this constantly increasing stock represents the increasing valuation of these patents as well as patents that you were constantly acquiring from the beginning in which you acquired a third interest upon the mere consideration of paying the expense as far as you saw proper, and quitting when you saw proper?—A. Yes, sir; which, as I say, developed into the expenditure of many hundred thousand dollars.

By the CHAIRMAN:

Q. Can you state what amount of this money you paid out before you received anything from the undertaking?—A. I think Mr. Sanders and myself paid out some fifty or sixty thousand dollars.

Q. Before you had any return?—A. Before we had any return. I may be mistaken, but I think that is about the amount.

Q. What did you receive for the license granted to the New England Company, if anything?—A. We received a portion of the stock, sir.

Q. Anything else?—A. I think not, sir.

Q. Any money consideration?—A. I think not, sir; I am very certain we did not.

Q. Were there any other local companies?—A. We took our share and the other parties took their stock and paid in cash into the company for the amount they received.

Q. Paid into the treasury of the New England Company?—A. Paid into the treasury of the New England Company. That gave us more money for the purpose of developing the enterprise.

Q. Did you organize or license any other local company during the existence of the other company?—A. We did not, sir.

Q. Did you license any during the existence of the National Bell?—A. That I do not know, sir; immediately after the National Bell was organized I went to Europe.

Q. Have you received money for licenses granted to local companies?—A. Our plan is this, sir: To furnish the telephones to the companies and charge a rental upon those so furnished.

Q. Is that all?—A. That was the original plan. Then after that, as these companies were formed, they have paid us a portion of their stock in consideration of the patents.

Q. Have any of them paid you any money?—A. I do not know, sir. I could not answer that question.

Q. Is not the license regarded as a valuable privilege?—A. Yes.

Q. And you give the license to a piece of territory for a part of the stock?—A. Yes, sir. That is, a company will be organized with a capital, and a portion of that stock will be given to the parent company for the right to use the telephone within that district.

Q. All you receive then, if you receive no money, is the royalty on the instrument and the part of the stock?—A. Yes, sir.

Q. What part of the stock do you usually get?—A. Generally, I think, it has been 35 per cent. There have been instances, I think, where as high as 50 per cent. has been paid.

Q. I wish you would recall whether you have not in some instances received money?—A. I do not know anything about it, sir. I am not the treasurer of the company.

Q. Oh, I am aware of that, sir. But you were president of the company for awhile?—A. No, sir; I never was the president.

Q. You were president of the Bell Company, were you not?—A. Yes, sir.

Q. Then you *were* president?—A. I was of that company, but that was a joint stock company, and we never gave any licenses of this kind, and we never received any money for licenses.

Q. Had the Bell Company set up instruments before it was merged?—A. Yes, sir; it set up a great many.

Q. And received a considerable sum of money, I suppose?—A. Our royalty was ten dollars an instrument, fifty per cent. of which we allowed as commission to the agent.

Q. Is it more than ten dollars now?—A. No, sir; it is no more. I think it is less.

Q. Ten dollars a year?—A. Ten dollars a year; yes, sir.

Q. When did you begin to receive dividends from this enterprise?—A. I think in 1881, sir. I think that was the first one. [Looking around.] Am I right, Mr. Driver? He is not here. It may have been in 1882, but I think it was in 1881, sir.

Q. Well, the company had had considerable earnings before that?—A. Yes, sir.

Q. And those earnings had been applied to the business of the company?—A. Yes.

Q. What time did you expend this fifty thousand dollars?—A. We expended it prior to the formation of the National Bell Telephone Company, which was formed in 1879.

Q. Well, had not the Bell Telephone Company had considerable earnings?—A. They had had considerable earnings but much larger expenditures.

Q. Larger than to the extent of fifty thousand dollars?—A. Yes, sir; my impression is, sir, that it cost us over fifty thousand dollars to get up a call bell.

By Mr. HALL:

Q. [Facetiously.] You do not mean the original Bell?—A. Not the original; that was one of the great surprises, disappointments, we met; that when we got the telephone we found it was no use until we could get some means of calling, and the call bell was one of the most difficult things we had to get up.

By the CHAIRMAN:

Q. And that cost you fifty thousand dollars?—A. Oh, I say in round numbers. I do not mean to give exact figures of course. I think I went over it one time and found that the bell alone had cost us that amount.

The CHAIRMAN. That is all.

By Mr. MILLARD:

Q. Just a single question. When you increased your capital stock, do I understand you issued stock for more than the actual value?—A. I was gone at the time, sir. As I understand it they took the actual market value of the stock at that time.

Q. You mean the actual cash market value?—A. The actual cash market value of the stock at that time. The stock went up of course very rapidly in value after the invention became thoroughly known and appreciated by the public.

Q. Now, then, when you came to multiply your stock or issue the stock, did you exceed the actual cash value that it had at that time?—A. I think we never did.

Q. In other words, one share prior to the enlargement was equal to the six shares?—A. Yes, sir; the invention had become known and appreciated in the value and estimation of the public, and they gave us that price for it.

Q. And it had that cash value in the market?—A. It had that cash value in the market.

The CHAIRMAN. If you will just come back some time and tell us what your capital was, we shall be obliged.

The WITNESS. If you will address me a note stating what you want I will give it to you, sir.

Mr. HALL. I suppose, Mr. Chairman, so that he may not forget it, he desires merely a memorandum.

Prof. ALEXANDER GRAHAM BELL recalled and examined.

By the CHAIRMAN:

Question. It appears from the testimony of Mr. Hubbard that he received from you the article spoken of by the president of the company yesterday; from whom did you receive it?—Answer. It was a copy, sir, of one that I had received. Of course, I am frequently receiving a great many communications from people I do not know anything at all about.

Q. From whom did you receive it?—A. I received it from Gen. Sypher, of this city, with a note. I took it as a friendly offer, on his part, of information.

Q. Who is Gen. Sypher?—A. I do not know, sir, except that I have met him here. He lives opposite to me, on the same street—on Rhode Island avenue.

Q. Do you know who prepared it?—A. I think he stated in his note to me; I am not certain.

Q. Who did he say prepared the article?—A. I cannot undertake to say from memory. I have a copy of his note here, if you will allow me to consult it.

Q. Yes.—A. But at the same time I may say I took this as the confidential act of a gentleman having friendly intentions. I do not know whether it is proper for me to give the information contained within his note, but if you desire it I will do so.

Q. I think it is within the scope of the investigation.—A. I may say in regard to this matter that I received from General Sypher a copy—a type-written copy, if I remember rightly—of this article referred to by Mr. Hubbard as the one he received from me, and as usual in such cases I turned it over to the counsel of the company; but it seemed to me to possess such interest that before sending it to Mr. Storrow I made two type-writer copies of it, and presented one to my father-in-law and kept one myself.

Q. You may say who wrote the article.—A. General Sypher says it is an authentic statement of facts compiled by Col. E. N. Hill.

Q. Is that the same Col. Hill referred to in another investigation that is going on here?—A. I know nothing about him, sir.

Mr. MILLARD. My recollection is that it is the same E. N. Hill that Casey Young said did some writing for him.

Mr. YOUNG. Oh, I said nothing of the kind, sir.

Mr. MILLARD. I suppose you want to trace it back to the original author?

The CHAIRMAN. We will call on Col. Hill.

Q. (Resuming.) It was prepared by Col. E. N. Hill?—A. So Gen. Sypher states.

Q. Did he state to you how Col. Hill happened to prepare the article?—A. No, sir; nothing about that, sir.

Q. He did not explain how it came about that Col. Hill had prepared it?—A. No; he simply says:

“I hand you herewith an authentic statement of facts compiled by my associate, Col. E. N. Hill. It may be of interest to you. The scheme to destroy your patents was tolerably well matured, and it remains to be seen whether this reform administration will lend itself for its consummation.

“Very truly yours,

“J. HALE SYPHER.”

Q. That is the same man, then, who was a member from Louisiana—J. Hale Sypher. I remember his name. Col. Hill is the witness who was called in the investigation of the alleged bribery of officers of the House of Representatives.

Mr. RANNEY. Are you testifying now?

The CHAIRMAN. I am asking the question.

A. I did not know about that; I do not know the man.

Mr. MILLARD. He is not the party charged.

The CHAIRMAN. He is the man who finally got the money, so it is alleged.

Mr. RANNEY. The chairman seems not only anxious to identify him but to destroy him.

The CHAIRMAN. Oh, I spoke of him as a witness. It comes out on the other side where the money comes from.

Mr. RANNEY. It seems he told the truth in his article.

The CHAIRMAN. You had better wait until we get through the investigation before you make up your mind as to what is true.

Mr. RANNEY. You had better wait before you make up your mind.

The CHAIRMAN. I have not made up my mind.

Mr. MILLARD. You passed judgment on Sypher.

The CHAIRMAN. Not at all; and I do not want it understood that I have made any remark derogatory to Mr. Sypher; when he said J. Hale Sypher, I simply remembered him as a member from Louisiana at one time.

Mr. RANNEY. I do not think either of us ought to indulge in comments as to anybody.

The CHAIRMAN. I certainly shall not.

By the CHAIRMAN:

Q. (Resuming.) Was that the first information you had of the preparation of an article?—A. The first, sir; yes.

Q. Had you ever spoken to General Sypher about it before?—A. No; I have not spoken to him about it now. I have not seen him, sir. It was a communication to me. I thought it best not to see any one.

Q. Have you any acquaintance with Mr. Hill?—A. Not that I know of. I know a great many people by the name of Hill, but I do not know this gentleman at all.

Q. Had you any acquaintance with General Sypher?—A. I have met him in society. That is all.

Q. You say you knew nothing whatever of the publication of this article?—A. Nothing at all.

Q. It was a voluntary offer?—A. So I took it; an offering of friendship on his part.

Q. Has Gen. Sypher been attorney for your company?—A. Not that I know of.

Q. Or Mr. Hill?—A. Not that I know of.

Q. Do I understand you that you had a copy of that article made?—A. Yes, sir; I had two copies made, one I gave to Mr. Hubbard, and the other I kept myself.

Q. Did I understand you to say you sent one to Mr. Storrow?—A. I sent the original to Mr. Storrow.

By Mr. MILLARD:

Q. That is the one you received?—A. The one I received I sent to Mr. Storrow, and also sent him the note Sypher sent to me.

By the CHAIRMAN:

Q. Have you any recollection whether the article received by you from Gen. Sypher was in manuscript, in type-writing, or in print?—A. I am not very certain; I think it was in type-writing. It certainly was not in print, but I think it was in type-writing.

Q. Do you remember that you intimated or stated to Mr. Storrow any use that might be made of the article, or stated your purpose in sending it?—A. No. It is simply my custom to hand over anything that comes to me in that way to counsel without any comment whatever.

Q. Why did you give it to Mr. Hubbard if you sent one copy to Mr. Storrow?—A. It seemed to me of peculiar interest, and I thought that my father-in-law would like to have a copy of it.

Q. Did you ask Mr. Hubbard to send it to the company?—A. No, sir. I was unaware that he had done so, for I had sent the original to Mr. Storrow.

Q. Was there anything said in your letter about the publication of the article?—A. Nothing. Shall I read it again, sir?

Q. You may if you wish.—A. He says [reading]:

“DEAR SIR: I hand you herewith an authentic statement of facts compiled by my associate, Col. E. N. Hill. It may be of interest to you. The scheme to destroy your patents was tolerably well matured, and it remains to be seen whether this reform Administration will lend itself for its consummation.

“Very truly, yours,

“J. HALE SYPHER.”

By Mr. MILLARD:

Q. Is that letter dated?—A. Yes; it is dated October 26, 1885.

Q. You have now read the whole letter?—A. I have read the whole letter.

By the CHAIRMAN:

Q. How long after the receipt of this article did you send it to Mr. Storrow?—A. The next day, sir.

Q. It appeared in the World in January if I recollect aright. Do you remember?—A. I do not remember. I do not know that it appeared in the World at all. I know

the substance of it was published in the World, but I have never compared the two to find out whether they were identical.

Q. It appeared in the World the 27th of January. I wish you would look at this article and state whether it is your recollection that that it is the one referred to?—A. Well, I cannot very well tell, sir. But I have my copy of the article here.

Q. Here present?—A. Oh, yes. I should be very happy to give it to you.

By Mr. MILLARD :

Q. A copy of the one you received?—A. Yes, sir ; I made two type-written copies, gave one to Mr. Hubbard and kept the other myself. [Submitting the paper to the chairman.] If you will allow me I shall be very happy to leave this for the use of the committee.

(At this point the chairman of the committee and Mr. Oates proceeded to compare a portion of the article referred to appearing in the New York World with the article submitted by witness.)

Mr. RANNEY. I think the article itself ought to go into the record and the fact, after it had been compared, be stated whether they are the same. I suppose the purpose is to show they furnished it to the World.

The CHAIRMAN. I don't know whether they did or not ; we will see about that.

Mr. RANNEY. In that view it would be competent.

The CHAIRMAN. I think it would be better to put in now the copy made by Professor Bell, as he is on the stand, and then we may be able to show that this article published in the World is the same as the one already in evidence.

By the CHAIRMAN :

Q. (Resuming.) You say it is the article you received?—A. Yes, sir ; a copy made in type-writing.

Q. At what time did you send it to Mr. Storrow?—A. The day after I received it.

Q. What is the date of that letter?—A. The date is on it ; October 26, I think.

The type-written copy made by order of the witness as referred to by him is as follows :

THE PAN-ELECTRIC TELEPHONE COMPANY.

ITS INCEPTION, RISE, AND PROGRESS—WHAT IT PROPOSES AND WHAT IT HAS ACCOMPLISHED.

The Pan-Electric Telephone Company is founded upon inventions and patents issued to J. Harris Rogers, formerly of Memphis, Tennessee, but now a resident of Washington City, and it will therefore be not amiss before commencing its history, to say a few words as to his antecedents.

The Hon. Casey Young was elected to represent the Tenth Tennessee district, as a representative to the Forty-fourth Congress. After taking his seat in December, 1875, he succeeded in having Mr. J. Harris Rogers appointed electrician of the House of Representatives. Whilst in that position Mr. Rogers claims to have made a number of discoveries in *telephony* and *telegraphy*, which, after his retirement from office, he patented. These patents were transferred to an organization known as the "*Secret Telephone Company*," and this company after the lapse of some years transferred its patents to the "*National Improved Telephone Company*."

After the sale of his patents Mr. Rogers continued his experiments in electrical matters, and after a time secured other patents. Upon these latter patents a company was formed by Mr. Rogers and his father, Dr. J. Webb Rogers, called the "*Pan-Electric Compay*," which was located in the city of New York.

The management of the "*Pan-Electric*" failed to attract capitalists as investors in its stock, and the Messrs. Rogers bethought them of the old patron of the inventor, Col. Casey Young, who was again in Congress.

In the spring and summer of 1883 the organization of a new company was determined on. Dr. J. Webb Rogers, a gentleman of ability, standing, and culture, and an enthusiastic believer in the genius of his son, J. Harris Rogers, saw the advantages that a company controlled by men of high political position and character would have over any other in the event a *postal telegraph bill* should become a law. He knew Senators Harris, of Tennessee, and Garland, of Arkansas, two Senators than whom none stood higher in the South, and also Col. J. D. C. Atkins, one of the leading Democratic Representatives from the South, who had for years been chairman of the Appropriation Committee. All these gentlemen agreed to take an interest in the organization of the company, and as this was to be an enterprise appealing to the South for its political aid, it was now only necessary to secure a distinguished Confederate general to put at the head of it. This was done by getting Gen. Joseph E. Johnston, and the combination was complete.

It was determined to divide the *telegraphic* and *telephonic* inventions and form two companies, and accordingly there was organized in the spring of 1883 "The Pan-Electric Company" and "The Pan-lectric Telegraph Company."

These companies were identical in their stock, stockholders, organization, and officers, so that a statement as to the one covers the other.

The Pan-Electric Telephone Company has five million dollars capital stock, divided into shares of one thousand dollars each; these shares were held originally by the following named persons:

Joseph E. Johnston.....	\$500,000
Isham G. Harris.....	500,000
A. H. Garland.....	500,000
Casey Young.....	500,000
J. D. C. Atkins.....	500,000
J. Harris Rogers.....	2,000,000
The Company.....	500,000

It will be observed that these five gentlemen each held one-tenth of the stock, but knowing the vagaries of inventors, they required that another tenth, making a majority, should be put under their control, so that they could have the business in their hands. This \$500,000 worth of company stock belonged to the holders of the other shares in proportion to their holdings, but was controlled by the board of directors and could be used in any way it saw fit. These directors were old politicians and had not forgotten that notable saying of Oakes Ames, as to "*placing stock where it would do most good.*"

The board of directors of the company was composed of Joseph E. Johnston, Isham G. Harris, A. H. Garland, Casey Young, J. D. C. Atkins, and J. Harris Rogers.

The officers were: Joseph E. Johnston, president; Isham G. Harris, vice-president; Casey Young, secretary and treasurer; A. H. Garland, attorney; J. Harris Rogers, electrician.

Messrs. Johnston, Harris, and Young were made an executive committee with all the powers of the full board.

The telephone company was chartered by the State of Tennessee, with its principal office in Memphis and another in Washington City. Under the laws of that State as to corporations, all that was necessary to be paid in of the five million capital stock was the fee to the Secretary of State for using his seal, amounting, in this case, to four dollars and fifty cents.

The agreement by which these gentlemen became the owners of the Rogers patents was that they should put up what money was necessary to take out patents, manufacture telephonic instruments, and to put up experimental wires.

All this work was done in the summer of 1883.

In November of 1883 the incorporators of the Pan Company were assembled in Washington, and, as the experiments had been pronounced successful, the directors determined to commence operations. In the mean time Mr Rogers had disposed of one-third of his interest, \$833,333, to Col. Robert F. Looney, a lawyer and speculator, of Memphis, Tennessee, and he was added to the board of directors and took an active part in its management. The directors determined to issue licenses to local companies, that is, sell territory in which the Pan-Electric instruments were to be used.

The terms upon which these sales were to be made were agreed upon, and are as follows: "Forty per centum of the capital stock of the local company to be held by the Pan Company; all instruments to be furnished by the Pan Company at a stated price. A royalty of ten dollars per annum to be paid by the local company on each instrument; a bonus, in cash, to be paid by each local company."

Under these conditions eight local companies were formed: One for Pennsylvania, with the Hon. Robert Klotz, formerly in Congress, as the principal promoter, Gen. Frank Armstrong, now Indian inspector, being the secretary; one in Baltimore, the Hon. Eli J. Henkle, formerly in Congress, being the promoter, to which the States of Maryland, Virginia, and District of Columbia was sold; one in St. Louis for Missouri; one in Wisconsin; one in Tennessee; one in Alabama, of which Gen. Upshaw, now chief clerk of the Indian Bureau, was the promoter; one in Texas, and one in Louisiana. The two first-named companies were not required to pay any bonus, but in all their contracts the Pan Company *agreed to defend the validity of its patents at its own expense.*

An opinion was asked for and given by the attorney of the company, Senator Garland, as to the validity of the patents, which reads as follows:

When the first local company paid its bonus of ten thousand dollars, the directors proceeded to pay back the sums expended by themselves in paying for patents, experiments, &c. This amounted to \$275 for each of the five, showing that of the five million dollars capital stock there never was paid in but one thousand three hundred and seventy-five dollars, *being a little more than one fortieth of one per cent.*

After this money was paid back the directors next proceeded to divide the remain-

der of the ten thousand dollars as a dividend to the stockholders, the amount received by each holder of one-tenth of the stock being a little less than six hundred dollars.

The five hundred thousand dollars of company stock had in the mean time been partially distributed, one hundred shares going to Ex-Gov. Jno. C. Brown, of Tennessee, now resident in St. Louis and principal attorney for what is known as "The Gould system of Southwestern Railways." Other sums were given or sold to other parties having or supposed to have either local or national influence, Senators Vest, of Missouri, and Vance, of North Carolina, each getting a portion.

Mr. Rogers, for reasons not necessary to explain, was removed from the position of electrician, and Dr. J. E. Harlan was given that place.

At the beginning of the first session of the Forty-eighth Congress a brother of Senator Vance, Mr. R. B. Vance, then a Representative from North Carolina, introduced a bill in the House of Representatives giving the Attorney-General power to bring suit, upon application, to vacate patents; this bill was referred to a committee, which reported in favor of its passage, saying in its report that since 1836 the Attorney-General had not been intrusted with this power. The bill passed the House of Representatives almost unnoticed, but was never reported from the Senate Committee on Patents.

It might make an interesting newspaper article if the names of the parties who went before this Committee on Patents to advocate the passage of this bill could be given.

At the same time with the bill above spoken of there were introduced into the House several postal telegraph bills, all of which were referred to the Committee on Post-Offices and Post-Roads, of which the Hon. H. D. Money, of Mississippi, was chairman. These bills created a vigorous fight, and the result was no legislation. The interest of the Pan Company in this fight can best be told by Dr. J. Webb Rogers himself. In the winter of 1883, in a conversation with a gentleman whom he was trying to get interested in the Pan Companies, and who asked why so many politicians had been put into the companies instead of well-known business men, Dr. Rogers said: "You do not understand our idea; we intend to get a postal telegraph established, and political influence will give us the control of that, *then we will have the grandest monopoly in the world.*"

But to return to the movements of the Pan directors in a business way. Contracts continued to be made in the spring of 1884, until eight local companies, as before stated, were organized; as these companies paid in the required bonus, the money was paid out to the stockholders as dividends, two being declared in July of \$1.50 per share, giving each of the original promoters, Garland, Johnston, Harris, Young, and Atkins, seven hundred and fifty dollars at each division, or fifteen hundred dollars in that month. Another dividend of the same size was declared later, *aggregating about three thousand dollars profit to each of these gentlemen within eighteen months upon an investment of two hundred and seventy-five dollars each.*

When the Democratic national committee met at the Arlington Hotel to determine the time and place for holding the Democratic convention there was a vacancy from Tennessee. To secure still greater political power, Senator Harris, Col. Young, and Col. Atkins, leading Democrats from Tennessee, succeeded in having Col. Robert F. Looney, then the largest individual holder of Pan-Electric stock, placed on the committee as the representative from Tennessee.

The Pennsylvania Company, under the energetic handling of Mr. Klotz, had gotten so far along that the Bell Company interfered, and asked for an injunction upon the ground that the Rogers patents were an infringement upon the Bell patents. Under its contract the Pan Company had to defend this suit, and its attorney commenced preparation to do so.

In the mean time an episode had occurred in New Orleans. A nephew of Col. Looney had gone to that place to promote a local company to work under the Pan-Electric. A Mr. Van Benthuyzen had been suggested as "the most fit and proper" person to manage the business, but it seemed that he, in connection with Mr. C. P. Huntington, of Mississippi, and other parties, had become the owners of the first patents of Rogers, sold by him to the Secret Telephone Company, and that a company was organized to work these and other patents, under the name of the National Improved Telephone Company. This company claims that it owned, by prior purchase, all the inventions of J. Harris Rogers, and that the Pan Company was using what belonged to them. There was a bitter fight, which resulted in driving the Pan Company out of New Orleans.

The stopping of the Pennsylvania Company by legal process acted as a damper upon purchasers, and there were no more victims coming forward with their bonuses so that dividends in the Pan Company ceased.

Nearly all the distinguished corporators were so busily engaged in politics in the fall of 1884 that they could not attend to the Philadelphia suit. When the result of the election was known they rejoiced in the idea that their political friends were to rule, and at once commenced to work for such places as would give them most power.

Col. Money, who, as chairman of the Post-Office Committee, had favored a postal telegraph bill, was pressed for Postmaster-General, Mr. R. B. Vance, who had introduced and passed the bill through the House of Representatives, giving the Attorney-General power to bring suit to vacate patents, was slated for Commissioner of Patents; Col. Casey Young, secretary and treasurer of the companies was to be Solicitor of the Post-Office Department. Colonel Atkins, one director, was to be Commissioner of Indian Affairs. General Johnston, a director and president of the company, was pushed for Railroad Commissioner, and Senator Garland, a director and the attorney of the companies, for Attorney-General of the United States.

An examination as to who was backing and urging these appointments will disclose the fact that every one connected with the Pan Companies was urging them. Only the three last-named of the list were appointed. Mr. Vance, however, failing to get to be Commissioner, was made Assistant Commissioner of Patents. A part of the programme failed, but enough was carried to give the Pan Companies great political power. The president of the company was in a condition to dictate terms to some of the most powerful railroad companies in the country. Its friend was placed where he could overlook the question of patents. Its attorney was Attorney-General of the United States. One of the directors was Commissioner of Indian Affairs, which would place him in communication with numbers of wealthy contractors, whom he could enrich or ruin.

When all that could be had been done towards securing high places for its members, the Pan Company could once more look after its local interests.

The case in Philadelphia had been allowed to go by default, and various efforts had been made to get a case at St. Louis or Memphis, but had failed.

Just at this juncture an occasion was offered which was eagerly seized upon by the shrewd politicians who controlled the Pan Company.

The National Improved Telephone Company had established itself in Pittsburg and had been promptly enjoined by the Bell Company. At once the Pan Company proposed to aid it in defending the suit. After some conferences this proposal was accepted. The terms of compromise between the two companies are not known, but the fact is known that instead of fighting each other as before, these companies had joined forces to fight the Bell Company. All the preparations made by the attorneys of the Pan Company were given to the National for its fight at Pittsburg. Col. Young, with Col. George Gantt, of Memphis, one of the leading lawyers of that city, came to Washington, and *after a meeting of the Pan directors*, went to Pittsburg to attend the trial on the 6th, 7th, and 8th of July. The decision of the court, that it would not hear arguments, but would follow the precedent established by the courts and grant the injunction, destroyed the well-laid plans of the two companies, and left them adrift.

The leading spirits in the Pan Electric Company are *Senator Isham G. Harris* and *Col. Casey Young*, of Tennessee. Both these gentlemen are bold and fearless. They had a great stake at interest, and it was doubtless through their advice that the next card was played. They knew nothing of the Fabian policy, which, as a general, the president of the company understood so well, but they knew how to make a down-right attack.

Dr. Rogers says that he called on Attorney-General Garland and asked him to commence proceedings against the Bell Company to vacate its patents, and the Attorney-General refused, because of his interest in the Pan Company.

This has not been denied. Mr. Garland himself tells of the call made by Senator Harris, Col. Young, and others, and of his refusal to act.

If the laws of the country justified such a suit the refusal of the Attorney-General to bring it because Mr. Garland held stock in a rival company is absolutely unjustifiable. His duty, his sworn duty, was to execute the law as he understood it. If the Bell Telephone Company was, as alleged, using a patent fraudulently issued, no personal consideration should have kept the Attorney-General of the United States from moving to set that patent aside, if there was any statute authorizing such a suit.

But he refused to bring the suit.

It will be remembered by every one who reads the daily papers that when plans were being published of how the President and members of the Cabinet were going to spend their vacations, the facts being obtained directly from the parties, that it was announced that Secretary Lamar and Attorney-General Garland would take no vacation, each remaining in or near Washington.

On the 29th of August Mr. Van Benthuysen and Mr. C. P. Huntington, representing the lately defeated National Company, registered at the Ebbitt House in Washington. On the next day Col. Casey Young and Col. Gantt, representing the Pan Company, stopped at the same place as did Mr. Bradley T. Johnson, the president of the local Pan Company in Baltimore. That these gentlemen were in consultation together is well known. On the first of September Col. Casey Young secured private apartments at 1327 G street, a most central locality, within two squares of the Ebbitt, Riggs, and Willard's. At these rooms a number of conferences were held amongst the parties named above, *and among the callers upon Col. Young while these conferences were being held* was Attorney-General Garland. Shortly after the conferences closed

it was announced that the Attorney-General would soon start for a visit to his country place in Arkansas, and he did leave on August 27th, burying himself in the woods away from all postal or telegraphic communication, and remaining there until the press of the country was glowing with comments upon the action of the Department of Justice.

In a few days all the parties to these conferences, Messrs. Young, Gantt, Van Benthuyssen, Huntington, and Johnson, went to their respective homes.

The Bell Telephone Company, of Boston, commenced suit in Baltimore against the local Pan Company for infringement of its patents. Immediately the local Pan Company, of Memphis, Tennessee, commenced suit against the local Bell Company of the same place for infringement of its patents. In the one instance the parent company brought the suit for the benefit of its licensees; in the other instance the local company brought the suit.

In his letter published in the New York Tribune of September 30, in defense of the Attorney-General, Dr. Rogers says: "Col. Young informed me and my son that the Attorney-General had agreed that a suit should be brought by the Solicitor-General against the Bell Telephone Company, at the instance of the National Improved Company." That statement has never been denied by any of the parties.

Attorney-General Garland left for Arkansas on the 27th of August. Promptly on the first of September Col. Young arrived in this city and stopped at Wormley's. *Private rooms were not needed on this occasion.*

On the second, Col. Casey Young and Senator Harris called upon the Solicitor-General, finding there the application which had arrived that morning, made by the district attorney for the western district of Tennessee, to bring suit in Memphis to vacate the Bell patents. This application was granted at once, and without reference or consideration, for Solicitor-General Goode informed Col. Young the next morning that the order had been forwarded to commence the suit. Mr. Goode was acting Attorney-General on the second day of September, and had all the routine work of the Department of Justice to perform; had to receive visitors who came on business to see the Attorney-General, and yet he had time to consider a question involving millions, examine the papers in the case, determine upon the propriety of the suit, see that authority existed to bring it and order the commencement of it; all within one working day of seven hours. Such prompt action has hardly ever been paralleled in a Government office. And Mr. Goode by his action showed that he was not afraid to assume responsibility. A committee of Congress a year before that the Attorney-General had no power to bring such a suit, as Mr. McCorry, district attorney for Tennessee, had requested authority to bring. Mr. Goode did not know that such a report was in existence, or, if he did, assumed to know more as to the powers of the Attorney General than Congress did.

But to return to our narrative.

Each one of the companies holding under the Pan Company, except the Pennsylvania and Baltimore, paid a bonus for its privilege, and besides paid ten dollars each for all the telephone instruments it used in its plants. In addition, these companies paid all the expenses of "a plant." All this was an actual cash outlay, varying in amount according to the size of the "plant" and the number of instruments purchased. The bonus in each case was the same—ten thousand dollars. Then forty per cent. of the capital stock of each of these companies was reserved for the Pan Company, and it paid no part of the "bonus" or the cost of the "plant" and instruments.

For this expenditure the local companies received a license to use the Pan-Electric telephones and a guarantee of protection in using them.

The Pan Company having failed to protect its licensees by the ordinary processes of law, brought its powerful political influence, originally intended to be used in another way, into play, and brought, or attempted to bring, the whole power of the United States to its aid in crushing out all opposition—that is, the Bell patents.

To fully understand the interest which Attorney-General Garland had in breaking down the Bell patent, it will be necessary to recapitulate a little.

First, there was his five hundred thousand dollars stock in the Pan-Electric Telephone Company—one-tenth of the whole company was his. Then there is the forty million dollars capital stock of the licensed companies, of which forty per cent., or sixteen million dollars, belonging to the Pan Company; of this one-tenth, or one million six hundred thousand dollars, belongs to Attorney-General Garland. But that is not all, nor even a small part of what would result from the breaking down of the Bell patents. In that event there would not be eight but at least fifty companies, with capital stocks averaging five million dollars each, that would seek licenses from the Pan-Electric-Company. Two hundred and fifty million dollars is an exceedingly small estimate of the amount at which the companies using the Pan-Electric Telephones would be capitalized, if the Bell patent was invalidated. Forty per cent., or one hundred millions, of this stock would belong to the Pan Company; one-tenth of that, or ten millions, would be the property of Attorney-General Garland. Paying only five per cent., and this is a small allowance, he would have an income of over five hundred thousand dollars, and that without being out one dollar.

Senator Harris and Col. Young, Gen. Johnston and Commissioner Atkins, Dr. Rogers and Col. Looney, would each have as much, or more. Is it to be wondered at that these gentlemen brought all the political influence they could command to have the United States, which had succeeded in crushing a rebellion wherein eleven millions of people were engaged, to interpose its power to crush out a rival company?

There was another potent reason working upon these parties one and all. The laws of the country are particularly severe upon bogus corporations which obtain money without giving an equivalent, and though corporations are without souls or bodies, the men who compose them are not, and hence, unless the Bell patents could be broken down and declared invalid, the men who had invested their money in the sixty per cent. of the local companies, which had been licensed by the Pan Company, who had paid bonuses, built plants, bought telephones, which were without value, would be apt to call upon the parties who had induced and profited by these expenditures, made upon false statements as to law and facts, to make good the losses. Messrs. Harris, Young, Garland, Looney, Johnston, Rogers, and Atkins were the parties who had made the statements and profited by the expenditures, and *they* could be made to repay all these losses.

There was ruin both in fortune and fame upon the one side and almost unbounded wealth on the other. It was worth stretching the law and the power of the Government to secure the one and prevent the other.

In the formation of the local companies, particularly in the East, where it was to be expected that the Bell Company would first assert its rights, particular care was had by the Pan Company to secure local political strength. Dr. Eli J. Henkle, an ex-member of Congress, and a leading Democrat of Baltimore, was intrusted with the formation of the company that was to control the cities of Baltimore and Washington. General Bradley T. Johnston, one of the most popular of the Southern Democratic leaders in Maryland, was made president of the company.

In the Pennsylvania Company, Mr. Robert Klotz, a leading German citizen, and an ex-member of Congress, was selected to organize the company. In the South and West the political magnates who controlled the parent company knew their power was supreme, and only required money from their licensees, furnishing the political influence themselves.

The list of the names of the leading stockholders and officers in this company reads almost like a page from the Government Blue Book:

A. H. Garland, Attorney-General.
Joseph E. Johnston, Railroad Commissioner.
J. D. C. Atkins, Indian Commissioner.
Isham G. Harris, U. S. S., Tennessee.
George G. Vest, U. S. S., Missouri.
Zebulon G. Vance, U. S. S., North Carolina.
Robert Klotz, ex M. C., Penn.
Eli J. Henkle, ex-M. C., Md.
Casey Young, ex-M. C., Tenn.
—— Upshaw, ch'f clerk, Ind. Bureau.
Frank Armstrong, Indian Inspector.
Jno. C. Brown, ex-gov., Tenn.

Q. (Referring to a paper submitted by witness.) I see on this same sheet your reply to Mr. Sypher's letter?—A. Yes, sir; from my secretary.

Mr. RANNEY. Read it.

The WITNESS. (Reading:)

J. HALE SYPHER, Esq.:

DEAR SIR: Mr. Alexander Graham Bell directs me to thank you for your letter of 26 October instant, and the accompanying papers upon "the Pan-Electric Telephone Company."

Very truly, yours.

For ALEXANDER GRAHAM BELL,
F. L. RADCLIFFE.

27 OCTOBER, 1885.

Mr. RANNEY. That letter and answer ought to go in.

By the CHAIRMAN:

Q. You say you sent that article to Mr. Storrow about the day or day after you received the copy?—A. Yes, sir.

Q. And if I recollect right, it is already in evidence that it appeared in the World on the 27th of January following, just three months after. Do you know whether Mr. Storrow furnished the World with that article?—A. I asked him so, sir. I was struck by the likeness between the World article and that, and so, specifically, asked Mr. Storrow whether it had been furnished by himself or the company, and he informed me that it had not; that he had nothing to do with it.

Q. It seems to agree with the testimony of Mr. Pulitzer, that he had the article three months before the publication, and you say Mr. Storow told you that he did not furnish it to the World?—A. Yes.

Q. Did he tell you that he did not furnish the article or that he did not furnish the copy you sent him?—A. He said that he had made no use of it whatever in regard to furnishing it to newspapers.

Q. When did you see him to talk with him about it?—A. When he was in Washington. He has been on to Washington a number of times. I cannot say when.

Q. How long was it after you sent it?—A. After the appearance of the World article.

Q. Did you call his attention to the fact that it had appeared in the World or an article substantially the same?—A. Well, yes; we had some conversation upon the subject, in which I remarked he might have seen it was the same article, and I was curious to know whether he had anything to do with it.

Q. He seems to have had two copies of this article; one received from you and one received from Mr. Hubbard, through the president of the company. You say he stated he had made no use of it?—A. Yes, sir.

Q. You did send the letter received by you from General Sypher to Mr. Storow?—A. I did, sir.

Q. Retaining a copy of it?—A. Yes, sir.

Q. That is the way you made this copy?—A. Exactly. That is a copy of a copy.

By Mr. MILLARD:

Q. Did you say you knew Mr. Hill?—A. I do not know, sir. I haven't any knowledge of that gentleman. I know a number of gentlemen by the name of Hill, but whether any of them may be the gentleman mentioned in the letter of Mr. Sypher, I do not know.

Q. You do not know the gentleman mentioned in that letter?—A. I do not.

Q. Do you know where he lives?—A. I do not.

By Mr. HALL:

Q. Did this communication come to you through the mail or was it delivered by a messenger?—A. That I do not remember; I simply know I received it at my house.

Q. Have you an office?—A. No. It came to my house.

Q. You do not remember the circumstance how it came?—A. No; except that it came in an envelope; I found it in my mail, but whether it came through the mail or was delivered at the door I do not know.

Q. You have a secretary who conducts your correspondence?—A. Yes, sir.

Q. Is this a copy from your books, or is it a copy that was prepared at the time you sent this communication with your answer?—A. This is a copy of a copy that I made of General Sypher's letters at the time I sent it to Mr. Storow.

Q. Well, I want to know whether———A. (Interrupting.) The answer is a copy of a press copy, however.

Q. And when you sent this original letter of J. Hale Sypher's to the attorney of the American Bell Company you directed your secretary to make a copy of it?—A. Yes, sir.

Q. Not in a letter-press book, but on a separate piece of paper?—A. I presume so; I do not remember just now. I can find out if it is of importance at all.

Q. When did you have this copy made?—A. To-day, sir.

Q. You had no knowledge or information upon the subject of the preparation of such a paper as accompanied this letter until you received it?—A. Nothing whatever, sir.

Q. Had not the matter been spoken of between yourself and Mr. Hubbard?—A. No, sir; excepting in a general way, but I was carefully warned by Mr. Hubbard and by the counsel of the company to have nothing to do with newspapers.

Q. Then you did know that something was going on? You knew that the papers in some way were handling matters or were going to handle matters, and you had been carefully warned to keep your fingers out of the matter?—A. No. A number of newspaper reporters were after me to interview me on various subjects, and I was simply warned to keep clear of them.

Q. Then you were simply warned to keep clear of them?—A. Yes; and not to communicate anything to the press.

Q. Had not Mr. Hubbard and yourself discussed the question of the propriety of the Bell Telephone Company becoming a party to the controversy, and hadn't you heard it was best for their interests to keep out of it?—A. No, sir; I had not heard anything about it. But I was anxious to contribute things to the newspapers in my own defense, and I consulted counsel and was very much mortified to be told that I had better not do so, but to trust my vindication to the courts.

By Mr. MILLARD:

Q. Has the question been asked you whether you paid anything for this article or not?—A. I think not; but I did not, sir.

Q. Do you know of any of your company, or any of its directors, directly or indirectly procuring this publication?—A. No, I do not. In fact, I have the most positive assurance they did not.

Q. And was any demand made by Sypher or anybody else for compensation for it?—A. No; I took this as a friendly offer, as a proof of a friendly spirit towards myself. I did not understand that he desired in any way payment, although, as you saw from the testimony of Mr. Forbes, it was presumed payment was wanted.

Q. When you took it from the envelope was that the first knowledge or information you had that such an article had been written?—A. It was, sir.

By Mr. HALL:

Q. What had been the business relations between you and Gen'l Sypher?—A. None whatever, sir.

Q. You never had any business relations in the world?—A. Not that I know of.

Q. Were you on social intimate terms?—A. No, sir.

Q. Was he a stranger to you?—A. I don't think I should recognize him now. I have met him in society.

Q. Then you thought that was a friendly act?—A. Yes, I took it in that way. I am not in the habit of receiving matters of that kind—

Q. (Interposing.) You did not make any effort to make his acquaintance?—A. No; in fact, after that I made an effort not to make his acquaintance.

Q. Were you afraid?—A. No; it was simply as a matter of policy. I wanted to keep out of this matter.

Q. What was there as a matter of friendly feeling about it if you did not want to make his acquaintance?—A. I say I took it as a friendly offering. I may say I had forgotten at the moment that following my reply I received another letter from General Sypher, in which he enclosed some newspaper scrap which I have here in which he suggested that this history would not be complete without this newspaper scrap. I do not remember what it is.

Q. Let us have those?—A. This is the only copy I have [producing same]. This is the original letter and has the scrap attached to it.

Mr. RANNEY. You can read the letter and let the stenographer take it down.

The WITNESS. It is addressed to my secretary, I think.

Mr. HALL. Let me see it [letter submitted by witness]. It differs from the former in that respect.

The WITNESS. Yes, sir.

Mr. HALL. It is a letter headed J. Hale Sypher, attorney and counsellor at law, number 1313 F street N. W., Washington, D. C., October 27th, 1885.

The CHAIRMAN. It is the same day.

Mr. HALL. (Reading:)

Mr. F. L. RADCLIFFE.

1500 R. I. Ave.:

DEAR SIR: I omitted to attach Mr. Garland's opinion to the paper which I sent to Prof. Bell yesterday, as referred to therein. I beg to enclose it herewith, as without it the paper is not complete.

Very truly, yours,

J. H. SYPHER.

Shall I read the enclosures?

Mr. MILLARD. I suppose it is his opinion.

Mr. RANNEY. What are the enclosures? Are they newspaper slips?

Mr. HALL. Yes.

The CHAIRMAN. They are opinions, are they not?

Mr. HALL. Yes. This is the note in reply to Myers.

Mr. OATES. It is already in.

Mr. HALL. It is already in.

The CHAIRMAN. Make a reference to it then to show it is in the record.

Mr. HALL. The clippings enclosed in this letter consist of a note dated Washington, January 4th, 1884, to Hon. A. H. Garland, and signed by D. E. Myers, and dated January 5th, 1884, addressed to D. E. Myers, and signed by A. H. Garland, supposed to be papers that are already in evidence.

Q. (Resuming.) Now this letter is dated the day following the first note received by you?—A. Yes, sir.

Q. And on the same day the reply was written?—A. Yes, sir.

Q. Do you know whether Mr. J. H. Sypher had received that reply before this note was written?—A. I do not know, sir.

Q. Did you send your note to him through the mail or by messenger?—A. I am sure I do not remember.

Q. Do you remember whether his letter to you was written upon a letter-head like that or not?—A. I do not recollect that either, sir.

Q. Are these the only communications you received from J. H. Sypher?—A. I believe so.

Q. You never had a personal interview with him?—A. No, sir; I was very careful not to have. He called at my house.

Q. Did you ever inform anybody of the fact that he had sent you these communications?—A. No, sir; I did not.

Q. Who made the copies of that statement for you?—A. There was a young lady who was at my house doing some other work for me at the time on the type-writer, a Miss Nicholson, I think, who is a professional type-writer; she made it on the type-writer in duplicate, at my own house.

Q. When were they made?—A. Just right off, because I sent the original the next day to Mr. Storrow.

By Mr. MILLARD:

Q. Did you answer the second letter at all?—A. No, sir; not at all. It did not seem to require an answer. I was not anxious to correspond on the subject.

JOHN D. O'CONNOR sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?—Answer. In Washington.

Q. What is your occupation?—A. Stenographer.

Q. Were you at any time the clerk for Mr. Cox who was a member of Congress from New York?—A. Yes, sir.

Q. When were you his clerk?—A. In 1884.

Q. You say you sustained that relation to him in 1884?—A. Yes, sir; I was clerk to the Committee on Naval Affairs of the House and acted as his secretary. He was chairman of that committee.

Q. Have you any recollection of Mr. Cox receiving a letter from Dr. J. W. Rogers?—A. Well, I have recollection of his replying to a letter received from Dr. J. W. Rogers.

Q. Did you see the letter received from Dr. Rogers?—A. I do not remember that I did, sir; I may have. I undoubtedly did, but I do not think I read it; if I did I do not recall it now.

Q. Do you remember of any inclosure in the letter, or was there any?—A. Yes, sir.

Q. What was it?—A. It was a certificate of stock in the Pan-Electric Telephone Company.

Q. For how much?—A. My recollection is that it was for twenty thousand dollars.

Q. Now, you may state what occurred, as far as you know, at that time?—A. Well, in replying to his correspondence of that day, he said, "I have received a letter," or "I have here a letter from Mr. J. W. Rogers, in which he says I enclose you a poem, but I do not find any poem but this certificate," and he made some jocose remark about there not being very much poetry in that, and he did not know whether it was a joke or what, but anyway he dictated a letter returning it.

Q. Did you write at his dictation?—A. Yes, sir.

By Mr. RANNEY:

Q. You say there was no poetry in it?—A. There was no poem in the letter—so he said. He did not receive any; only that enclosure, the certificate.

By the CHAIRMAN:

Q. You have stated it was a Pan-Electric Telephone certificate?—A. That is my recollection of it; I found the original letter. Mr. Barr let me look at Mr. Rogers' letters yesterday evening, and I found the letter I wrote to Dr. Rogers.

Mr. RANNEY. The letter Mr. Cox wrote is on page 9 of the printed record.

The WITNESS. I mean the letter Mr. Cox wrote to Dr. Rogers.

Mr. RANNEY. I have no doubt this is a copy of that.

The CHAIRMAN. I thought you referred to the letter of Rogers to Mr. Cox.

Mr. RANNEY. No; I referred to the letter of Mr. Cox to Rogers.

Q. Have you that?—A. No, sir; Mr. Cox has that himself.

Q. You say he dictated the reply?—A. He dictated the reply.

Q. And is it the letter that you find in the package of Dr. Rogers' letters before you?—A. Yes, sir. [Exhibiting a letter.] This is the letter that I wrote at Mr. Cox's dictation.

Q. You say you have the letter before you?—A. Yes, sir.

Mr. RANNEY. Dr. Rogers, when he was on the stand, stated what his reply was.

The CHAIRMAN. Hand it to the reporter and let him put it in now.

The letter referred to is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., Jan'y 13, 1884.

DEAR MR. ROGERS: Presuming on what you have already written me, and not having received your poem, and not understanding the nature of the shares which you

send me, I am bothered, and can only solve the problem by sending you back the shares, which I enclose herein. I don't suppose they are good for anything, or you would not be sending them around so fluently.

Yours, with respect,

S. S. COX.

(1 enclosure.)

Mr. RANNEY. Let us compare it to see whether it is right. [The printed copy and the manuscript copy were here compared by witness and Mr. Ranney.]

Mr. RANNEY. Is that a correct copy?

The WITNESS. Yes, sir. It is marked "one inclosure."

Mr. RANNEY. That was the stock?

The WITNESS. Yes, sir.

By the CHAIRMAN:

Q. Well, sir, what direction did Mr. Cox give you about the delivery of that letter?—A. Well, this letter which he dictated and which I wrote was signed "S. S. Cox," by me. I was in the habit of signing a great deal of his mail for him at his request.

Q. How is it signed?—A. "S. S. Cox." And when he came into the committee-room that afternoon I said to him, "Mr. Cox, will you allow me to make a suggestion?" He says, "Well, what is it?" I says, "In regard to this letter to Dr. Rogers returning this certificate of stock. As you say, apparently it is a joke, but you do not know what may be in it. You do not know what time may develop about it or what may come of it in the future, and if there is any ulterior motive about it, if you return it through the mail, as you seem to want to do, it can be easily said, if they are so disposed, that it was never received back, and therefore I will take this letter and deliver it to Dr. Rogers in person and get his receipt for it." He said, "I think that is a very good suggestion; you had better do it." So I wrote a receipt myself and went down that afternoon to see Dr. Rogers. I do not think he was there, and I called next morning on my road to the committee-room and found him and presented the receipt to him and told him my instructions, and he treated it rather lightly; said he did not see why there was so much formality about it; that he and Mr. Cox were friends. But at any rate, after a moment or so, he signed the receipt before I handed him the letter with the inclosure. When he signed the receipt I gave him the letter. The receipt that I made or wrote was something like this: Dated; "Received of John D. O'Connor, clerk to S. S. Cox, certificate number so and so," whatever it was, "and representing so many thousand dollars' worth of stock."

By Mr. RANNEY:

Q. Did you keep the receipt?—A. No, sir; I am coming to that now. After he signed it I asked him myself for a couple of copies of the poem to which he referred. As matter of curiosity I wanted them for myself. He gave them to me, and when I came back to the Capitol I showed the receipt to Mr. Cox, and then placed it along with Mr. Rogers's letter, forwarding the certificate, both of which Mr. Cox has, or had when I ceased to be his clerk, in his bundle of answered letters. If he has not destroyed them he has both yet.

By the CHAIRMAN:

Q. You have stated that it was Pan-Electric Telephone stock?—A. That is my recollection; yes, sir.

Q. I see Dr. Rogers testifies that it was the Rogers telephone stock; that he sent it both to Mr. Cox and Mr. Beach, and also to Mr. Carlisle. Have you any distinct recollection about it?—A. Well, I cannot say I have distinct recollection about it. By the way, Mr. Cox said that he did not think that it could be of any very great value or they would not be distributing it so gratuitously, especially in such large amounts.

Q. Did Mr. Cox send you to Dr. Rogers to make any inquiry or to get any more light in regard to this company or stock or anything else?—A. The only time I saw Mr. Rogers was at the time I state, and the only conversation that occurred between us was what I stated. I asked him nothing at all regarding the stock or anything pertaining to it.

Q. Did Mr. Cox direct you to make any inquiry regarding it?—A. No, sir; he did not.

Q. I ask you that question because Dr. Rogers says, "At any rate he wanted more light about it before he would keep it." Did you state to Dr. Rogers that Mr. Cox would keep it under any circumstances?—A. No, sir; I did not.

Q. Or that he wanted more light or information about it?—A. No, sir; I did not, and I did not state anything from which he could draw such an inference.

Q. Did you say this to him; I will read his testimony:

"He sent his clerk down to my office to say that Mr. Cox did not know anything

about this thing, and would not take stock unless he knew enough about it, and he returned the stock to me at the same time."

Did you make any inquiry about the stock whatever?—A. No, sir; I told Mr. Rogers that my instructions were to return him that certificate of stock and get his receipt for it, and when he signed the receipt I would give him the certificate for it. At first Mr. Cox did not seem to—

Q. (Interposing.) Do you know anything more about the transaction?—A. I was going on to say that at first Mr. Cox did not seem to recollect who Mr. Rogers was, and when he told me the name I told him that he undoubtedly knew him; that he was more or less of a prominent man in Washington, and that he must have met him at some time or other, and I told him that his son Harry Rogers used to be electrician of the House, and he recollected who he was.

Q. You say you returned the receipt to Mr. Cox?—A. Yes, sir; and he retained it amongst his file of answered letters.

Q. Did you have any more conversation with him at the time of taking the receipt?—A. No, sir. I have told you what I told him; that Mr. Rogers rather hesitated to sign the receipt, and that he didn't see why there was such formality about it; that he and Mr. Cox were friends.

Q. You reported that to Mr. Cox?—A. Yes, sir.

Q. What did Mr. Cox say to that?—A. I do not recall anything.

By Mr. RANNEY:

Q. Did Mr. Cox take his letters abroad with him or are they here anywhere?—A. I do not know whether he took them abroad or not. I ceased to be his clerk. I was his clerk from January to April.

Q. I see his reply was January 13, 1884.—A. This letter is dated January 13, 1884.

Q. Then there is another letter of Senator Garland's introducing Rogers of January 18 to Mr. Cox. Were you present at any time when he presented that letter?—A. No, sir.

Q. Were you present when anybody came to see Mr. Cox in regard to getting the younger Rogers appointed electrician of the House?—A. No, sir; I was not.

Q. Do you remember whether there was any pamphlet or circular inclosed in the letter when the certificate of stock came?—A. Mr. Cox said that it referred to a poem and the only thing inclosed was this certificate, and he made some jocose remark about there not being very much poetry about that.

Q. About the stock?—A. About the stock.

Q. Did Mr. Rogers say anything about having omitted to send any poem?—A. I believe I told him Mr. Cox failed to receive the poem, and I asked him for a copy myself, and he gave me a copy. He gave me a couple, I think.

Q. Have you them?—A. No, sir.

Q. Did Dr. Rogers say that he failed to inclose it?—A. He might have said he possibly overlooked it. I do not know that he said anything about it at all.

Q. Have you that poetry?—A. I did have it for awhile.

Q. What has become of it?—A. I suppose it is lost. I left it in the committee-room.

Q. Do you know what it related to?—A. As near as I can recollect, it was some poetry about the assassination of President Lincoln; something referring to that in some way or other.

Q. It was not singing the praises of the Pan-Electric?—A. No, sir; I do not think it was.

Q. Are you quite sure?—A. I am rather sure that it did not refer to any company.

Q. What did Rogers say other than what you have now stated? You have stated some things in my examination of you that you did not recollect before. Is there anything else you have forgotten?—A. No, sir. He did not state anything at all.

Q. Did he not say in substance he did not see why he should not keep it?—A. No, sir; and he did not state anything from which I could draw any such inference, either.

Q. I do not mean to intimate that there was anything wrong under heaven in Mr. Cox's connection with it, or that he ever took it or accepted it. But Dr. Rogers seemed to think otherwise. Did he not seem to be rather surprised when you wanted him to sign the receipt?—A. Yes, sir; he seemed rather surprised that Mr. Cox should think it necessary to take such formal steps.

Q. Did he read Cox's reply in your presence?—A. I handed him the receipt first and told him when he signed the receipt I would give him the letter. After he signed it I handed him the letter.

Q. Did he read that in your presence?—A. Yes, sir.

Q. What did he say when he read the letter?—A. I do not recall what he said.

Q. Did he laugh?—A. He rather smiled.

By Mr. MILLARD:

Q. Was there any special reason why you should take this receipt?—A. None in the world that I know of, only just the suspicion happened to cross my mind at the time I was writing the letter.

Q. Had you not heard anything about the Pan-Electric scheme at that time?—A. I do not think I had.

Q. Are you quite positive?—A. Yes, sir.

Q. Now, did Mr. Cox state any reasons for returning the stock, other than stated in his letter; did he state any reasons to you why he should return it?—A. No, sir.

Q. Did he say he wanted nothing to do with it? What did he say to you?—A. He may have said something of that sort.

Q. What do you recollect he said to you on the subject when he found that that stock had been sent to him?—A. He had not said anything. As I say, after coming to that letter, he took it out and said, "Here is a letter that I have received from a Mr. J. W. Rogers, in which he says he incloses me a poem. I have not found any poem, but I find this certificate of stock," and he laughed about it and made some jocose remark and said there did not seem to be very much poetry on that.

Q. On the certificate?—A. On the certificate; and then immediately commenced dictating his reply.

Q. Do you know of any other members of Congress having stock sent them?—A. No, sir; I do not.

Q. This remark that was put in your letter was made by Mr. Cox, I take it: "I do not suppose they are good for anything, or you would not be sending them out so fluently."—A. That letter was taken from Mr. Cox's own dictation and written out from his own dictation.

Q. As he dictated it at the time?—A. Yes, sir.

Mr. CASEY YOUNG. Mr. Chairman, is the committee through with me as a witness, and the books and papers?

The CHAIRMAN. As far as I know.

Mr. YOUNG. I would like to take them. I will return them at any time.

Mr. RANNEY. We may want to look at them. You will have them where you can return them?

Mr. YOUNG. Oh, the committee can have them at any time.

At this point the committee adjourned until 12 m. to-morrow.

WASHINGTON, D. C., *Thursday, April 29, 1886.*

A quorum being present, the committee was called to order at 12.35 p. m.

The CHAIRMAN. I desire to say to the committee that I have here the manuscript of the testimony of the Attorney-General. It appeared from a statement made to the committee a few days ago that the manuscript had been submitted to the Attorney-General, and had been corrected by him before it went to the printer. It was also stated by the reporter that perhaps the Attorney-General had struck out two or three questions and answers. I have examined the manuscript, and find that the reporter was mistaken. The Attorney-General struck out nothing, and made very few corrections—merely verbal corrections; nothing changing the sense of any question or answer, so far as I am able to discover. He made the change, which the committee had agreed should be made, as having returned to Washington in September instead of November, 1883. The manuscript is submitted to the committee for the inspection of any of the members who desires to inspect it.

I understand Mr. Sypher is present. Will you be sworn, Mr. Sypher?

J. HALE SYPHER sworn and examined.

By the CHAIRMAN:

Question. What is your present place of residence?—Answer. New Orleans, La.

Q. Have you a residence in Washington?—A. A temporary residence.

Q. How long have you been in Washington, sir?—A. I have been here at different times for twenty years.

Q. Did you formerly represent a Louisiana district in Congress?—A. I did, sir.

Q. What Congresses?—A. The Fortieth, Forty-first, Forty-second, and Forty-third Congresses.

Q. Do you practice law in Washington?—A. Sometimes.

Q. Have you at any time been concerned as an attorney or counsel for the American Bell Telephone Company or any other telephone company?—A. I have not.

Q. Do you know E. N. Hill?—A. Yes, sir.

Q. A letter was read to the committee yesterday purporting to have been written by you to Professor Bell, in which you speak of E. N. Hill as your associate. Have you any recollection of having written such letter?—A. I have.

Q. In what sense was Mr. Hill your associate?—A. He was associated with me in some cases, claims particularly; cases in which he had a contingent interest.

Q. Is he a lawyer?—A. I believe he is, sir.

Q. Does he practice in the courts of the district or any other courts?—A. I do not know, sir.

Q. You did not mean to say then that he was your partner in business?—A. No, sir; in no sense.

Q. The letter to which I have referred seems to have accompanied the manuscript of an article relating to the Pan-Electric Telephone Company. Do you recall that fact?—A. Yes, sir.

Q. Of having sent such an article with a letter?—A. Yes, sir.

Q. To Prof. Bell?—A. To Prof. Bell; yes, sir.

Q. Did you write the article in question?—A. No, sir.

Q. Do you know who did?—A. Yes, sir.

Q. Who was it?—A. E. N. Hill compiled the article in my office.

Q. Were you present at the time?—A. Part of the time.

Q. Did you assist in the compilation?—A. I suggested some matters in the compilation of the article.

Q. Did you suggest the preparation of the article?—A. I think I suggested the compilation of the article—to put on paper the facts which he had and which I thought I had.

Q. What facts did you have?—A. Personally?

Q. Yes; what facts did you put into the article or were put in by your suggestion?—A. I do not recollect specifically.

Q. Had any person suggested to you the preparation of the article?—A. No, sir.

Q. I will show you an article which subsequently appeared in the New York World. [Submitting a newspaper to witness.] You may look at it, sir, and state whether to the best of your recollection that is the one sent by you to Professor Bell?—A. (After looking at the newspaper article.) I recollect of reading this article in the World at the time of its publication.

Q. Is it the same article?—A. The facts are substantially the same.

Q. Is not the language the same?—A. I would not testify to that without a critical examination. The facts are substantially the same.

Q. Well, sir, will you make a critical examination?—A. If you will hand me the other manuscript.

Q. You may look it over. I do not mean word for word, but are not a good many of the words the same?—A. I decline to testify to words. When the two papers are before the committee I will verify them if you will give me the original.

Q. We will pass that for the present until we get the paper. You state that you had certain facts?—A. Information.

Q. Have you any recollection as to what it was?—A. Not definitely; no, sir.

Q. Will you give it to us as you do remember it?—A. By permission of the committee I will relate the source of some information which I possessed which will perhaps be intelligible to the committee.

Q. Will you give us the source of all the information you possessed?—A. During the month of July or August, while in New York—

Mr. HALL (interposing). I think we had better have him answer the question.

The CHAIRMAN. I have no objection to the statement. We may recur to the question.

A. (Continuing.) I met a gentleman by the name of Cahoon—Maj. William J. Cahoon, I believe, formerly of Louisiana. He informed me that he had some connection as agent or stockholder with the National Improved Telephone Company. He had been to St. Paul, Minn., where a suit had been instituted, as he informed me, to determine some question, and he stated that an organization had been perfected in New Orleans which was to unite with some other companies—the Pan-Electric I believe he named as one—for the purpose of introducing the Rogers' patents, and in the course of his conversation he gave me to understand that they proposed to make an assault upon the Bell Company, and if they could destroy those patents they expected to introduce others. I inquired of him if he had any literature on the subject, any publications on the subject in reference to his own company, the National Company I believe he called it. He said there were some publications and he would send them to me. He afterwards sent me some St. Paul papers containing the court proceedings and some other information. I submitted those papers to Mr. Hill when I returned here to Washington, and he said he knew a great deal about the Pan-Electric Company, and I then suggested to him that he compile the information contained in these papers with that which he possessed himself, and when he had done so I sent the manuscript with a personal note to Prof. Bell, who is my neighbor.

Q. When did you have your interview with Major Cahoon?—A. I think it was during the month of July or August; I won't be positive which month, but one of those months, probably August.

Q. There had been a suit in Saint Paul?—A. So I understood from Major Cahoon.

Q. Have you the Saint Paul papers?—A. No, sir; I did not preserve them.

Q. Did they relate to a suit in Saint Paul?—A. That is my recollection.

Q. Who were the parties to that suit?—A. I do not remember.

Q. Was the American Bell Company a party?—A. I think not.

Q. Was the Pan-Electric?—A. That I do not know. I think not, sir.

Q. Was the National Improved?—A. I think that was one of the parties litigant.

Q. It related to telephones, did it?—A. That is my recollection.

Q. You think the National Improved was a party. Now, who, or what company, was the other party?—A. I do not recollect. I gave it but the most casual attention—turned the papers over to Hill.

Q. What was the character of the suit?—A. I do not recollect, sir.

Q. Then you did not get much information from the Saint Paul paper?—A. I did not read it close enough to get the facts from it. I paid very little attention to it.

Q. Did you get any information which you afterwards embodied in this article?—A. Nothing but general information.

Q. Of what character?—A. Well, as to the purposes of this new organization more than anything else, and that I derived more from the conversation with Major Cahoon than from reading these papers.

Q. You did not get it from the Saint Paul papers, then?—A. No, sir; not fully. That is my recollection.

Q. Who is Major Cahoon; where does he live, and what business is he in?—A. I think he resides in New York. He formerly resided in Louisiana. When I knew him he resided in Louisiana, some twelve or fifteen years ago. My recollection is he was a member of the legislature of Louisiana, a State senator. He and General J. B. Price, of Missouri, had some transactions with the Rogerses with reference to their patents. I think at one time they had an assignment of a large interest in the Rogers patents with a view of introducing them.

Q. I understand, then, that that was the origin of the article in the World; that was the suggestion?—A. That was the first information called to my attention concerning this matter.

Q. Did you have a suggestion from any person else as to the preparation of an article of this kind?—A. No, sir.

Q. That you say was in July?—A. In July or August.

Q. The article does not seem to have been prepared until ——. A. (Interrupting.) I think it was in August.

Q. The article does not seem to have been prepared until the latter part of October, from the date of it?—A. I may state, Mr. Chairman, that there was a publication made in the New York Tribune preceding this article that you have before you.

Q. What was it, sir?—A. It contained much of the matter there is in that article you refer to that was afterwards published in the World.

Q. In what shape was it; a letter?—A. A communication from here. The correspondent of the Tribune I presume sent it from here.

Q. Do you know the date of it?—A. Well, I won't be positive; but I will state, to the best of my memory, that it was the 25th of August or September—the 25th of September, probably.

Q. Was it a letter from Dr. Rogers?—A. No, sir; it was a correspondence. I think it was matter sent by the regular correspondent of the Tribune in this city.

Q. My recollection is that the date you speak of was the date of Dr. Rogers' letter which appeared in the Tribune.—A. It was prior to Dr. Rogers' letter.

Q. Well, sir, did this Tribune article have anything to do with suggesting to you the preparation of the article in question?—A. That was matter which had been prepared prior to the preparation of this manuscript of which you speak.

Q. (Submitting a paper to witness.) That is the copy produced by Prof. Bell of the World article. Is that the article, sir; do you recognize it?—A. (After looking at the article.) I think this is the article, sir.

Q. The one which afterwards appeared in the World?—A. Yes, sir.

Q. You say you had no other suggestion as to the preparation of this article?—A. None whatever, sir.

Q. What was your purpose in undertaking the preparation of an article of that kind?—A. I had no definite purpose.

Q. Had you no design of any kind?—A. None whatever, sir.

Q. Why did you do it, then? You are a lawyer?—A. Yes, sir.

Q. You practice I suppose?—A. Yes, sir.

Q. Have you much spare time on your hands?—A. Mr. Hill prepared this article, I testified.

Q. I know, sir; but with your assistance it seems?—A. At my suggestion more properly than my assistance.

Q. Well, I want to know what your purpose was in having the article prepared?—A. I had no definite purpose in view, sir.

Q. Why did you do it?—A. I suggested it to Mr. Hill, who is a newspaper man, and he had abundance of leisure, and he did it.

Q. That is all?—A. That is all.

Q. In your letter which accompanies the article you say, "The scheme to destroy your patents was tolerably well matured."—A. Yes, sir.

Q. "And it remains to be seen whether this reform Administration will lend itself for its consummation?"—A. Yes, sir; that is my letter.

Q. That is your letter?—A. Yes, that is my letter.

Q. Did you intend it as an attack on the Administration?—A. Oh, no; not at all.

Q. Why did you couple the Administration and its reform pretenses with the matter?—A. Well, I thought the Administration was pretty well represented in the Pan-Electric Company.

Q. Then you did intend it as an attack on the Administration?—A. No, not an attack.

Q. What was it, then?—A. Well, you may denominate it. It was not an attack. I do not make attacks that way. It was not an attack.

Q. How do you make attacks, if you do not make them in that way?—A. Well, not in that way.

Q. You give us a name for it?—A. A statement.

Q. A statement?—A. Yes.

Q. Are you in the habit of making statements about matters that do not concern you?—A. In matters of public importance, I am.

Q. What other statement have you ever made; anything like this?—A. None in writing that I recollect particularly about. The only communications that I have had on the subject were communications with Professor Bell, and I believe one other letter. That is all; and I did that as a friendly act, the act of one neighbor to another.

Q. A neighborly act?—A. Yes, sir.

Q. If you regarded that as a neighborly act to Prof. Bell how did you regard it as to the gentlemen to whom it related? Was it neighborly towards them?

The WITNESS. To whom do you refer?

The CHAIRMAN. The men named in the article; the Attorney-General of the United States, General Atkins, Senator Harris, and others.

A. I would prefer that they would be the judges of that.

Q. You decline to say anything about that?—A. I will answer any question.

Q. Well, I want to know. You say you did it as a neighborly and friendly act to Professor Bell?—A. Yes, sir.

Q. I want to know whether you do neighborly and friendly acts of that kind by attacks upon other people?—A. My friendly and neighborly acts do not extend to all creation. This is not an attack on anybody.

Q. You befriend some people at the expense of others?—A. Yes; I believe that is human nature.

Q. You say you had no interest in the matter whatever?—A. None whatever.

Q. You say Mr. Hill is a newspaper man?—A. Yes, sir.

Q. Did you tell Mr. Hill he might make some money out of the article?—A. Possibly.

Q. Was not that the design?—A. Not on my part.

Q. Of course I do not say upon your part. You are not a newspaper man?—A. No, sir; nor did I make a dollar out of it, and did not expect to.

Q. But you expected Hill to make some money out of it?—A. No; I did not expect anything of the kind.

Q. You said you thought he might?—A. Undoubtedly he might; it is possible he might.

Q. In what way?—A. Do newspaper men do that kind of work for nothing? They get paid for what they do. They are entitled to be paid.

Q. With what newspaper is Mr. Hill connected?—A. I do not know, sir.

Q. Why do you call him a newspaper man?—A. Because he writes for the newspapers.

Q. And yet he is not connected with any one to your knowledge?—A. Not to my personal knowledge.

Q. You say you did this as a friendly act to Mr. Bell. Had you had any previous acquaintance with Mr. Bell?—A. Yes, sir.

Q. Any intimacy with him?—A. We have lived with one street between us for some years as neighbors.

Q. Perhaps the street was always between you?—A. It always was and always will be as long as we occupy our present residences.

Q. Did you ever cross over?—A. Yes, frequently.

Q. You can answer the question whether you had any intimacy with Professor Bell before doing this friendly act?—A. I have known Mr. Bell for eight or nine years, and esteem him very highly as a gentleman.

Q. That is not an answer to my question. I want to know whether you had any intimacy with him?—A. What do you call intimacy?

Q. Oh, friendly relations, meeting frequently, and all that sort of thing.—A. Yes, we met frequently.

Q. Where did you meet?—A. On the street.

Q. Did you visit his house?—A. Yes, sir.

Q. How frequently before the preparation of this article?—A. I do not know—not frequently.

Q. Did he ever visit your house?—A. Yes, sir.

Q. Frequently or otherwise?—A. Not frequently.

Q. Have your relations been more intimate with him since the article than before?—A. No, sir.

Q. Have you met him at all since the offering of the article?—A. Yes, sir.

Q. Where?—A. At his house.

Q. Has he ever been at your house?—A. No, sir; not since.

Q. On what occasion had you visited Professor Bell's house before the preparation of this article?—A. Well, on the occasion of his receptions, and other times.

Q. What are known as public receptions, or card receptions?—A. He does not give public receptions, as I understand it.

Q. Card receptions?—A. I think nobody goes to Professor Bell's house unless they are invited.

Q. How many times had you been there before the publication of the article?—A. I do not know, sir.

Q. Had you been there many or a few times?—A. Several times.

Q. Then you seem to have made this suggestion and to have taken part in the preparation of the article without any design or purpose. Is that a fact?—A. Without any special design or purpose.

Q. Did Mr. Hill occupy the office with you at the time, or about the time, this article was prepared?—A. He had a desk in my office at the time.

Q. When you sent the writing to Prof. Bell did you retain a copy?—A. Mr. Hill retained a copy.

Q. In your office?—A. It was in my office for a time; yes, sir.

Q. Did Hill do more in connection with this article than simply compile it under your direction?—A. Hill compiled the article mostly from facts in his possession. He had more facts of the Pan-Electric than I had. He knew more of the men in it and more of the facts connected with it.

Q. It is stated in this article, Mr. Sypher, that after Col. Young had taken his seat in Congress, in December, 1875, he succeeded in having Harris Rogers appointed electrician to the House. Did you furnish that fact or did Mr. Hill?—A. Mr. Hill furnished it; I knew nothing about it.

Q. It appears in the article that in the spring and summer of 1883 the Messrs. Rogers, after having associated Col. Young with them, induced Senators Garland and Harris and Col. Atkins to join in this Pan-Electric enterprise. Did you know that fact?—A. No, sir.

Q. That was furnished by Mr. Hill?—A. Yes, sir.

Q. It is stated in the article that they were selected because this Pan-Electric enterprise appealed to the South for its political aid, and that in order to complete the party General Joseph Johnston was taken in. Did you furnish that fact?—A. No, sir.

Q. You did not know it to be a fact, did you?—A. No, sir.

Q. It is stated also that the company was chartered in the State of Tennessee, and that its principal office was to be in Memphis. Did you know that fact?—A. No, sir; not from personal knowledge.

Q. Well, was it contributed by you or by Mr. Hill?—A. It was contributed by Mr. Hill; that was a public fact known to everybody who knew anything about the Pan-Electric concern; that they were organized under the laws of Tennessee, and that their office was in Memphis.

Q. It is stated that Col. Robert F. Looney, a "speculator or lawyer," was added to the board of directors. Did you know that, and did you contribute it to the joint undertaking?—A. Mr. Hill contributed that information.

Q. It is stated also that local companies were to be formed upon certain terms. The terms are given: That the parent company should have 40 per cent. of the capital stock, the instruments to be furnished by the parent company at a stated price. Did you know that?—A. Not from personal knowledge.

Q. Who contributed it to this article; you or Mr. Hill?—A. That was a statement variously made. Upon that basis the company was organized, and organized its companies in the different States of the Union.

Q. What do you mean by "variously made"?—A. I think I saw it in print several times.

Q. Did you contribute it to this article or did Mr. Hill?—A. I do not recollect.

Q. I see the letter of D. E. Myers to Senator Garland and Senator Garland's reply

embodied in the article. Who furnished these?—A. My recollection is that it was a clipping from a newspaper here in Washington that that was derived from, a publication known here as the Republic, which came to my office. It was in every number of the paper. It was a sort of an advertisement for the Pan-Electric concern.

Q. The fact of combination with the National Improved Company is stated also. Did you know that fact?—A. My recollection is that Major Cahoon gave me the fact that there was to be a combination between the two companies.

Q. Then you put that in the article?—A. I do not recollect whether I put it in or not. That is the source of my information to the best of my recollection.

Q. Had not Mr. Hill, who you say compiled the article, been a clerk in Colonel Young's office or had desk room in Col. Young's office?—A. I think he stated something of the kind to me on various occasions—that he had something to do with the Pan-Electric concern or was the private secretary or something connected with Col. Young. I have heard him state that in substance.

Q. That he had been connected with the Pan-Electric Company?—A. Yes; in some way or other.

Q. And did you join him in giving information to the public which he had obtained by his connection with the Pan-Electric Company?—A. I did not join him in anything.

Q. You have stated you did join him in preparing this article; that it was prepared on your suggestion?—A. He prepared the article in my office.

Q. And upon your suggestion?—A. Yes, upon my suggestion; you may call it so.

Q. And upon the facts contributed by you and Mr. Hill?—A. Yes, principally.

Q. And you knew he had been clerk for Mr. Young and connected with the Pan-Electric Company?—A. I did not know anything of the kind.

Q. You stated a moment ago that you did.—A. No; I did not, I beg your pardon. I stated he told me so, which is a very different thing. I did not know it at all. You have not asked me for my belief.

Q. Did you believe it to be the fact?—A. I had no reason to disbelieve it.

Q. Did you know it?—A. I never saw him in the employ of Col. Young; how could I know it? The honorable chairman is a lawyer himself. He knows I could not know it possibly unless I had seen it.

Q. Yes; I have heard distinctions of that kind made before.—A. I think it is a reasonable one.

Q. I do not think it is.—A. Which is a difference of opinion.

Q. Here is a man who tells you a fact, and you have no reason to disbelieve it, and you swear you do not know it because you did not see it.—A. That is good ground for stating that I did not know.

Q. Then you do not know anything you do not see?—A. I did not swear anything of the kind. I did not know it. That is the way I prefer to put it.

Q. You have sworn to the suit in Saint Paul, and sworn to many other things you did not see?—A. I swore to seeing it in the newspaper. You are misinterpreting my testimony.

Q. I beg your pardon. You swore to Major Cahoon telling you?—A. Yes, sir.

Q. Did you know that fact?—A. No, sir.

Q. You made no such distinction then?—A. No, sir; because that statement was drawn out of me in order to lay the foundation of my testimony, and I gave it to you voluntarily.

Q. I will put it in this way: Mr. Hill told you he had been Colonel Young's clerk, and had been connected with the Pan-Electric Company, and he furnished certain facts relating to the Pan-Electric enterprise. You say you had no reason to disbelieve him. You joined him then in embodying those facts in the article for publication?—A. I did not know to the contrary. I did not know his relations with Colonel Young. I heard him state repeatedly and publicly what his relations were. He did not state them to me, but it was common talk as to what his relations had been.

By Mr. RANNEY:

Q. Won't you state what those were?—A. I understood from Hill that he had been his clerk or secretary, or in some capacity had been in his office. The exact relation I never knew.

By the CHAIRMAN:

Q. You say you thought Mr. Hill was a newspaper man. This article was prepared with a view to publication, was it?—A. No, sir; it was not prepared with reference to any particular purpose or view or design.

Q. You say you thought Mr. Hill might make something out of it, as newspaper men do not work for nothing?—A. I said he might.

Q. Did you have that in view as one possibility?—A. No; I did not know what might happen.

Q. Then what has the fact of his being a newspaper man, and of newspaper men

not working for nothing, to do with this article; why did you mention it?—A. I mentioned it from the fact that it was drawn out of me by questions; I am answering questions; that is why I mentioned it.

Q. That is your answer to that question?—A. If I understand the question.

Q. Will, I will make you understand the question the best I can.—A. If you please.

Q. You have stated that Mr. Hill prepared this article as a newspaper man?—A. I testified he was a newspaper man.

Q. He prepared the article?—A. Therefore he prepared the article.

Q. That he might make some money out of it, as newspaper men do not work for nothing?—A. I did not testify he prepared it for the purpose of making money out of it.

Q. But you have testified to what I have stated?—A. I prefer to state it in my own language.

Q. You may state it in your own language now; you did before.—A. I will state that the article was prepared by Mr. Hill. I understand that part of his profession is that of writing for the newspapers. I do not know whether he had any thought in his mind that he would make any money out of the article by giving it to a newspaper or not when he wrote it; I had no such thought in my mind. I am not connected with the press, if that is clear.

Q. Then you have given no reason why the article was prepared at all?—A. Certainly I have not.

Q. As pastime, was it? How was the article to help Professor Bell or his company without publication?—A. I did not prepare it to help Professor Bell or his company.

Q. You did not?—A. No, sir.

Q. You have said you did it as a friendly act?—A. Certainly. After it was prepared I thought it might be interesting to him. It is pretty interesting reading to the public.

Q. Just good reading?—A. Good reading. It is not good Sunday-school reading, but it might be to some people who do not observe those conventionalities.

Q. Then, Mr. Sypher, you had no design whatever, in suggesting the preparation of this article?—A. None whatever, sir.

Q. None at all?—A. None whatever, sir; no special design. It was prepared as a memorandum.

Q. For what purpose?—A. Well, for any purpose that you may prepare a memorandum. You may lay it away.

Q. Do you prepare a memorandum without purpose?—A. You compile facts very often without a specific purpose.

Q. Then in suggesting the preparation of the article and contributing to it, you did not take into account the fact that Hill was a newspaper man and might make some money out of it?—A. Well, it is a matter I did not think about at the time we were preparing it.

Q. Was there anything said between you and Mr. Hill as to the advisability of keeping a copy of the article?—A. No, sir. I will tell you how the copy happened to be kept.

Q. Well, sir.—A. I will relate it to you if it is of interest.

Q. Yes, sir.—A. Mr. Hill wrote the article in his own handwriting and I had it type-written, and I always make it a rule when I type-write a paper to make a copy.

Q. Then it cost you something to have the copy made?—A. Oh, yes; \$5 or \$6.

Q. That was your purpose; to have good reading?—A. *Pro bono publico*.

Q. If it was not to be published nor given to the public, how was the public to profit by it; you wasted your five or six dollars?—A. It happens now to be *pro bono publico* by the publication of this committee.

Q. Without design upon your part?—A. Without design upon my part. I certainly did not foresee this committee's investigation when that article was written.

Q. You seem to have had the manuscript of Mr. Hill and you seem to have had the copy made and to have paid for it. Did you retain the original?—A. It was lying about my desk for some days, and I think Mr. Hill put it in his pocket and took care of it.

Q. Do you know what he did with it?—A. I do not.

Q. Did he ever tell you?—A. My recollection is that I heard Mr. Hill say something in relation to giving it to some newspaper for publication, or something, afterwards; I do not recollect distinctly. It is an indistinct recollection that I have. He was not in my office much after that matter, and therefore I did not see him so frequently.

Q. How long was it after the article was prepared that you heard Mr. Hill say he had given it to some newspaper for publication?—A. Well, perhaps a month.

Q. Did he say to you what newspaper he had given it to?—A. My recollection is that he mentioned the New York World.

Q. Did he tell you whether he had been paid anything for it?—A. He did not.

Q. Did he say whether he had or had not been paid?—A. I did not ask him and he did not volunteer the statement whether he had been paid anything or not.

Q. Did he not tell you that the World had paid a hundred dollars for the article?—A. No; he did not tell me; he did not make any such statement.

Q. Did you not advise him to dispose of it to some newspaper?—A. No, sir; but on the contrary I advised him not to do so.

Q. When did you give him that advice?—A. Well, soon after the memorandum had been made in the office, not to publish it.

Q. Mr. Sypher, did you not expect Prof. Bell or the Bell Company to pay you for sending this article to Prof. Bell?—A. [Laughing.] Well, I did not send it for pay. If they chose to employ me that was another matter. But I will remark right here that if they had I think you would have a different state of things developed before this committee than you have to-day.

Q. You think they made a mistake?—A. I think they made a mistake in not employing me.

Q. You think they employed the wrong man?—A. I think so. I think I have resources that would have been useful to the Bell Company and this committee.

Q. They may employ you yet?—A. It is possible. I am open to an offer from them.

Mr. RANNEY. We had better have the information from the witness while he is on the stand.

The WITNESS. I am sorry you have got me.

Mr. RANNEY. I am glad of it. If you know anything, we ought to have it.

By the CHAIRMAN:

Q. (Resuming.) You then perhaps had in view when you prepared the article the possibility that the company might employ you?—A. Well, if the committee want my thoughts about it that is another matter.

Q. What was your purpose or what was your expectation?—A. I had no purpose and no expectation about it.

Q. What were the possibilities or probabilities of delivering this article—A. (Interrupting.) Well, the probabilities of life are too vague to talk about under oath.

Q. You can tell us whether it entered into your mind that the furnishing of this article by you to Professor Bell might lead to your employment?—A. I thought Professor Bell would appreciate the fact if I gave it to him that there was an organization or a conspiracy against his interests and his company. I thought it was my duty to give him the information.

Q. That is not an answer. Speak out now in relation to the employment.—A. Mr. Bell has never employed me professionally.

Q. That is not an answer, either, exactly. My question is, can you tell us whether it entered into your mind that the furnishing of this article by you to Professor Bell might lead to your employment?—A. Well, I regarded the facts stated in that statement as of some value to the Bell Telephone Company, and thought they might desire my professional services, and if they did I was open to employment. Is that satisfactory?

The CHAIRMAN. Quite, sir; quite. That is an answer to the question.

The WITNESS. I desire to answer every question the committee propounds. I am here for that purpose.

Q. You have succeeded after two or three efforts. Now, Mr. Sypher, had you not sought employment from the National Improved Telephone Company before that?—A. No, sir; and no other telephone company.

Q. Well, you would not have regarded it as discreditable to you to have served the company?—A. No, sir; but I am stating a fact.

Q. Do you know a gentleman by the name of Seixas, or some such name as that?—A. No, sir; I do not.

Q. I will give you the spelling of it: S-e-i-x-a-s: Seixas; do you know him?—A. Yes, sir.

Q. Do you know a gentleman named Van Benthuyzen?—A. Yes, sir; slightly. I know him by reputation.

Q. Had you any conversation with Mr. Seixas in regard to telephone matters?—A. None, to my recollection.

Q. Never a word?—A. Never a word.

Q. Did you have any with Mr. Van Benthuyzen in regard to telephone matters?—A. None whatever, sir.

Q. Did you have any conversation with any person with regard to your employment as attorney for the telephone companies?—A. No, sir.

Q. None whatever?—A. None whatever, sir.

Q. You started out with the Bell Company to seek employment?—A. I did not start with any company, sir, for any purpose.

Q. Have you not been told (I will not ask you whether you know, because you make a distinction, I see) by Mr. Hill that he received money for the article?—A. I do not recollect. I will testify to my impression, and my impression is that he did get paid for his article.

Q. How much?—A. I do not know.

Q. And your impression is also that it was furnished the New York World?—A. That is my impression, because I saw it in the World in print and recognized the article.

Q. Did you ever assist in the preparation of any other article relating to telephone matters for publication, or for any purpose?—A. No, sir.

Q. Did you ever suggest the preparation of any other article relating to telephone matters?—A. As I stated in the beginning of my testimony, or in the early part of it, I made some suggestions to Mr. Hill which I afterwards saw in the Tribune article, a prior article to this one you refer to; and I will state that the facts, upon which I based my suggestions that appeared in that article, were obtained from the New Orleans Times-Democrat, that had an extensive account of the litigation down there between the two companies.

Q. Did Mr. Hill, at the time you made these suggestions, or afterwards, or before, prepare an article embodying the suggestions you made to him?—A. He had some memoranda.

Q. Nothing more?—A. Nothing special that I saw; some loose memoranda.

Q. And you recognized them in the Tribune article?—A. Substantially; not verbatim.

Q. Do you know whether Mr. Hill prepared that article?—A. I do not know personally.

Q. Well, did you ever hear him say that he had?—A. My recollection is that I heard him say he had furnished the correspondent of the New York Tribune here some data on that subject.

Q. That article had appeared quite a month before the World article was prepared?—A. Yes, I think so; some time before at least.

Q. Had you heard Mr. Hill say before the preparation of the World article that he had furnished the material for the Tribune article?—A. I do not catch the question.

Q. Was it before the preparation of the World article that you heard Mr. Hill say he had furnished the material for the Tribune article?—A. Yes, sir.

Q. And yet when you were preparing the World article, or Mr. Hill was preparing it, you did not expect him to contribute that one to any paper although he had furnished the previous one to the Tribune?—A. It was not a matter suggested by either of us that it was being prepared for the newspapers at all.

Q. Did you think Mr. Hill might furnish it for the newspapers?—A. Oh, I did not know what he might do.

Q. He had furnished one already for the Tribune prepared in the same way?—A. Yes; newspaper men when they get a good thing like to see it in print, especially when they get paid for it.

Q. Yes. Well, now, those are two. Do you know of any other article prepared by Mr. Hill?—A. No, sir.

Q. Do you know of him furnishing information for any other article?—A. No, sir.

Q. I will show you an article in the Tribune. [Submitting a scrap-book and indicating.] State whether that is the one you refer to.

Mr. RANNEY. Have it identified so that it may go into the record if competent.

A. I think, Mr. Chairman, that that is the article.

Q. That is about the first publication that was made?—A. That, I think, was the first publication—September 25. My recollection is that that was the date.

Q. It appears then that this agitation and discussion originated with you and Mr. Hill?—A. Well, I would not claim any such honor, Mr. Chairman.

Q. You are not aware of any publication preceding this one?—A. There might have been in some other newspapers; I do not read all the newspapers in the country.

Q. You do not know of any?—A. I do not know of any.

Q. So that for aught you know all this matter sprang from the conferences between yourself and Mr. Hill?—A. I should not be surprised if Mr. Hill and myself are responsible for the first publication on Pan-Electric matters, if that is what you want.

Q. That is what I want.—A. I think probably that is true.

Q. Without design?—A. Without design or purpose.

Q. And without expectation of reward or pay?—A. Whatever Mr. Hill got as pay from the newspaper is all right; I never got a dollar.

Q. Your design was the possibility that you might be employed by the Bell telephone Company?—A. I have not said that and do not propose to. I have no right to say it. I do not know what the telephone company designed to do.

Q. I did not ask you that?—A. I will state it otherwise, and if my language is harsh I will retract it. I do not wish to be disrespectful to the chairman; but I will say this: I had no communication whatever with the Bell Telephone Company.

Q. I have asked you what your expectation was, and you have stated so far, to all my questions, only one possibility of advantage or reward to you, and that was the probability, or, as you put it, the possibility that you might be employed by the Bell Company?—A. I will let my answer to that stand as I have given it. I do not care to modify it or change it.

The CHAIRMAN. I will have this article identified. It is an article that appeared in the Tribune, dated September 24, appearing in the Tribune of the 25th. It is on the second page of the book I have here.

By Mr. RANNEY:

Q. Can you tell the committee during what period, as you understood him to say, Mr. Hill was connected with Casey Young?—A. I do not recollect that he ever stated any particular period.

Q. State whether it was during the period covered by these statements or purported facts contained in the article.—A. Well, I will state in answer to that, as an inference from what he said at different times, that he was associated with Casey Young during that period.

Q. So that you understood he was personally cognizant of many of the facts which he put into that article?—A. I so understood from him; that he was stating those things from his own personal knowledge.

Q. Of course you do not include some of the things that come in the paper outside?—A. No.

Q. You have said in answer to the chairman that you had a reservoir of facts which you thought were important in this matter that the committee had not yet discovered. If you can give the committee any aid to discover more important facts we would like it. I would for one.

The CHAIRMAN. So would I.

A. The gentleman from Massachusetts misquotes me. I did not mean to say that I was in possession of a mine of facts. I meant to say that I would have developed a mine of facts that would have been interesting to this committee if I had been the attorney of the Bell company.

Q. Do you mean that what you know is an imaginary mine?—A. No, sir.

Q. Or one that contains ore that can be worked?

Mr. EDEN. An undeveloped mine?

The CHAIRMAN. With no ore in sight?

Mr. HALL. It is one for a joint stock corporation; it is that kind of mine.

Mr. RANNEY. I do not comprehend the force of your remark, therefore I won't exercise my imagination.

Q. (Resuming.) If you can indicate anything that will give us a source of valuable information, I would like that.—A. I say to you, to put an end to all that sort of questions, I have no personal knowledge on this subject.

Q. Then the chairman dealt a good deal in hearsay. On committees of investigation we have to depart from the regular rules of finding sources of information.—A. I believed that I had some sources of information.

Q. Are they of a professional character, so that you cannot disclose them, or are you ready to disclose them to us?—A. Some are professional and some are not. Most of them are not.

The CHAIRMAN. You say they are imaginary?

Q. (Resuming.) If you can give us sources of information by which we can learn important facts, we shall be obliged to you.—A. Do you desire me to name persons for you to summon before this committee to testify?

Q. Yes. If you know any persons whom you believe know anything about this matter, or important facts connected with this investigation, I should be obliged to you if you would mention them.—A. I will furnish the committee with a list of such names, if you will give me a little time.

Q. You prefer to do it in that way rather than do it now, do you?—A. Yes, sir; that is, I will give you a few names, not any large number, of gentlemen who can probably give you some information.

Q. Do you know where Mr. Hill got his information about this combination between the National Improved Company and the Pan-Electric?—A. I do not, sir.

Q. Did you know or learn from him anything in relation to interviews had between these gentlemen associated with respect to companies last August, the 1st of July, and 1st of September, 1885?—A. Yes, sir.

Q. What?—A. He related to me on several occasions that such interviews were being held in Washington.

Q. At the time they were being held?—A. Yes.

Q. Did you learn from him who was there and participating in them?

The CHAIRMAN. If you want this as proof of the fact, of course it is not competent.

Mr. MILLARD. We have not had anything but hearsay this morning.

Mr. RANNEY. You asked what Mr. Hill said, and we are discovering the source of information.

The CHAIRMAN. My questions were all intended to affect Mr. Hill.

The WITNESS. I will state I think the committee might get more valuable information from Mr. Hill himself on this point.

The CHAIRMAN. I hear that he is sick.

Q. (Resuming.) Won't you tell us where that mine is, so that we may be enabled to sink a shaft in it?—A. Probably you have got the ore on the dump now, if you know how to work it up.

Q. We will try that now, and go through the smelting process by and by. Can you give us any more information? I think the committee are competent to handle what they have got.—A. I have no personal knowledge in reference to these conferences of which you speak.

Q. Was Mr. Hill with you at that time?—A. He was in and out of my office every day during that period.

Q. Do you know anybody that does know who were there and what was being done?—A. Why, I might answer that Colonel Young was present, I reckon. He ought to know.

Q. Well, we want what somebody else knows about it.—A. I do not know.

Q. You did not have any Rogers telephone connected with their room in your office?—A. No, sir.

Q. Was Mr. Hill connected on intimate terms with Mr. Young at that time?—A. That I do not know.

Mr. MOFFATT (to Mr. Ranney). Did the witness answer your question in regard to what Mr. Hill said with reference to who was there?

Q. Did Mr. Hill tell you who was there? Of course it is not evidence of the fact. It may lead to knowing.—A. He gave me to understand that he knew who was there.

Q. He did not say who they were?—A. Well, if he did, I do not recollect.

Q. Did you know or get any information as to the Van Benthuyzen application to the Patent Office for the withdrawal of the Government suit?

The WITNESS. You ask whether I knew anything in relation to the withdrawal?

Mr. RANNEY. Yes. Do you know of anybody that went to the Patent Office to see what was done there in the matter?

A. No, sir.

Q. Well, if there was anything and you can state the sources of information we would be very much obliged to you.

Mr. EDEN. He said he would furnish a list.

Mr. RANNEY. Furnish them by name if you are going to.

The WITNESS. I will furnish the committee a few names.

Q. (Resuming.) Something was said about Mr. Hill being sick. I believe about half the witnesses we have had here have been taken sick. Has he been taken sick lately or how long has he been ill?—A. I do not know how long he has been ill or how seriously he is ill.

Q. Is he in town?—A. He resides in the city.

Mr. RANNEY. I wish you would give the chairman his residence, if you can, so as to enable him to summon him.

The CHAIRMAN. A subpoena has been served upon him, and I was informed by the officer that he was too unwell to come.

Mr. RANNEY. I was not aware that any subpoena had been served upon him. Then I will not trouble you any more, general.

By the CHAIRMAN:

Q. In the World article you stated that Senator Vance was one of the parties interested. I will read it:

"The list of the names of the leading stockholders and officers in this company reads almost like a page from the Government Blue Book."

And then you give the names:

"A. H. Garland, Joseph E. Johnston, J. D. C. Atkins, Isham G. Harris, George G. Vest, Zebulon B. Vance, Robert Klotz, Eli J. Henkle, Casey Young, Mr. Upshaw, Frank Armstrong, and John C. Brown."

On what information do you state that Senator Vance was interested?—A. Mr. Hill furnished that list.

Q. You did not furnish it?—A. No, sir.

By Mr. OATES:

Q. I believe you designated the article furnished to and published in the World as a statement?—A. A memorandum.

Q. Do you know whether Attorney-General Garland was informed of the existence of that paper before you sent it to Professor Bell?—A. I do not.

Q. You do not know whether he had any information about it or any opportunity of replying to it, or that he was offered an opportunity of suppressing it?—A. I do not know.

Q. Is Mr. Hill one of the witnesses whose names you suggested to the committee as having information touching these matters?—A. I have not suggested his name to the committee.

Q. You spoke of some names which you could give?—A. Yes.

Q. Is his one of them?—A. I did not have his name in my mind when I said I would furnish a list.

Q. Will you name any one else that you will furnish?—A. Yes.

Q. As probably knowing something of interest?—A. Yes.

Q. At this time can you name any one else?—A. I should name J. R. Beckwith, of New Orleans, as an interesting witness.

Q. J. R. Beckwith?—A. Yes, sir. If his professional obligations will not restrain him from testifying freely, I think he can give you valuable information.

Q. Who else would you name?—A. I would name J. R. G. Pitkin, of Louisiana.

Q. Who is he; what business does he follow; where does he reside?—A. He resides in New Orleans.

Q. What business does he follow?—A. He has been United States marshal of that State for a number of years. He is a professional gentleman.

Q. What do you suppose he knows about it? I am not asking you to detail what he knows, but with reference to what parties or what subject-matter you suppose he is informed?—A. My impression is that he knows something of the history of this consolidation of the two companies (the National and the Pan-Electric), and he certainly knows many of the people associated with those two companies.

Q. Well, do you suppose he knows anything more about it than the written agreement between the two companies shows?—A. Well, I cannot testify as to what he knows.

Q. Well, do you know of anything that Mr. Beckwith knows except by being connected with or being the attorney of the National Improved Company?—A. I must decline to testify as to what these gentlemen would testify to if they were on the stand themselves.

Q. I did not ask you to do that.—A. My impression is that they are men of information on this subject, and my impression is gained from conversations with them; no particular definite conversation, but general talk with them in regard to this telephone question.

Q. Then you have no knowledge or information that either one of them knows anything that this committee is not already in possession of?—A. I do not know what this committee is in possession of.

Q. If this committee is in possession of the written agreement that was made, or agreements, between the National Improved and the Pan-Electric Telephone Companies to engage in fighting in the courts the Bell Company, do you know or have you any reason to believe that either one of these gentlemen could give us any higher or better information than that?—A. I cannot tell you. I cannot answer that question.

Q. Can you name any one else who is likely to know of who would be able to tell us?—A. Not just at this moment.

By Mr. EDEN:

Q. At the time of the preparation of this article for the Tribune were you acquainted with Dr. J. W. Rogers?—A. No, sir; I am not acquainted with him now. I would not know him if I met him on the street.

Q. In the interviews between you and Professor Bell was there any discussion between you and him about this article?—A. None whatever.

Q. You merely handed him the article or sent it to him?—A. I sent it to him in an envelope.

Q. You never talked with him about it?—A. Never has a word passed between Professor Bell and myself on that article.

Q. Did you ever talk with any man connected with the World or the Tribune about it?—A. No, sir; I have had no communication with any newspaper man with reference to any of those articles.

Q. Have you talked with any of the Bell people about any of these articles?—A. I have not.

By Mr. MILLARD:

Q. A simple question occurs to me. From whom did you learn that a combination was to be formed to fight the Bell Telephone Company?—A. I gained my information

first from Major Cahoon that a scheme, which I have so denominated in my letter to Professor Bell, was organizing between the Pan-Electric and the National Telephone Companies to destroy the Bell patent for the purpose of putting their patents upon the public and realizing what profits they could from them. That information which I received from Major Cahoon was supported by publications in the newspapers pointing to the direction of the litigation.

Q. Do you refer now to subsequent or prior publications?—A. Subsequent publications. And then on the heels of that information came the suit instituted at Memphis, and my inference from all these facts was that the purpose was to destroy the Bell patent and to establish themselves; and that is why I wrote as I did in my note to Professor Bell. That is my interpretation of my language in that letter.

Q. Was it in Washington that you received the information from Major Cahoon?—A. In New York City, at the Astor House.

Q. And where do you say he resides and where is he now?—A. My impression is that he resides in New York. I am not sure, but I think he resides in New York.

Q. Well, is he one of the gentlemen whose names you propose to give the committee?—A. Yes, sir.

Q. Now, did you not receive similar information from this man Hill?—A. That was his belief all the way through; that that was the purpose of this company.

Q. Well, did he not state the fact to you? Did you not get the fact from him as well as from Major Cahoon?—A. Yes, certainly.

Q. Now, will you state whether it was prior or subsequent to the alleged conferences between the Pan-Electric people and the National Improved at the Ebbitt House?—A. Well, it was both before and after. We were convinced in our own mind that that was the purpose, and the information pointed in that direction to confirm our impressions.

Q. Well, now, in any of your conversations with Hill or Major Cahoon did you hear anything said to the effect that Attorney-General Garland would not bring a suit, but that Solicitor-General Goode would institute it?—A. No, sir.

Q. Or that in substance?—A. No, sir.

Q. When did you first learn of the commencement of the Government suit?—A. My recollection is that I had information of the intention to bring that suit a week or ten days before it was published in the newspapers. That is my recollection now.

Q. And you understood from Mr. Hill that he gave this compilation here to the New York World. Now, do you know of any other paper having published this particular article than the New York World?—A. No, sir.

Q. Did not the facts appear substantially in all the papers—that is, the leading papers of the country?—A. I think in some of the papers of the country.

Q. Take the leading New York papers.—A. I think that the New York Tribune and a Saint Louis paper published those facts nearly simultaneously. This is my recollection now. I am not positive about it, either. And then afterwards the New York Sun published something and then the World came in with that statement that has been produced here.

Q. Well, it is not an unusual thing for a newspaper to pay a correspondent for facts gathered for publication, is it?—A. Why, I should imagine not; they ought to pay and pay well.

Q. It is a matter of business, is it not?—A. Certainly.

Q. If the facts are legitimate—facts to go to the public?—A. If they are facts; they publish a good deal that is not fact, I imagine.

Q. Then they get sold?—A. It is interesting reading all the same.

By Mr. HALL:

Q. With whom did you converse on this subject first—Mr. Cahoon or Mr. Hill?—A. I conversed first with Major Cahoon about it. He is the first gentleman who called my attention to this matter.

Q. In New York?—A. I was in New York on a matter of business.

Q. Do you not know you got the information before Hill did?—A. The information from Major Cahoon was the origin of the whole thing between Hill and myself.

Q. That started the thing?—A. That started the thing.

Q. You told Hill that he had been in connection with this Pan-Electric Company and certainly must have some knowledge about it, and for him to go to work and work up what he could about the matter?—A. When I returned from New York I related to Hill the interview between Cahoon and myself at the Astor House. In a few days after that the newspapers followed giving an account of that suit in Saint Paul. I turned those over to Hill. I had not time to read them. After he had read them he says, "Why, I know all about it." Says I, "Write it out," and he wrote it out.

Q. There had not been very much in the papers prior to that time of the data furnished by Hill?—A. Nothing, I think.

Q. Then Hill furnished the data upon your information?—A. Yes, and his own.

Q. Do you know whether Hill furnished any data intermediately?—A. I do not know that he did.

Q. Nearly three months elapsed?—A. It is possible he did.

Q. You knew the New York World had Hill's manuscript for nearly three months before he published it?—A. That I understood.

Q. Didn't you take any trouble to ascertain why they did not publish an article for which they had paid so much?—A. None whatever. I had no pecuniary interest in it, and paid no attention to it. It was a trifling matter.

Q. You have spoken about your knowledge of the combination?—A. Yes.

Q. You have been very careful to testify here of nothing you did not have personal knowledge of. Did you have any personal knowledge of the combination?—A. No, sir.

Q. Why are you not as careful when you speak against this company as when you speak for it?—A. If you will read my answers you will see I said it was my impression. Do not misquote me, if you please.

Q. Did you not answer the gentleman from New York (Mr. Millard) about your knowledge of the combination?—A. I testified to the best of my knowledge and belief from information gained from the newspapers and from gentlemen that such combination did exist and I believe it to-day.

Q. Your first knowledge was gained from Cahoon?—A. Yes.

Q. Did Cahoon have any knowledge except what he gained from newspapers?—A. Cahoon gave me to understand that he was an employé or a party in interest under the National Improved.

Q. That does not answer my question; did he profess to have any personal knowledge of these negotiations which you so promptly answered a moment ago amounted to an arrangement between the companies?—A. My recollection of my interview with Major Cahoon was that he, as an officer and agent and party in interest of the National Improved Telephone Company, was looking after their interests with reference to the introduction of patents and establishing branch companies, and that they were going to consolidate with the Pan-Electric, and there was a grand combination to be made to clean the Bell Company out and put themselves in their place.

Q. He told you all that?—A. He told that, but not in those words.

Q. Did he speak of his own personal knowledge, or did he speak as you do, from inference?—A. That I do not know; he was not on oath.

Q. When you came to have your interview with Mr. Hill, you say he spoke of some things of his personal knowledge and some that were not?—A. Yes.

Q. You have already stated, I believe, that you knew he had been in Mr. Young's office in some capacity?—A. He stated that he had had some relations with Mr. Young; yes.

Q. Were they of such a character that you regarded them as confidential?—A. No, sir; I did not regard anything as confidential that was between Hill and Young. They ate, and drank, and slept together.

Q. You did not recognize any confidential relations then?—A. Not between those two gentlemen. I had no knowledge of such relation.

Q. If a man is in the employ of another man attending to his private business as clerk, you do not regard that as a confidential relation?—A. Yes, sir; I do. I did not know that he was in his employ. I did not know anything about it.

Q. Did you not believe he was in his employ?—A. I did not believe anything about it, sir. I simply took his statement for what it was worth.

By the CHAIRMAN:

Q. How much was it worth?—A. I leave that for the committee to judge.

By Mr. HALL:

Q. I will ask you whether you did not instruct him to get the books of the Pan-Electric Company and have copies made?—A. I did not.

Q. Don't you know he brought them in your office and copied them?—A. I do not.

Q. Would you not have regarded that as a breach of confidence?—A. If I had known he was in the employ of that company I certainly should. I did not know he was ever in the employ of that company.

Q. Did he not tell you, at the time he was in your office and had a desk there, that he was in the employ of the company?—A. I did not know anything about it.

Q. Then upon a subject of that kind you are entirely oblivious?—A. I did not catechise him on the subject. I took his statements as they were made for what they were worth. I had no knowledge on the subject whatever.

Q. As I understand, you say that you suggested this matter of the preparation of this article to Mr. Hill?—A. I have stated that three times now to the committee, but I will state it once more. On my return from New York I related the conversation between Major Cahoon and myself to Mr. Hill, and gave him the papers to examine as they came by mail, and after he had examined them he said he knew all about it, and I said, "Write it out," and he wrote it out.

Q. You have not stated that before?—A. I have stated that three times.

Mr. RANNEY. Twenty times is the limit of this committee.

The WITNESS. I am obliged to the gentleman from Massachusetts for the information.

Q. How long was Mr. Hill engaged in writing out that statement?—A. Several days, I think.

Q. Was he at the time engaged in any other employment?—A. I think not.

Q. Was he in your employ?—A. No.

Q. Performing any duties for you?—A. No.

Q. Copying anything else for you?—A. No.

Q. And then after it was completed you went to some expense to have copies made?—A. I had it type-written.

Q. When you ascertained the fact that he had been paid for the article, did you ask him to compensate you for your six dollars or anything of that kind?—A. No, sir; I did not ascertain that he had been paid for the article.

Q. No, but you said you understood him to say he had received something?—A. That he received some remuneration for the article, and my inference was as strong as my information, because I know men do not furnish such articles to the newspaper press without getting some pay for them. I think that is the custom.

Q. Did you make that suggestion to him as a friendly suggestion, in order that he might benefit by it?

The WITNESS. The compilation of the article?

Mr. HALL. Yes.

Q. Well, I made the suggestion without reference to any particular matter. I said, "You had better write that out"—"write that out," was the remark.

Q. Well, I ask you now so far as the motive was concerned whether that was a friendly suggestion, you expecting he might be benefited by it?—A. Yes, sir; as much as anything.

Q. How far is your office where this paper was prepared from Mr. Bell's residence?—A. My office is on F street and Mr. Bell's residence is on Rhode Island avenue; at Thomas circle; a half or three-quarters of a mile apart.

Q. Are you sure you ever had a personal conversation with Mr. Bell before you sent that article?—A. I never had a word with him before or since.

Q. I do not mean upon the subject, but I mean any conversation at all?—A. Not at all; I never had a word with Mr. Bell on the subject.

Q. I asked you whether you ever had a personal conversation with Mr. Bell on any subject?—A. I was at his house prior to that and since, but we have never had any conversation whatever on the subject of this telephone controversy; never has a word passed between us; I want it distinctly understood that there has never a word passed between Professor Bell and myself before I sent that article or since I sent that article; and yet he is my neighbor.

Q. You say he is your neighbor?—A. He is my neighbor, and lives across the street from me.

Q. And the only correspondence which transpired between you was simply the sending of that note and the acknowledgment of its receipt?—A. Simply the sending of that note and the acknowledgment of its receipt; yes.

Q. Have you had any correspondence with any body else upon the subject?—A. None.

Q. With nobody else whatever?—A. No one whatever.

Q. No newspaper journal?—A. None whatever.

Q. Have you ever had any correspondence with any newspaper upon the subject?—A. None whatever. I am not a newspaper man.

By Mr. MOFFATT:

Q. I understood you to say you acquired information in regard to bringing the Government suit some nine days before it was brought. Which suit did you refer to?—A. I had information of that sort some week or ten days prior to the public announcement of it in the press.

Q. Of which suit?—A. Of the Memphis suit.

Q. Where did you obtain that information?—A. I think I got it from Hill.

Q. You do not recollect any one else that talked with you about it?—A. No, sir.

Q. Did he say where he obtained his information?—A. I think not, sir. I do not recollect.

By Mr. MILLARD:

Q. One question. Do you know whether Mr. Hill was in the employ or service of Colonel Young at the time of the conferences at the Ebbitt House?—A. I do not, sir.

Q. Was he in your employ at that time?—A. No, sir; he never was in my employ.

Q. Did he have a seat or desk in your office at that time?—A. Yes.

Q. At that particular time?—A. At that particular time; yes, sir.

Mr. HALL. That has all been gone over.

Mr. MILLARD. I was out then.

By Mr. HALE:

Q. How long have you known Colonel Young?

The WITNESS. Let me ask Colonel Young a question. [Turning to Mr. Young.] Colonel, were you in the Forty-third Congress?

Mr. YOUNG. I was in the Forty-fourth.

A. Well, about that time was the beginning of our acquaintance.

Q. What have been your relations with Colonel Young?—A. Very pleasant, and they are to-day.

Q. How long have you known General Garland?—A. I have not known him intimately; I have known him more as a public man.

Q. What have been your relations with him?—A. Always pleasant.

Q. How about Senator Harris?—A. I have not the pleasure of knowing Senator Harris excepting as a public man.

Q. And General Atkins?—A. General Atkins I know and esteem highly.

Q. General Johnston?—A. General Johnston I know and esteem highly.

Q. When this article was prepared in your office you knew, of course, it would be regarded as public scandal?—A. I had no right to know, because I did not know it was going to be in the public prints.

Q. And the article was prepared upon your suggestion?—A. Prepared upon facts, at my suggestion.

Q. The article would have a tendency to injure these public men, would it not?—A. It would depend upon its use.

Q. Well, if used publicly in the newspapers?—A. Well, it might. The character of public men belongs to the public, you know. They used to treat me that way when I was in public life.

Q. Had you no idea at the time this article was being prepared that if published or getting into unfriendly hands it might bring some discredit on these men?—A. I never thought of personal injury to anybody.

Q. You had no intention of that sort?—A. Not in the least.

Q. But you could have known that such facts published in that shape would have that tendency?—A. Well, the public judge of public officials. When officers administering public trusts go into speculations it may reflect on their characters.

Q. At the time of this publication did you not think that article was improper in its character?—A. I did not think of its being improper in its character.

Q. What did you think would be the effect of it?—A. My notions on that subject may differ from those of other men. I do not think it is a crime for a man in public life to make money if he does make it in speculation honestly.

Q. You sent a copy of the article to Prof. Bell?—A. Yes.

Q. Was your object to benefit Professor Bell or his company or to injure these public men that have been mentioned?—A. Neither.

Q. You had no object whatever, then?—A. No; it was a friendly, neighborly act in transmitting information to Prof. Bell.

Q. You regard it, then, as a friendly act to Prof. Bell?—A. Yes, sir.

Q. Which did not benefit him at all?—A. He did not avail himself of it at all, which was not my fault.

Q. Your intention was to benefit him?—A. If he availed himself of it.

Q. You intended to benefit him by publishing these facts?—A. I had no other motive in view than that of benefiting him. If a man came along and raised a club over the head of my friend I would ward it off if I could.

Q. You expected the use of it to benefit him in some way?—A. If he chose to use the information, and it might result to his benefit, I would have been glad of it.

Q. You simply wished to convey to him that there was a combination being formed against his interests?—A. I simply desired to convey to him that there was an organization forming between these two companies which had in view the destruction of his company and the establishment of their own rights.

Q. And also the additional fact that there was a combination being formed amongst a number of public men to have a suit brought for the purpose of breaking down the Bell Telephone Company?—A. I made no comment upon public men. If they happened to be public men that was no fault of mine.

Q. You gave the facts?—A. I gave the facts as I understood them.

Q. And that a combination was being formed to bring this Government suit and break down the Bell Company?—A. That seemed to be the object of the combination.

Q. And you say you had no feeling against these public men?—A. None whatever.

Q. They had been your friends so far as you knew?—A. Yes, sir.

Q. And you did not regard that this might become a great public scandal?—A. No, I did not look at it in that light. It did not occur to me.

Q. What have been your relations with Attorney-General Garland since these publications?—A. Entirely pleasant.

Q. Have you ever met him since?—A. Yes, sir.

Q. Did anything occur between you in regard to this publication?—A. Nothing whatever.

Q. Have you ever talked with him?—A. No, sir.

By the CHAIRMAN:

Q. Your intercourse had been friendly?—A. Yes, sir.

Q. And you never notified him you were going to publish this article?—A. No, sir. He was incorporator of this company, and if there was any odium attached to it was not by business to notify him.

Q. Have you been an applicant for any office under this administration?—A. Who? Me an applicant?

Q. Certainly?—A. Are you joking?

Q. No, I am serious?—A. I never held a public office in my life and I never have been an applicant for one under any administration. I had the honor of being a member of Congress, but under the Constitution that is not a public office. I do not want an office from this or any other administration.

Mr. MILLARD. Perhaps he has some Pan-Electric stock. How is that?

By Mr. OATES:

Q. You state in this letter to Professor Bell:

“The scheme to destroy your patents is tolerably well matured and it remains to be seen whether this reform administration will lend itself for its consummation”

Are you now and were you at the time of the writing of that letter a friend and supporter of or opposed to that reform administration?—A. I am not a Mugwump.

Q. Just answer that question.—A. I am a friend of genuine reform but not of bogus Democracy.

Q. What are your politics?—A. Well, I haven't any politics just now.

Q. To what party do you belong; with what party do you act and vote?—A. I will say to my friend that I have never voted a straight ticket.

Q. You vote a mixed one?—A. I vote a mixed ticket. Now that ought to explain my political position.

Q. That satisfies me. When you were in Congress to what party did you then belong?—A. I was elected to Congress by the Republican party; that is, I was the nominee of the Republican party, but I had about as many Democratic votes as I had Republican or else I could not have been elected. The district had about four thousand Democratic majority, and I will say in addition that there has never been any other Republican from that district before or since. It is Democratic by six thousand majority now.

Q. You stated in answer to my question that you had no knowledge that Attorney-General Garland was informed of the existence of this statement, or memorandum, as you call it, before its publication. Do you know whether or not any person interviewed either one of the other members of the Pan-Electric Telephone Company with reference to that article or gave them any information of it before its publication?—A. I do not. My impression is that they did not know anything about that article before its publication. That is my impression. I may be deceived; but I have no information that anybody knew of the article before the publication of that article except the newspaper people and Professor Bell.

By the CHAIRMAN:

Q. How long was it before the preparation of the World article that you had your interview with Major Cahoon in New York?—A. My interview with Major Cahoon I think was in July. It was July or August; either the latter part of July or near the first of August. The first publication after that was the Tribune article in September. Then the World publication was prepared along in November. That is my recollection of dates.

Q. The main facts had appeared in the Tribune article before that?—A. Yes; prior to the publication in the World.

By Mr. OATES:

Q. Who is Major Cahoon; where did he reside at that time?—A. He formerly resided in Louisiana, and after that I think in Missouri, and he was connected with General J. B. Price, of Missouri, in some mining enterprises, and they together, he informed me, had secured a controlling interest in the Rogers patent at that time, and he complained to me that the Rogerses had not dealt honorably by him, and that they had turned their patents over to somebody else, and he went on with the whole history of his troubles with them and with the organization of that company and with the National Improved, and then informed me of the proposed uniting of the two com-

panies. He gave me a statement of his whole scheme. I do not remember the particulars about it; just the main facts.

Q. Do you take an active part in politics in Louisiana?—A. No, sir; I have not in ten years.

Q. Did this man?—A. He did at one time.

Q. Was he ever a member of the legislature?—A. My impression is that he was in 1868 or 1870; somewhere along there.

Q. For the purpose of identifying him I will ask you what appearance he has; what sized man is he?—A. He is a gentleman of perhaps five feet and a half, weighs 180 pounds, has black hair and black eyes—a nice, gentlemanly man. [Facetiously.] I think he wears a 15-inch collar; that is a fashionable size.

Mr. OATES. My purpose in asking was, I know one gentleman in Louisiana of that name. I wanted to see if it was the same man. It is not, though.

By Mr. RANNEY:

Q. One question. You have been asked whether you intended a scandal on those men by the publication of this paper. Had you any reason at that time to doubt the truth of what was in the article?—A. None whatever, nor have I now. I believe that statement is true, and I think that the books will show it, and I believe that the gentlemen were honest in going into that company. I do not mean to scandalize any of them now.

By Mr. HALE:

Q. Did you regard that as an honest combination—public men in public office; did you convey the idea in your letter that it was an honest, fair combination?

The WITNESS. In the statement?

Mr. HALE. Yes, sir.

A. There is nothing in the statement to the contrary.

Q. And the letter?

The WITNESS. The letter to Professor Bell?

Mr. HALE. Yes.

A. I simply warned him that, in my belief, there was a combination of that sort organizing against his interests.

Q. Did you regard it as a fair organization, one that was proper for men in that position?—A. Well, I had not enough information to judge of it.

Q. You do not mean to say that you had no impression at that time, that it was proper or improper for men of that kind?—A. You have asked me a pretty broad question; you have asked me my idea, not my opinion. I believed at that moment in view of the information that I had that this was a combination of public and private men of this country for the purpose of breaking down and destroying the Bell patent and of putting their company—the combination of the two companies, the National Improved and Pan-Electric to make that combination—in place of the Bell and destroy it.

Q. One other question. Did you regard that as a proper or improper combination?—A. I did not think of it.

Q. You do not wish to be understood in that way; that you had no impressions at the time as to whether it was proper or improper?

Mr. RANNEY. Is that a proper question with regard to the letter?

Mr. HALE. Well, he understands the question.

The WITNESS. Is the purport of your question in a moral or a legal sense?

Mr. HALE. You may blend the two if you choose. Did you regard that as a proper or improper combination between public and private men—men occupying public positions and private positions? Were there no impressions on your mind at that time as to the propriety of the combination?—A. I will answer. If the public men who went into the Pan-Electric scheme went into it as an investment, without any purpose of exercising their official power as against a private corporation, I say there was nothing wrong, legally or morally, in it. If they went into that organization with the purpose and intention of exercising their official power and bringing to bear the power of this great Government against a private corporation, they were morally and legally wrong.

Q. Now, in this letter to Professor Bell did you not convey at least the information that this combination was formed for the purpose of influencing the administration to bring that suit and break down the Bell Company?—A. I will admit that that is a reasonable inference.

Q. Then of course you had it in your mind that such a combination had been formed?—A. That it might happen.

Q. You state it in your letter?—A. I leave the impression that it might occur.

Q. Did you wish to be understood that, if a combination had been formed by public and private men, you had never thought that a publication of that sort would have any tendency to injure these men if it should get into unfriendly hands,

or the newspapers?—A. You make a mistake. I had no thought of the publication of that paper when I suggested its preparation.

Q. But you knew you were putting it in unfriendly hands, to say the least of it?—A. No; I did not know that.

Q. You knew Prof. Bell represented the Bell Company?—A. I explained my motive for putting it in the hands of Professor Bell. If I had a friend who was going to be assailed anywhere by an enemy and I could save him I would do it.

Q. You knew you were putting it in the hands of a newspaper man?—A. Mr. Hill was a newspaper man, but he isn't editing a newspaper.

Q. You knew you were putting all this thing in the hands of a hostile company, in the hands of a newspaper, that it might be used against public men?—A. They might be facts to be used against them. I did not use them against them, and had no purpose of using them against them.

Q. And yet you say you had no purpose of injuring these public men?—A. None whatever.

Q. Although you knew such would be the necessary effect of the article if it went into the paper?—A. Well, it might be.

Q. Your relations, you say, had been friendly with Mr. Garland?—A. Entirely so.

Q. Is not this the first time the fact has been made public that you were the author of that article or contributed to its publication?—A. Possibly it may be the first time that the fact is known that I had any connection with it. There is no part of that article that has connection with Mr. Garland that is mine whatever.

Q. It is hard to separate them. Your intercourse has been friendly with Senator Garland and others since that time?—A. Yes, sir; as far as I have met them.

Q. You have never given them any information that you were responsible, in part at least, for the publication of that article?—A. I was not responsible for the publication of that article.

Q. Well, turning it over into hostile hands. Prof. Bell represented the opposite combination. You have often met Col. Young since that time?—A. Not often, but occasionally.

Q. You have met General Garland occasionally?—A. Occasionally, officially.

Q. And done business with him?—A. With the Department.

Q. And met him socially?—A. Yes, sir.

Q. How about Senator Harris?—A. Yes, sir.

Q. And General Atkins?—A. Yes, sir.

Q. Have you ever intimated to these men that you were to a great extent responsible?—A. I do not accept your language. I did not compile the article and did not compile the facts in relation to any of those gentlemen you are talking about.

Q. You suggested it?—A. I suggested the article in relation to the compilation of the subject-matter, but not to the use of the names of any of those gentlemen. That was matter furnished entirely by Mr. Hill.

Q. You suggested the compilation of the article; you gave the facts that were in your possession, and after it was compiled you gave a copy of it to Prof. Bell?—A. Yes, sir.

Mr. BELL. I observe in the morning papers that I am credited yesterday with answering a question that I have no recollection of having been put to me, and I should therefore be very glad if the committee would let me have a copy of my testimony to see if there are any inaccuracies.

The CHAIRMAN. Certainly.

WHELAN REID sworn and examined.

By the CHAIRMAN:

Question. Are you connected with the New York Tribune?—Answer. I am.

Q. In what capacity?—A. I am its editor-in-chief, and its publisher, and its principal proprietor.

Q. Has the Tribune taken any part in the discussion of the Pan-Electric matter, now under consideration by this committee?—A. It has.

Q. Can you state the general view taken by the Tribune of the question involved; I mean as to which side of the question it has taken.

The WITNESS. As to which side of what question?

The CHAIRMAN. Which side of the question as to the propriety of the formation of the Pan-Electric Telephone Company, as it is understood to have been formed?

A. In the editorial discussion we have generally disapproved such actions on the part of officials; have held that the position was inconsistent with their official duties.

Q. Has that been done under your direction?—A. It has.

Q. Do you know of any paper having published articles in relation to the Pan-Electric Company before the Tribune?—A. I do not know of attention having been called to it specifically before the Tribune's publication. There were some advertisements and things of that sort which I saw.

Q. The witness who preceded you, General Sypher, has spoken of an article which appeared in the Tribune on the 25th of September, and, which I have before me. Was that the first article appearing in the paper?—A. I think it was, although I cannot speak accurately without looking at it. I glanced at it this morning. I think that is the one. That is the one headed "Mr. Garland, the speculator"?

Q. I do not remember, sir.—A. I think that is the first article which we published.

Q. The article bears date the 24th of September, and appeared in your issue of the 25th of September. Of course, the date of the paper is right. Do you know whether the article was prepared on the 24th of September?—A. I think not.

Q. How long had it been in your possession before it appeared in the paper?—A. My recollection is (which is only vague) that it was there three or four days; perhaps three days.

Q. By whom was it furnished to you?—A. By my Washington correspondents, or one of them.

Q. What is his name?—A. I think it was Major Clark who sent it.

Q. Have you any knowledge as to where Major Clark obtained the facts narrated in the article?—A. Not in detail.

Q. What knowledge have you?—A. None excepting that I asked him, being startled somewhat by the statement, if he was entirely sure as to the facts, and he told me that he was. My inquiries were brief and by telegraph.

Q. Did you ask him from whom he obtained them?—A. I do not recollect asking for the names nor do I recollect getting the names.

Q. Was it your understanding that he had prepared the article or that it was furnished to him?—A. I assumed that he prepared it, but that, like other articles, he secured the information wherever he could in Washington.

Q. Was the name of Mr. Hill mentioned in connection with it?—A. I do not think I ever heard of it.

Q. Or of General Sypher?—A. I do not think I ever heard that in connection with it, either.

Q. Did the Tribune pay anything for the article?—A. Not to my knowledge, beyond the ordinary salary to the correspondent who furnished it.

Q. Was the correspondent paid a fixed salary?—A. The correspondent was paid a fixed monthly salary.

Q. So that the article cost nothing in addition to his salary?—A. The article came in the ordinary way, as his contribution to the paper.

Q. Might not something have been paid by the Tribune without your knowledge?—A. It is possible. I cannot say. If there was any considerable payment for it, it would be likely to be mentioned to me.

Q. Suppose the correspondent had paid for it; would he have mentioned that fact to you or to some other gentleman in the office?—A. If he paid any large sum, he would have communicated it either to me or my representative in the office.

Q. Who was that?—A. Mr. Nicholson would be the gentleman to whom it would naturally come.

Q. What is his first name?—A. Donald Nicholson.

Q. What position has he in the office?—A. He represents me in the management of the paper.

Q. So you do not know of anything having been paid for that article?—A. I do not. I can very easily ascertain if it is of any consequence; that is to say, if there was any considerable sum paid it would probably appear in the monthly statements of our Washington office, which are on file in our office and which I would take pleasure in sending on to you.

Q. Have other articles appeared in the Tribune since that date relating to this matter?—A. Yes, sir.

Q. Have any of them been paid for?—A. Probably they were all paid for in some way; so far as I know they were.

Q. I mean in addition to the correspondent's salary?—A. Not to my knowledge.

Q. Do you know of one article having been paid for specially?

The WITNESS. Bearing on this subject?

The CHAIRMAN. Yes.

A. I do not.

Q. Has the Tribune paid anything to other newspapers for republishing any of these articles?—A. It has not.

Q. Has the Tribune received anything from the American Bell Company or from any other company or person for publishing any article relating to the Pan-Electric Company or to the controversy between it and other companies and the Bell Company?—A. It has not.

Q. Are you a stockholder in the American Bell Company?—A. I am not.

Q. Do you know of any person holding stock in the Tribune, or having an interest in the Tribune, being a stockholder in the American Bell Company?—A. I do not know of any, and my strong impression is that there is no one.

Q. Are you a stockholder in the Western Union Telegraph Company?—A. I am not.

Q. Do you know of any person connected with the Tribune having stock in that company?—A. I do not, and I do not think there is any one.

Q. Have you any stock in any of the subordinate Bell companies?—A. I have not.

Q. Or any person connected with the Tribune?—A. Not to my knowledge and not to my belief.

Q. Is Mr. Mills an owner of any interest in the Tribune?

The WITNESS. Mr. D. O. Mills?

The CHAIRMAN. Yes.

A. He is not.

Q. Do you know whether he is a stockholder in the Bell Company?—A. I think he is not.

Q. Or in any subordinate company?—A. I think not, though I have no knowledge on the subject.

Q. Is he a stockholder in the Western Union Telegraph Company?—A. I think not. He was formerly, but I think he has not been for a number of years.

Q. How many years?—A. I should think five years.

Q. So you say that so far as you know nothing whatever has been paid outside of regular salaries for matter relating to this telephone controversy?—A. So far as I know. I have no information on the subject, and minor payments might be made without coming to me of course, but if you are at all desirous of prosecuting that inquiry I will take pleasure in examining my accounts when I go back to New York and send the information on to Washington to you.

Q. If you find anything we should like to have it, sir.—A. I will have a search made on my return.

Q. Have you had any correspondence or communication of any kind with any officer or stockholder of the Bell Company relating to this controversy?—A. I do not know that I have. I do not think I am acquainted with any officer of the Bell Telephone Company.

Q. Have you had any correspondence or conversation with any one, speaking in the interest of the Bell Company, relating to this controversy or investigation?—A. I directed inquiries to be made, immediately on receipt of the first dispatch, from the counsel of the Bell Telephone Company in New York. I sent my reporters to him immediately to see what his side of the story was.

Q. Who is that, sir?—A. Mr. Dickerson.

Q. Well, sir, did you receive any information from him?—A. I think you will find that we published some reports, which my reporters brought in, immediately under the Washington article which you showed me just now.

Q. Did you have any personal interviews with Mr. Dickerson?—A. Oh, yes; I have chatted with him on the cars since then about it.

Q. Has he visited your office? Has he called upon you in relation to this matter?—A. Not until, I think, long after the publications. Mr. Dickerson has been in my own employ once or twice as counsel; has been in attendance at my office, and I might have chatted with him about it. But there was no conversation, I think, until after the publication.

Q. Is he your counsel at this time?—A. No, sir; he is not.

Q. Has he been within a year past?—A. I think within a year past he was counsel in a special case. I employed him to investigate a patent.

Q. How long ago do you think that was?—A. I think about a year ago. I can fix the date almost exactly in a few moments. [After briefly reflecting.] I think it was in April of last year.

Q. Have you any objection to stating what patent that was?—A. None whatever. It was a type-setting machine. The business was confined entirely to the investigation of that patent and was closed by the payment of his fee.

Q. Has any person tried to induce the Tribune to pursue any particular line of policy or conduct in regard to this controversy, this investigation, or the matters out of which it grows?—A. Not to my knowledge.

By Mr. RANNEY:

Q. You spoke about holding that first article some time. I am seeking to ascertain whether it was such as warranted you in having it published. What mode did you adopt?—A. I telegraphed over to the Washington office making some inquiries. I do not remember specifically what I asked. I wanted to be sure about the facts. I instructed my reporters to see Mr. Dickerson, the counsel of the Bell Telephone Company and see what their side of the story was.

Q. Did you come to Washington?—A. No; sir.

By Mr. HALL:

Q. Has there been any correspondence on the part of any person with the New York Tribune suggesting any articles with a view of affecting the official conduct of any officers of the Government, influencing them?—A. Not to my knowledge.

Q. During the time this matter was under hearing before the Secretary of the Interior?—A. I do not recall anything on that subject; it is of course possible that people may have come into our office and asked us to publish this, that, or the other thing; that always happens when there is any public excitement.

Q. As matter of fact at the time of the publication of that article you were aware the thing was pending before the Interior Department?—A. Oh, yes, sir.

Q. I will ask you whether persons connected with the Bell Telephone Company made any requests of that character, either personally, verbally, or otherwise?—A. I have no recollection; it is quite possible.

Q. Would it be much trouble for you to make some inquiry?—A. Not at all. If there was any letter received it is on file, and I will make search.

Q. It would not be any violation of confidence or anything of that kind?—A. Oh, no; we were seeking for news, and would seek it from all sources. We would go to the Bell people and go to the other people. I printed letters or interviews from the Bell people, from Attorney-General Garland, and from Dr. Rogers—after taking some pains to verify its statements.

Q. During the time you held this matter in abeyance did you make any inquiries about what parties were to be affected by the article?—A. I directed my correspondent to see Attorney-General Garland, but he was then absent. I then directed him to see him as soon as he could get at him.

Q. But you did not withhold the article until he returned?—A. No, sir.

By Mr. MILLARD:

Q. Did you publish the interview with Mr. Garland?—A. Immediately; I believe we telegraphed also to the Southwest, but I am not quite sure on that point. I think we tried to get something by telegraph, but I would not state that positively.

Q. I will ask you whether the information in regard to this matter that has come to you from Washington has come in the usual way?—A. It has come in the usual way.

Q. And you have regular correspondents here?—A. I have.

Q. And it has come through them?—A. It has come through them.

Q. Have you any personal acquaintance with any of the officials involved?—A. I do not remember at this moment any one with whom I have an acquaintance on either side. I do not think I am acquainted with any officer of the Pan-Electric or Bell Telephone Company.

By Mr. HALL:

Q. Have your agents here in your office authority to conclude the payment of a reasonable sum of money in the procuring of information without consulting headquarters?—A. They would pay any small sum.

Q. So they are regarded as having authority to pay a limited sum?—A. Oh, small sums.

Q. But you know of nothing being paid?—A. Nothing at all. If anything was paid my correspondent would know of it.

By Mr. EDEN:

Q. Did you inquire of your correspondent to ascertain whether he saw any other gentleman affected except Attorney-General Garland?—A. I do not remember the specific instructions, but that would be his understanding of his general orders—to get all the facts he could from all the parties concerned. Those are always his instructions.

By the CHAIRMAN:

Q. The Tribune has given to this matter something of a political turn, has it not?—A. It has seemed to have some bearing on politics.

Q. I see in the editorial which accompanied the original publication something of that kind. And that has been kept up from the beginning, has it not?—A. I think you will find that we have generally called attention to the political bearings of it.

Q. At the time of the publication of this article, as I understand, you had not been able to communicate with Mr. Garland?—A. I think not.

Q. And yet I think the editorial was principally about Mr. Garland. Is it not a fact that it reflects more upon him than anybody in the company?—A. He certainly seemed to us to be more involved than anybody else.

Q. And he had had no opportunity for explanation?—A. We were seeking for his explanation. In the mean time the facts, advertisements, and so on had been laid clearly before me in the papers to some extent.

Q. What advertisements had you seen?—A. I had one special advertisement on my table which I remember which appeared in some Washington newspaper—I think a weekly newspaper—in which the Attorney-General was advertised as one of the directors and as counsel of the Pan-Electric Company.

Q. The most of your editorial articles were directed against the Attorney-General, were they not?—A. I could not say. We probably made him the front of the discussion.

Q. Did you regard him as more culpable than anybody else?—A. The proceedings which we were criticising took place under him, in his office. We directed our criticism to the propriety of his holding the office of Attorney-General and instituting a proceeding in that office, or allowing proceedings to be instituted, which might affect his private interests.

Q. You had information at that time that he had nothing to do with instituting or allowing the institution of proceedings?—A. We put our interpretation on that, which you will find in the editorials. I presume you do not care to discuss it.

Q. You stated you were taking pains to make inquiry as to the fact with a view to being just to all parties?—A. We think we have been quite just.

Q. You had seen Mr. Garland's denial and published it?—A. I saw that. I saw it when it was telegraphed from the Southwest.

Q. If that was true, Mr. Garland would seem to have had nothing to do with instituting the proceedings?—A. I should not take that view of it.

Q. If it was true, sir, that he had no knowledge whatever of it, why would you not take that view of it?—A. I should not take the view that Mr. Garland's denial freed him from censure in the matter.

Q. I see in one article you call it Mr. Garland's telephone suit. At that time you knew Mr. Garland had disclaimed any connection with the bringing of the suit?—A. I knew Mr. Garland had tried to escape from the responsibility of the bringing of the suit by the subordinate in his office.

Q. You knew he had stated he had nothing to do with it?—A. I knew he had tried to escape from responsibility for the acts of subordinates in his office.

Q. Did you not know the fact as I put it?—A. That is not my view of it, Mr. Chairman.

Q. Did you not know that he disclaimed any responsibility whatever for bringing the suit?—A. Whatever statement Mr. Garland made on that subject I printed in full and at once.

Q. Have you had any personal feeling against Mr. Garland in this matter?—A. None whatever.

Q. I see in an article appearing in the Tribune on the 28th of October it is said: "The Attorney-General tries to make Government trust funds valueless." What funds were they; does that relate to telephone stock?—A. I do not recall the article at all; I should have to examine it.

Q. It is a Washington letter, headed as follows: "Garland's sense of honor. Appearing against the United States. The Attorney-General tries to make Government trust funds valueless."—A. I do not recollect the article; I should have to look at it.

Q. It is accompanied by an editorial which bears this caption: "Mr. Garland's bad faith." Do you recall that?—A. I do not recall it, but if it appears as an editorial it was doubtless under my sanction.

Mr. RANNEY. If you are going to take up the matter I think we should take it up and discuss it.

The CHAIRMAN. Why do you think that? I do not think we should discuss the opinions of newspapers on this matter.

Mr. RANNEY. I am not trying to do that. It is not within the scope of the inquiry.

The CHAIRMAN. I do not desire to have any bout with Mr. Reid; my labors in that line are confined to members of the committee.

Mr. EDEN. The newspapers are the foundation for the charge.

The CHAIRMAN. I will state my view of it. If the question were whether the Tribune had been influenced by the Bell Company, or by any other company or person, and as some evidence of that fact it was shown that the treatment was entirely one-sided, and violently one-sided—I do not say it was—by making publications that did not seem to be warranted by the facts, that would be some evidence that it was proceeding from improper motive, and under improper influences.

Mr. RANNEY. It is the same as with the other papers taking the other view.

The CHAIRMAN. Certainly. I am only dealing with the business now in hand.

Mr. RANNEY. I am suggesting that you should not extend the inquiry so far. I shall not press the objection, but I shall claim the right, if I care to exercise it, of doing the same. I do not think I shall.

By the CHAIRMAN:

Q. I will call your attention to the subject-matter of this article.—A. I should like to see it, Mr. Chairman, if there is to be a discussion about it.

Q. Certainly. You will see that it relates to a matter not connected with the telephone investigation, as I understand [submitting scrap-book to witness].—A. I remember the article somewhat indistinctly, Mr. Chairman. It had passed quite out of my mind.

Q. What was the subject-matter of it?—A. It is in relation to the appearance of the Attorney-General in a suit in Virginia, or affecting Virginia bonds, in which, as it

seemed to the writer of the article (which I approved afterwards, although I believe I did not see it beforehand), he took sides in a way which it was thought would injure the interests of the United States, he appearing in the capacity of private counsel while Attorney-General.

Q. Has he appeared in any case against the United States since he became Attorney-General?—A. I would not like to say, as it is not within my knowledge at all.

Mr. RANNEY. How is it competent as bearing upon the Pan-Electric Company?

The CHAIRMAN. Only in showing the animus of the Tribune—that the Tribune was seeking for matter of attack other than the Pan-Electric.

The WITNESS. You asked me to what it related?

The CHAIRMAN. I have no objection to your stating.

The WITNESS. It says—

“The facts we present upon another page to-day are matters of record. They show that the United States has a claim of \$1,357,286, principal and interest, upon a trust investment in State bonds, against the State of Virginia; that, in common with other bondholders, the Government has suffered from the repudiation laws enacted after the partition of the State; that the claim is utterly worthless unless it be converted into the 3-per cent. coupon bonds issued for the purpose of funding the State's bonded indebtedness; that a further attack has been made by Virginia upon its good faith by an attempt to discredit and invalidate these coupon bonds; that actions have been brought by private creditors to enforce the provisions of the act which authorized the funding, and that Mr. Garland, after he became Attorney-General, and with a full knowledge of the Government's claim, appeared before the Supreme Court and argued, under a private retainer, for the State of Virginia, and against the interests of the United States.”

That seems to be the substance of a Washington dispatch, repeated in the editorial, and on which the editorial writer bases some censure of the Attorney-General.

Q. And you entitled it “Mr. Garland's bad faith.” So you were attacking Mr. Garland at the time on other than telephone matters. Then, when you publish as to the other side, you say, “Prof. Bell's defense—Plain words in the telephone case—E. N. Dickerson on the Pan-Electric suit—A sharp reply from Mr. Gantt.” That is the heading. You did not see any bad faith or anything wrong there?

Mr. RANNEY. Well, has this anything to do with whether the Tribune was paid any money by the American Bell Telephone Company; that is the only issue there is?

The CHAIRMAN. It is not direct evidence of the payment of money, or evidence of the payment of money at all.

Mr. RANNEY. That is the only thing we are required to investigate. We are not required to investigate the motives of these people or the soundness of articles they may think proper to write. For the sake of raising the question I object to that course of inquiry.

Mr. MILLARD. I only asked if the facts alleged in the article to which attention is called seemed to justify any criticism.

The CHAIRMAN. Did you think you were justified in expressing an opinion at that time?

Mr. MILLARD. You expressed an opinion. I am trying to get the facts from the witness.

By the CHAIRMAN:

Q. I believe the Tribune has defended pretty much everything on the side of the Bell Company, including Dr. Rogers, has it not?—A. I am not aware that it has.

Q. I see here an article on the subject of cranks.

Mr. HANBACK. Are you going into the crank question?

The WITNESS. We have not intended to defend the Bell Company at all, excepting so far as to bring out the facts; we haven't any more interest in the Bell Company than we have in any other company.

By Mr. MILLARD:

Q. I will ask you whether you have seen any contradiction of the facts alleged in the article to which the chairman calls your attention?—A. My memory is not fresh on that subject. It had largely passed out of my mind; but I do not recall any contradiction.

By Mr. RANNEY:

Q. I suppose you were ready to publish anything any of these gentlemen indicated or would state?—A. Within reasonable limits.

By Mr. HALL:

Q. What gentlemen do you understand as being alluded to by the question?—A. Attorney-General Garland was alluded to in the article he is speaking of.

Q. Of course you appreciate the fact that an opportunity to reply to an article several months afterwards is not equivalent to an opportunity to reply at the time of the publication of the article?—A. I gave him an opportunity just as soon as I could get at him.

Q. Of course we all understand that you could not get at the Attorney-General in the first instance?—A. No, I did it just as quick as I could.

The CHAIRMAN. I had a letter from Mr. Dana yesterday, saying he was not well and could not be here until next Tuesday. Mr. Jones, of the New York Times, was requested to appear, but he is not here, it seems.

T. C. CRAWFORD sworn and examined.

By the CHAIRMAN:

Question. Are you connected with the New York World?—Answer. I am.

Q. What is your relation to it?—A. Well, I have charge of their Washington office.

Q. How long have you had that position?—A. I have been with the World nearly three years.

Q. Have any articles appeared in the World sent to them from the Washington office in relation to the Pan-Electric and Bell Telephone matters?—A. Yes, sir; a number of articles.

Q. Do you know the date of the first article in the World?—A. I cannot recall the exact date. When I first came back here in September I sent several small dispatches. I sent a brief interview with the Attorney-General in September. I think it was done after his return.

Q. I see an article dated the 6th of January, which is the first I have. It is a Washington letter. I will show it to you [submitting a paper to witness].—A. The 6th of January. That is an article that I sent.

Q. You sent that?—A. Yes, sir.

Q. Have you any objection to stating where you got the facts set forth in this article of the 6th of January?—A. I had that information in confidence from a Senator.

Q. Do you decline to tell who it was?—A. I decline to tell without his consent.

The CHAIRMAN. It is headed a loud call for Mr. Goode.

Mr. MILLARD. He always responded.

The CHAIRMAN. Promptly.

Mr. MILLARD. Promptly.

By Mr. RANNEY:

Q. Do you mean that he wrote the article or that you got the facts from him?—A. The facts. I think I wrote the article myself.

By the CHAIRMAN:

Q. You say that the statements contained in this article were furnished you by a United States Senator?—A. Yes, sir.

Q. Did you call on him for them or did he volunteer them?—A. It was in the course of a casual conversation. I do not remember whether I called upon him for the facts contained in that specific article. I do not think that I did.

Q. I see you state in this article this—it begins this way:

"Dr. Rogers has not made a single statement yet which has been contradicted. He says distinctly that Casey Young went up to see the Solicitor-General about the bringing of the suit last summer, and that when he returned he said that Garland was going away so that the suit could be ordered."

Did the Senator give you that fact?—A. No; Dr. Rogers.

Q. Dr. Rogers gave you that fact?—A. Yes, sir; the only part that the Senator gave me relates to the consideration of the case by the Senate Judiciary Committee.

Q. Allusion is also made to the meeting at Casey Young's rooms when Gant, Van Benthuyzen, and Bradley T. Johnson were present. Where did you get that fact?—A. I think that came from the original article.

Q. Which was that?—A. That connected history.

Q. Well, it did not appear until a month afterwards. This is dated the 6th of January and that appeared on the 27th of January?—A. Well, I had read that; I had had that in my possession. I think that is it. I do not remember about that.

Q. You state here:

"Mr. Garland, to judge by what he has said in conversations with other Senators two years ago, was perfectly well aware of the duties of the Attorney-General in the matter, and knew that he would be called on to bring suit in the name of the United States to vacate the Bell patent."

Had you that information from any person?—A. From the original history.

Q. That he knew that before he was made Attorney-General?—A. I think that is in that original history.

Q. Sir?—A. I think that is in that original statement.

Q. The sentence preceding reads as follows:

"It has been held by the friends of Mr. Garland that he was not aware of the position in which he would be placed regarding the Pan-Electric Company as Attorney-General when he accepted that position."

Now, had you information from any other source than the "history" that Mr. Garland knew he would be called upon to bring suit against the Bell Company?—A. No, sir.

Q. It would be important to know whether that is in the "history." I do not remember it myself?—A. Well, I say as it occurs to my memory now. I say that I think it was from that. I have had a number of conversations with a number of people upon this whole subject.

Mr. RANNEY. I suppose it is based upon the fact as to the bill that passed the House.

The WITNESS. Senator Platt spoke of that.

By the CHAIRMAN:

Q. (Resuming.) Spoke to you?—A. Yes, sir.

Q. Have you any objection to saying whether Senator Platt was the Senator who gave you the information for this article?—A. He did not.

By Mr. MILLARD:

Q. You say Senator Platt did not?—A. Not that.

Q. Not the one you alluded to?—A. Not the one I alluded to when I first spoke. He gave me some general information once about a conversation he had with Mr. Garland about that bill before his committee.

By the CHAIRMAN:

Q. You do not recall any other source of information but that statement, that the Attorney-General knew he would be called upon to bring suit in the name of the United States to vacate the Bell patent?—A. Not at present; no.

Q. You state here that after this bill had been introduced by Representative Vance, and rushed through the House, he went over to the Senate several times to look after the bill. Can you state where you received that information?—A. I received that information from the writer of the original article, and I examined the record about the passage of the bill in the House.

Q. To whom do you refer as the writer of the original article?—A. I refer to the person who furnished me the article, Mr. Hill.

Q. That is, the history?—A. Yes.

Q. You state here that while this bill was under discussion two letters addressed to Senator Garland, bearing on the subject, were referred to the committee?—A. Yes.

Q. Where did you have that information from?—A. Senator Platt.

Q. And that one of them contained suggestions as to amendments to the bill?—A. Senator Platt was chairman of the committee.

Q. You say that Mr. Platt, the chairman of the committee, went across the Senate Chamber one day and spoke to Mr. Garland concerning his communications, to ask him if he had any interest in the bill. From whom did you get that?—A. Mr. Platt.

Q. Did Senator Platt state to you that he went over to Mr. Garland to ask him if he had any interest in the bill?—A. Any amendments to put in the bill?

Q. Not any private interest?—A. Not any private interest. I did not so understand him.

Q. There is no matter here, then, that any Senator could have furnished except that which you say was furnished by Senator Platt?—A. I think I misunderstood the article. I thought it was an article that I wrote that referred to his case before the Senate Judiciary Committee. When I looked at the date I thought it was that article.

Q. Now as to the article of the 27th of January; you say you obtained that article from Mr. Hill?—A. Yes, sir.

Q. Had you had any private acquaintance with Mr. Hill?—A. No, sir.

Q. Under what circumstances did you get the article?—A. He came into my office one day.

Q. Will you give us the date?—A. Some time in November; I cannot give the exact date. The occasion of it was the publication of a small paragraph that I had written in a letter. That was the occasion of Mr. Hill's call [producing a newspaper clipping].

By Mr. MILLARD:

Q. Is that in evidence?—A. No.

Mr. MILLARD. Let him read it, Mr. Chairman, right in this connection.

By the CHAIRMAN:

Q. It was after this publication that Mr. Hill came to you?—A. That was the excuse for his call; I had never seen him before in my life.

Q. He called Dr. Rogers "J. K. Rogers?"—A. Yes, sir.

Q. You say Mr. Casey Young, Senator Harris, and Gen. Atkins are relatives of Dr. Rogers?—A. That was from Mr. Talcot. Col. Casey Young afterwards called at the office and stated that he wanted to disclaim the relationship.

Q. Are you able by that to fix the date Mr. Hill called?—A. It was some time in November—about the middle of November, soon after my return from New York.

Q. This information you obtained from Mr. Talcot?—A. Yes; casual conversation on the street.

Q. The electrician of the House now?—A. Yes. He said there were some inaccuracies.

Q. The gentleman who succeeded young Mr. Rogers?—A. Yes, sir.

Q. I see he said young Mr. Rogers was not much of an electrician?—A. That was what he said.

Q. State what was said between yourself and Mr. Hill at the time he called.—A. I had previously some instructions from New York to look into this matter. I had been to New York and Mr. Pulitzer had suggested to me that I look into this whole affair and find out what there was in it. He said there had been a good deal printed about it. I had looked up the previous publications and looked up some advertisements and my conversation with Mr. Talcot was in that direction. So when Mr. Hill came in he introduced himself and said that he had furnished a good deal of the information upon the subject to the Tribune, and that he had been in the employ of Col. Young, and that he could give me a complete history. He said that it was furnished in fragments, and that he would like to be paid for it. He said that he had not received any pay for what he had furnished, and he would like to get some money for the history, and I told him to go to work and prepare the history and I would pay him for it what I thought it was worth. I think he came in a day later, or perhaps two days later, with an article in type-writing. He let me read it over, and then I think he said he would like to make some changes. I do not remember about what, but I know he took it home with him and he sent me a note telling me where to send for it. I did not go for it myself, but a gentleman connected with the bureau went to Mr. Hill and obtained it and brought it to me, and I sent it over to the New York office with a personal statement, that I thought it was an interesting story, and I believed, so far as I could learn from the previous publications and from the advertisements and from the statements made publicly in connection with it that it, was a true statement. The amount of money we paid for it, if you would like that, was \$25, I think, for the first article.

Q. For the history?—A. For the history. He said that he could furnish some other articles in connection with it. He did furnish, I think, perhaps five. I paid him in all for those articles \$60.

Q. Including the \$25?—A. Yes. None of those articles were printed, though. The only article we ever printed from Mr. E. N. Hill was the original statement. That is the only contribution he gave us that we ever used. Those other articles, I think, are in the World office now. He furnished us later what he called a transcript of accounts. He wanted to know if I would like that, and I said I would take it.

Q. What accounts were they?—A. The accounts of the Pan Electric Company. For that there was no specified sum fixed. He said I could give him whatever I liked for it. I told him that was a very vague way of putting it; I would like him to put a price on it. He said I could give him whatever it was worth. I sent it over to the office, and they sent back word they did not think they would print it, and there was nothing more said between Mr. Hill and myself until he came in one day—no, he sent me a note in which he said if we were not going to use those accounts he would like to have them, as he was in need of money, and I sent him word to come to the office. I told him if that was what he wanted I would pay him just the same as if they were printed, and I paid him \$25 more.

Q. Eighty-five dollars altogether?—A. Eighty-five dollars. I do not think he has been in the office since then, except he has come once or twice with other things I did not want.

Q. You say in his first interview with you he stated he could prepare or furnish an article?—A. Yes, sir.

Q. Did you infer at that time that the article was already written or that he was going to write it?—A. I think he said that he had an article written; that is my impression; that he had one prepared.

Q. Did he make some changes in it after he took it away?—A. I do not know as to that; no material changes.

Q. You say you communicated with the office?—A. Yes.

Q. Did you get authority to purchase it?—A. I have general authority to purchase matter at any time according to my judgment.

Q. Had you any acquaintance with Mr. Hill before he furnished this article?—A. No, sir; I never saw him before he entered the office.

Q. Did he tell you who he was and what he had been engaged in?—A. He told me

his name was E. N. Hill. I had heard of him several times in connection with certain newspaper publications. I had seen his name attached to them; and I will add, in sending that history over to the World, I put his name in the introduction. I wrote on a separate sheet of paper, "The following history of the Pan-Electric Company is prepared by Col. E. N. Hill, formerly in the employ of the company."

Q. Did you append that for publication?—A. I intended it to be printed. I do not know why it was not. Being on another sheet of paper, and being kept for some time, it might have been dropped.

Q. If I recollect aright, Mr. Pulitzer said the matter was furnished by the Washington correspondent, and that \$100 had been paid for it?—A. He said in all not more than \$100. He would not remember probably the exact amount.

Q. Did Mr. Hill ever tell you the circumstances under which the article was prepared?—A. No, sir.

Q. Did you know that Mr. Sypher was in any way connected with it?—A. No, sir; I only knew this, that Col. Hill had desk-room in General Sypher's office, and whenever he would send me word that he wanted any money or anything, he would say, "Send around to room 23, Glover Building, General Sypher's office," and I went around there once to see him.

Q. You say you have published but the one article from Mr. Hill?—A. That is all.

Q. Has any person else furnished articles?—A. Nobody, except the regular employés of the World as reporters.

Q. Did you know that this same article had been furnished to the Bell Telephone Company?—A. I did not.

Q. When did you first become aware of that fact?—A. Here, in this committee room.

Q. You say that you did know that Hill had been in the employ of the Pan-Electric Company?—A. Well, from his own statement, he seemed very familiar with their affairs.

Q. And you intended to have that published along with the article?—A. Yes, sir.

Q. Did you know that these accounts which he furnished you were taken from the books of the company?—A. Only from his statement. The office did not use them.

Q. Did you know that he had been in Casey Young's office?—A. Not of my own personal knowledge.

Q. Had you heard it?—A. Only from him.

Q. Did he tell you that he had gotten this information by being in Col. Young's office?—A. Yes, sir.

Q. And in the employment of the Pan-Electric Company?—A. Yes, sir.

Q. Did you buy it with the understanding that he had gotten it that way?—A. I did not ask him very many questions about it.

Q. You knew the fact I presume that he got it by reason of his connection with these people?—A. Well, I supposed so.

Q. Did he furnish you any of Col. Young's letters?—A. No, sir.

Q. None at all?—A. I do not remember of his furnishing me any of Col. Young's letters.

Q. Did he not furnish you with the stenographic notes of Col. Young's letters?—A. No, sir.

Q. Did you at any time have in your possession a book of the short-hand notes of Col. Young's letters?—A. I did not know they were his. There was a newspeddler who called at the office one night—a great many call nearly every day—with a book which he said contained a number of Col. Casey Young's letters.

Q. Who was he?—A. I do not know. He said that that contained a number of Col. Young's letter.

Q. How long was that after the history had been furnished you by Mr. Hill?—A. I think that was within the next two or three weeks.

Q. You say you do not know the man?—A. I have seen him, but I do not remember his name. I had never met him before he came into the office. As I did not transact any business with him, I did not charge my mind with his name.

Q. You took the book?—A. I took the book; yes, sir.

Q. Did you not submit it to a stenographer with a view to having it written out?—A. I did.

Q. Was there any arrangement made by you with this person to pay him for that book?—A. I said if the book contained anything of any value I would buy it from him.

Q. How much did he ask for it?—A. He did not name any particular price.

Q. To whom did you submit that book to have it written out?—A. I submitted it to M. L. York.

Q. Any other person?—A. Well, if I did, it was in confidence.

Q. Was the confidence of such character that you cannot state the fact as a witness?—A. Well, it was a professional stenographer. If he does not object, I will give you his name.

Q. He declined to write them out, did he?—A. No; he did not.

Q. Why did he not do it, then?—A. He said that it contained nothing of any interest. He said they were mere casual business letters, and nothing relating to the Pan-Electric. My instructions to him were: If it related to the subject of this company, I wanted it; if it did not, I did not.

Q. Did you furnish it to Mr. York after this stenographer returned it to you?—A. No; Mr. York had it first.

Q. Mr. York wrote out the letters, did he not?—A. He attempted to translate it, but it was too difficult and he gave it up.

Q. Did he not furnish you some translations?—A. He wrote out part.

By Mr. RANNEY:

Q. Was it in cipher?—A. No, shorthand.

Mr. RANNEY. Shorthand letters of whom?

The CHAIRMAN. Col. Young. It was Col. Young's private note-book, written by his stenographer.

The WITNESS. I do not know to this day that it was his note-book. I do not write shorthand. I know nothing about it.

By the CHAIRMAN:

Q. Did you not learn the fact from Mr. York?—A. Mr. York said so; but I have no personal knowledge. I do not read shorthand.

Q. Had you obtained any other of Col. Young's papers or letters?—A. Those that you have had here in the Rogers album.

Q. Yes; but I do not refer to them. Did you obtain any others besides what were obtained from Rogers and this unknown man and from Hill?—A. Mr. Hill furnished none of Mr. Young's letters.

Q. Well, I speak of the article; did Mr. Hill furnish you any of Col. Young's papers?—A. No, sir; not that I remember.

Q. You have referred to the Rogers matter; did you receive some letters from Mr. Rogers?—A. Yes, sir.

Q. Whose letters were they?—A. That bundle that you have here before the committee.

Q. Letters from a great many people?—A. Yes, sir.

Q. Do you remember the date at which you received them?—A. I think it was the next night after the publication of what was called the original history.

Q. Had you made any previous arrangement in regard to them?—A. No, sir.

Q. Did he bring them to you?—A. No, sir; I had never seen Dr. Rogers before the night he called.

Q. Was it the first interview when he produced the letters?—A. No.

Q. When have you ever seen him?—A. Well, he produced the letters the next day. I had an interview with him, I think, the first night after the publication of the letters, and in that interview he agreed to give me the letters.

Q. That was the first night after the publication of the history?—A. Yes, sir. He came in there for another matter, however.

Q. In any way connected with the Pan-Electric?—A. It was on account of that meeting that was had at the rooms of Senator Harris. He came in to tell me about that.

Q. Did he want to have something published about that?—A. Yes; he wrote me an account of it himself.

Q. Did you publish it?—A. No, sir; he was very much excited and it was almost illegible.

By Mr. RANNEY:

Q. It was after that fracas, that knocking down there?—A. Yes.

By the CHAIRMAN:

Q. And you say he then agreed to furnish you these letters he had received from other persons?—A. Yes, sir.

Q. And he turned them over to you the next day?—A. Yes, sir.

Q. Great bundles of them, were there not; two large packages of them?—A. Yes, sir.

Mr. RANNEY. They were not in a bundle, but pasted on to the leaves of a book as I saw.

The CHAIRMAN. Yes.

Q. (Resuming.) That must have been, then, on the 30th of January. Did Dr. Rogers give any reason why he surrendered these letters?—A. Oh, yes; there was a general discussion. He thought he had not been treated fairly in that article; he thought the enterprise had been represented in a bad light, and he said, "Why, I have hundreds of letters on that subject that will give you a different idea;" something like that. I said, "Have you any objection to letting me have those letters?" "Why," he said, "not in the slightest."

Q. The doctor did not want any pay for them, did he?—A. Not at all.

Q. Have you paid him anything?—A. Not a cent.

Q. At what date did you publish any of those letters?—A. The next day, I think; I was to go out to his house; his version is substantially correct, but he met me at the station; I missed the train or something; I did not go out on the train that he thought I would.

Q. You did not go to his house?—A. Not that time.

Q. Did you at any time?—A. Oh, yes.

Q. For what purpose?—A. Well, I went out there and made a sketch of the doctor and his son and his house and his grounds, &c.

Mr. RANNEY. You are good at sketching if you cannot write shorthand.

By the CHAIRMAN:

Q. (Continuing.) Did you publish any of the letters furnished you by Dr. Rogers?—A. Yes, sir.

Q. I see that they appeared on the 3d of February dated Washington, February 2?—

A. The first batch of letters were telegraphed.

Q. Was that this batch [exhibiting a printed slip], or was this an additional batch?—A. No; that was mailed.

Q. You telegraphed what was more important?—A. What appeared to be more important.

Q. Did you publish any except those which seemed to you to be against the parties who were connected with the enterprise?—A. I did not publish any that I thought did not have a bearing on the subject.

Q. And in that direction?—A. Without any regard to that.

Q. Have you had any communication with the officers or stockholders of the Bell Telephone Company in regard to this investigation or the matters out of which it grew?—A. I have not.

Q. Have you been requested by any of the Bell people to publish anything?—No, sir.

Q. Or send anything to the World?—A. I have not.

Q. Or any other paper?—A. No; I do not know a single official of the company.

Q. To your knowledge, has anything been paid to the World or to any of its correspondents for any matter published in relation to the Pan-Electric Bell affair?—A. Nothing has been paid that I know of, and I do not believe that there has been anything paid.

Q. As I understand, you were just gathering news?—A. That is all. Acting under orders from the editor of World. The editor of the World had no knowledge of these letters. He was here in Washington at the time. I did not say anything about them to him until after I had obtained them. I showed a part of them to him in his room at the Arlington. That was the first knowledge he had of them.

Q. Something has been said of a visit by Col. Young and others to your office after this publication. Will you state your recollection of what occurred at that time?—A. I did not print anything about it at that time.

Q. No, sir; you did not. You may state what occurred there at that time, as Col. Young has given a version of it, and perhaps others?—A. Well, ordinarily I do not repeat private conversations held in the office, but, as Col. Young has made a statement about it I will do so. He sent me a note during the day asking me when I would be at liberty to see him. He stated, I believe, in this note that he wished me meet Senator Harris, and General Johnston; that there had been a certain publication made in the World that he thought had placed him in a false light; something like that; that was the idea of it. I sent him word back that I would be in the office at 7 o'clock. I supposed at the time that he wished to make a statement.

Q. Was that after the publication of the history or letters?—A. After the publication of the history and after the scene in the room of Senator Harris. But the letters were not printed until the morning of the next day, the morning after that. I had sent for a stenographer, supposing they wished to make some statement. The interview was not very long. As I understood, the principal object of it was to call my attention to certain inaccuracies in the article, and ask me if I would not correct them upon my own responsibility. I said to them in general that they could make any statement they pleased; that I had instructions from the World to give them any amount of space. They said they did not care to engage in any newspaper controversy. They made some allusion to the occurrence in Senator Harris's room and they said, I think Col. Young said first that there had been some sort of reflection passed upon him, he being charged with furnishing the information, or it being charged that some information came from some member of the board, and he wanted to know if I had any objection to saying to those gentlemen present that he had not furnished the information, and I said, "None in the world." I said that he had not. Then Senator Harris said, "Then that puts the responsibility upon us," or something like that; I do not remember the exact phraseology,

and I turned to him and said, "You did not furnish the information," and I turned to General Johnston and said, "You did not." Then I think there was a very brief conversation afterwards, and I think Senator Harris said he hoped I had not obtained the information from Dr. Rogers. He wanted to know first if I had. I did not say anything, as he did not consider him a responsible person; did not consider him worthy of belief. That is the idea of it. That is the substance of the conversation. Of course I repeated to them the offer of the editor of the World to give them any amount of space, and I assured them there was a stenographer there who would report them accurately and they could revise it. Col. Young, I believe, invited me over to the rooms to look at the books at any time. He said he would furnish me any information I wanted as an individual, but he did not care to take part in any newspaper controversy. I think that was the idea of it.

Q. Was that about all that occurred at that time?—A. That is all I recollect.

Q. Have you had any other interviews with any of these gentlemen?—A. I have had one or two interviews with Mr. Garland, but simply to ask him whether he wished to say anything or not. Each time he has declined. I had an interview with him in September, I think, or the early part of October after the publications in the Tribune, and I printed in the World at that time a brief conversation that I had with him and with Solicitor-General Goode.

Q. That was after his return from Arkansas?—A. That was after his return from Arkansas.

The CHAIRMAN. I do not recall any other matter in which your name has been mentioned, but if there is any, and if you desire to make any statement, you may do so.

By Mr. RANNEY:

Q. You spoke of there being an article sent to the World, and spoke of their having kept it for some time before they published it.—A. It was sent over in November, and I think it was kept back for the reason that the editor of the World was very anxious—I know the reason. He was very anxious to have it verified as completely as possible, so as to be sure that he was printing what was a correct statement. I think that was the only reason. That is the only reason I know. He wrote to me a great many times on the subject, and telegraphed me a great many times on the subject.

Q. What pains did you take to verify the statement?—A. Well, I had a number of conversations with Major Clark, who had made the original investigation upon the subject, and I talked some with Mr. Hill, and then I looked up some of these documents and papers. I took that in connection with the fact that none of the statements printed had been denied. The essential facts had been printed. There had been no complete history of it printed. The essential facts of it had been printed and had not been disputed.

Q. Had the Tribune, before you published the letters of Dr. Rogers, published those letters?—A. No, sir.

Q. You were the first to publish those letters?—A. Yes.

Q. And Dr. Rogers, as I understand you, put it on the ground that there had been charges made derogatory to him by these men, and he wanted to show by the letters that they were not true?—A. Yes, sir. He said he would not give them to the Tribune. He said, "It is best to settle your quarrels in your own congregation, now that the Democratic papers have taken hold of it."

Q. He seemed to think the letters would have been a vindication rather than an implication?—A. Yes, that was his idea.

Q. Can you fix the date when you furnished that general history? Something has been said about Mr. Pulitzer having sworn he kept it three months?—A. It was sent to him some time in November, and that would make it nearly that.

Q. Did you go through all the letters in Dr. Rogers' book?—A. Every one of them.

Q. The matters which seemed to implicate him that had come out prior to his surrendering the letters were the publication of the general statement drawn by Hill, and the account of the fracas at Senator Harris' room, where there was a knocking down of somebody, I forget who. Those were the only notes printed prior to Dr. Rogers coming to you?—A. No.

Q. What else was there?—A. I printed several dispatches on the subject during the fall.

Q. And when that occurred, the statement of Mr. Hill, or the publication thereof made, was that while the hearing before the Interior Department was going on?—A. I do not remember as to that.

Q. Was it before or after?—A. I do not remember as to that. I did not follow that hearing at the Interior Department very closely.

Q. You have spoken of some certain sums of money having been paid to Mr. Hill; did you take receipts from him?—A. Yes, sir.

Q. Have you got them?—A. I sent them over to the office as vouchers; I sent for them yesterday; I presume they have them there.

Q. Do you keep an account of expenses of that kind?—A. I generally do.

Q. Was your buying information—paying Mr. Hill what you did—out of the ordinary course of business, or is that in the ordinary course of business?—A. Not at all. I have general authority from the World to buy anything that comes along—to buy anything they would like.

Q. That is the general practice of newspapers, I suppose?—A. I do not know as to the general practice; that is the practice of our office.

Q. Anything you want you have to pay for?—A. That is the practice.

Q. Among a certain class of men?—A. Yes, sir.

Q. You do not pay members of Congress anything, I hope?—A. We pay them in another way.

Mr. RANNEY. Sometimes by abuse and sometimes by telling the truth.

The CHAIRMAN. They don't call it abuse.

Mr. RANNEY. What the members regard as abuse.

Q. (Resuming.) You have not seen Mr. Hill since?—A. No, sir. I would like to say this. You suggested something I would like to say. The editor of the World had given me instructions upon the subject; that he wanted merely to find out the facts, and I printed a good deal of matter, particularly in the final summary of the hearing before the Interior Department, that was adverse to the Bell Telephone Company. I prepared an article which I do not know whether it is among that collection or not [indicating] showing that Mr. Lamar's decision was based upon the facts submitted to him.

Q. And this article was not inserted in the World until you had taken pains to ascertain its reliability in relation to the facts, and until after you had assured Mr. Pulitzer that it was so. That is so?—A. Yes, sir.

At this point the committee adjourned to meet at 12 m. to-morrow.

WASHINGTON, D. C., *Friday, April 30, 1886.*

A quorum being present, the committee was called to order by the chairman, at 12.40 p. m.

A. B. UPSHAW, sworn and examined.

By the CHAIRMAN:

Question. Do you hold any official position under the General Government?—Answer. Yes, sir; I am chief clerk of the Indian Office. I was appointed the first day of July, 1885.

Q. Appointed by whom?—A. Hon. L. Q. C. Lamar.

Q. The Indian Office is the one of which General Atkins is the head?—A. Yes, sir; I was appointed upon the recommendation of General Atkins for the place, sir.

Q. Had you prior to that time held any official position under the Government?—A. No, sir.

Q. What had been your business prior to that?—A. Well, sir, I have been a journalist all my life until 1883, when I lost my health in a measure, and retired from journalism for a time.

Q. It has been stated that you were in some way connected with the Pan-Electric Telephone Company, or the company organized under a license from the Pan-Electric Telephone Company for Alabama?—A. Yes.

Q. Is that a fact?—A. Yes, sir; I reckon so.

Q. You say you reckon so. Do you not know?—A. That is a fact.

Q. Will you state what connection you had with that company?—A. Well, sir, I had a contract to organize a company in Alabama which I did. I am not an officer in the Alabama company nor am I a director in the Alabama company.

Q. With whom had you a contract to organize the company?—A. I do not remember who the contract is signed by, sir. It is in the hands of the Pan-Electric company here. It is on file. It will show for itself.

Q. A contract made between you and the Pan-Electric company?—A. Yes, sir.

Q. To organize a company in Alabama?—A. Yes, sir.

Q. For the Pan-Electric Company?—A. I do not exactly remember the contract. It is here. It shows for itself. It is better evidence probably than I could give two years afterwards.

The CHAIRMAN. Are Col. Young's books here?

Mr. MILLARD. I have seen the contract. It has been in here.

By the CHAIRMAN:

Q. (Resuming.) What was the name of the Alabama company?—A. It was called the Alabama Pan-Electric Company, I believe, sir.

Q. Was any other person a party to the contract with the company beside yourself?
—A. I think the contract was made in my name, sir. I do not think any other name appears on the book. Mr. Looney was interested with me in the organization of the company.

Q. Do I understand that you acquired no personal interest under this contract?
A. Yes, sir; I suppose so.

Q. You were acting merely as the agent of other persons for the establishment of the company?—A. Well, really, Mr. Boyle, I do not know exactly the capacity I held. I think, though, that I was to give them a given sum for the right, and I was to organize the State. That is my recollection about it, sir.

Q. That you were to give the Pan-Electric Company a certain sum for the right in the State of Alabama?—A. I think they were to have a certain sum. The company was to be organized. They made the transfer to the Alabama company. I did not do it. I do not think that the Alabama right was ever transferred to me. I think the transfer was made direct from the Pan-Electric Company here to the Alabama Company there.

Q. I am unable to gather from what you have said thus far whether you were the agent of the Pan-Electric company or a contractor with it.—A. They agreed to take so much for the State and I went down there and organized a company on that basis.

Q. They agreed to sell it to you?—A. They agreed to take so much, sir. As I stated, the contract sets forth that, and it can do it in a very much better and more clear manner than I can after two years. The contract is full and complete.

The CHAIRMAN (Referring to one of the company's books before him.) The contract does not seem to be recorded. I thought all the contracts were recorded?

Mr. MILLARD. The contract is a direct contract between Mr. Upshaw and the Pan-Electric company. The contract is in writing.

The WITNESS. Yes, sir.

Mr. MILLARD. I have seen it. The contract was for twenty thousand dollars, or something like that?

The WITNESS. Yes, sir.

By the CHAIRMAN:

Q. (Resuming.) With the right to establish a company in Alabama?—A. Yes, sir; really, I do not know whether the contract looked to me; I know this—that the Pan-Electric company made the transfer to the Alabama company; it is for Alabama.

Q. But the contract was with you?—A. The contract was with me, but the company made the transfer. Well, I suppose the contract is just like all the others, sir.

Q. (Submitting a paper to witness.) I show the witness a contract made between the Pan-Electric Telephone Company of the one part, and A. B. Upshaw, of the county of Davidson, State of Tennessee, of the other part, dated the 20th of August, 1884; state whether that is the contract you refer to?—A. (Referring to the contract.) Yes, sir; that is my signature.

Q. Was there any person interested with you in this contract?—A. Yes, sir; there was.

Q. Who were they?—A. Mr. Looney was interested with me in the contract.

Q. Any other person?—A. T. C. Looney—R. F. Looney, jr.

Q. Two Looneys?—A. No, sir. Mr. R. F. Looney was interested with me.

Q. Any other person?—A. No, sir.

Q. Did you form a company in Alabama?—A. Yes, sir.

Q. Known by what name?—A. The Alabama Pan-Electric Telephone Company, I think, sir.

Q. I see by this contract you were to pay to the Pan-Electric Telephone Company twenty thousand dollars. Did you pay them that much money?—A. Well, I have not had a full settlement with the Pan-Electric Company yet, sir.

Q. Well, sir, you may state whether you paid them that much?—A. I have not paid them that much yet, sir.

Q. How much did you pay?—A. Well, sir, I think they probably—well, I could not answer the question positively. I have paid them at different times. I know they got some stock and some cash; I do not remember the exact amount; I think four or five thousand dollars in cash, probably.

Q. Can you not be a little more explicit?—A. Well, that is about it. I don't know whether it was four or five thousand dollars; I cannot recollect positively.

Q. Who paid that money?—A. Well, I think I paid it, sir. I think their books will show what it is. I do not know.

Q. Have you any doubt as to whether you paid it?—A. Sir?

Q. Why do you say you think you paid it?—A. Well, I know I paid it.

Q. Well, is that all?—A. Yes, sir.

Q. When did you pay it?—A. I paid it almost directly after the organization of the company in 1884.

Q. What was the capital of the company you organized?—A. I think it was a half million dollars.

Q. For the State of Alabama?—A. Yes, sir.

Q. Was the stock taken?—A. A stock-book was opened and stock was subscribed.

Q. The whole amount?—A. Yes, sir.

Q. Do you remember by whom?—A. No, sir; I could not say now, sir.

Q. Can you name any of them at present?—A. Well, yes, sir; I can, I suppose. A man named—those people are all strangers to me, sir. I will give you their names. I do not know whether I can give you their initials or not. I know some of them. I never lived in Alabama. I was there only a short time.

Q. I wish you would do so.—A. Yes, sir. Well, Mr. Ansley and Mr. Gasser and Mr. Yates. Well, there were a number of them, sir. I cannot recall them now.

Q. Can you name any more?—A. I think there must have been thirty or forty stockholders, sir. I cannot recall their names now, sir.

Q. Can you name any more? I would like you to name all you can.—A. Yes, sir. I am just running it through my mind now, sir; but I have had so many things to look after since the winding up of this company that I have given it very little thought. (After reflecting.) I think Mr. Bang probably was a subscriber to it, and probably Mr. Collins was a subscriber; and a Dr. Jordan.

Q. Where in Alabama was it organized?—A. It was organized at Birmingham, sir.

Q. Did any of the banks or bankers there subscribe to the stock?—A. I think not, sir.

Q. If you can name any others please do so?—A. No; I cannot now recall them, sir. I might name them all if I had time to do it. If I had thought you wanted them I might have hunted them up and brought you the names of most of them.

Q. Have you the books of the company?—A. Oh, I never had the books. I never had anything to do with it. I am not an officer or director in the company. I have got nothing in the world to do with it. The company was organized; they elected their own officers and the right was transferred by the Pan-Electric Company to the Alabama Company, and there my labor ceased.

Q. What was your relation to the enterprise then?—A. I went down there and organized this company. Got these gentlemen to subscribe to the stock on this basis.

Q. As the agent of the Pan-Electric Company?—A. Well, sir, as I stated, I think it is probable that I made the purchase of them. I think so. The contract sets forth what I was.

Q. I know. It seems to show you purchased the right yourself?—A. I do not think it does, sir. I think the contract bears me out on what I stated.

Mr. HALL. Shall I read it?

The CHAIRMAN. Yes; the reporter need not take it.

Mr. HALL then read aloud to the committee the material portions of the contract.

By the CHAIRMAN:

Q. (Resuming.) You say that, in pursuance of that agreement, you did have a company incorporated?—A. Yes, sir.

Q. Under the laws of what State?—A. Under the laws of Alabama.

Q. With a capital of a half million dollars?—A. I think so, sir.

Q. How much money was paid in, if any?—I do not remember, sir.

Q. Was any?—A. Yes, sir.

Q. A certain percentage; or how was it paid?—A. I think they arranged that among themselves, sir. They agreed to pay so much money. The organization was perfected after the stock was taken.

Q. To what extent were you concerned in organizing the company?—A. Just simply what I have stated—to get the parties to pay a certain amount of money, and then they organized the company themselves.

Q. You had nothing to do with the incorporation of the company, then?—A. I was not an officer nor a director in the company, sir.

Q. Well, you have said you paid the money to the Pan-Electric?—A. Well, I received it from the parties; yes, sir. I am interested in a branch company in Alabama, under this Alabama company. That I can tell you all about, because I am interested in it, own stock in it, am a director in it, and an officer in it.

Q. What is the name of that company?—A. The Noble Pan-Electric Company at Anniston, established August, 1884, and running ever since.

Q. How much territory does its right cover?—A. It covers that town and the county.

Q. What is its capital?—A. Ten thousand dollars.

Q. And who are the stockholders?—A. Well, sir, I am one of the stockholders. We bought the right from the Alabama Company, paid them a certain consideration for it, and went over there and established the company.

Q. How much did you pay?—A. Seven hundred and fifty dollars; I think we paid them in cash for that.

Q. Who were the stockholders?—A. Well, sir, Mr. Williams, of Anniston, and myself, Mr. Looney, a Mr. Pierson, and Mr. Lockwood, I believe. I think there were but

five or six. We went into the organization. I had organized the company down there, and there was some talk about there being trouble, and I went over there and organized this company to show that, after having organized the company in Alabama, I was not afraid to put money in a company and start it, and I did.

By Mr. OATES :

Q. Is either one of the Nobles in it?—A. I do not know whether they are or not, sir. (Submitting a paper.) Here is a list of the subscribers of the company. I simply organized that company to show that I did not ask the people to do things that I was afraid to do myself.

By the CHAIRMAN :

Q. Did you do this before or after the Alabama Company was incorporated?—A. The Alabama Company was incorporated first. We could not have made a contract with the Alabama Company until after it was incorporated.

Q. Then your contract was not made with individuals who afterwards became incorporators of the Alabama Company?—A. The Alabama Company, I think, was organized before the organization at Anniston. That is my recollection about it, sir.

Q. I do not get your meaning, I am bound to say that I do not follow you very clearly. I understand that you were authorized by the Pan-Electric under this contract to organize a company in Alabama.—A. I was.

Q. Well, did you organize it?—A. I did.

Q. The stock then was taken under your supervision, was it?—A. Yes, sir.

Q. And a company afterwards incorporated?—A. Yes, sir.

Q. Did these persons who took this stock pay you anything?—A. They paid the amount they agreed to pay. They paid the money, notes, and collateral to me, and organized and subscribed to the stock.

Q. How much did they pay?—A. Well, I do not know, sir.

Q. Approximate it, if you can.—A. Well, sir, I am not positive about it, and I would rather not make a statement that I cannot substantiate. I am not positive about it.

Q. You cannot come near it?—A. Well, I have stated to you about the money I turned over to the other company.

Q. Well, that fact I have; but the other fact I want is what you got from the other side?—A. Well, I do not remember the exact amount; I forget; it was not very much either way from the amount I have paid the company.

By Mr. RANNEY :

Q. How much did you pay the company?—A. I have stated that once, sir.

By the CHAIRMAN :

Q. State it again.—A. I paid them between four and five thousand dollars. I have not looked at their books lately and cannot say with exactness. I paid it at different times and in different ways. I sent them checks from Alabama, I sent them exchange on New York, and I paid the last payment that I think I made to Isham G. Harris in the city of Washington. I think that was five hundred dollars, the last money I turned over to them.

Q. What became of the difference between what you received and what you paid over?—A. I did not say there was any difference.

Q. You have not said there was not any difference; you leave us in doubt as to whether there was any difference; whether you paid more than you got or got more than you paid.—A. I say what I have paid; I think I paid to the Pan-Electric Company about all I got in Alabama; Mr. Looney was interested with me down in Alabama and he collected some money that was not turned over to the Pan-Electric Company; which fund was used to defray a part of our expenses.

Q. Then, must I understand from your connection with this enterprise that you got nothing whatever for yourself?—A. I got some stock in the Alabama company, sir, and still own it.

Q. You are a stockholder in it?—A. Yes, sir.

Q. What proportion of the stock did you get?—A. I took some stock from parties who had subscribed and failed to take it; and then, I think, probably in addition to that, ten per cent. maybe.

Q. Did you get ten per cent. of the original stock?—A. Mr. Looney and myself, I think, got ten per cent. of the original stock. I think that was the understanding with the Alabama Company. And then there were some who failed to comply, as there are in all companies that organize. Parties subscribe and fail to take it, and that came up, and he and I took the stock.

Q. Was that the only consideration paid you and Mr. Looney by the corporation for the purchase of this right?—A. As I state, I have never had a full settlement with the company, sir.

Q. Was that all that was to be paid?

The WITNESS. Which?

The CHAIRMAN. Why ten per cent. of the stock?—A. We organized the company—

Q. (Interposing.) Mr. Upshaw, give us a plain statement of facts in regard to this matter.—A. Well, sir; I am trying to do that.

Q. Well, you are not succeeding very well. I want to know what consideration was paid to you and to Mr. Looney by the corporation that you organized in Alabama for the right to use the Pan-Electric instruments in that State?—A. I think, sir, we were to get all over a certain amount. They were to get \$150,000 of stock, I think, which they got, and we were to get ten per cent. of the stock.

Q. What has become of the other \$300,000 of stock?—A. Which other \$300,000? The stockholders, I should say, would have some interest in that—the men who organized it.

Q. Well, then, who was to get the \$150,000?—A. The Pan-Electric Company.

Q. The Pan-Electric Company, then, was to get \$150,000?—A. They were to get 30 per cent. of the stock. We retained 10 per cent.

Q. And that was the only consideration that was to be paid to you, was it?—A. They were not to pay us anything.

Mr. HALL. Mr. Chairman, I suggest that the witness might extend the answer so far as to be in error. The contract itself specifies what the Pan-Electric is to get, and I suspect the 10 per cent. he talks about was not between him and the Pan-Electric, but between him and the subordinate company.

The CHAIRMAN. Yes, I understand that. I see the Pan-Electric was to have from him \$20,000.

The WITNESS. It was \$20,000.

Mr. MILLARD. That does not answer the chairman's question what was to be paid you.

The WITNESS. I made a contract with the company to go down there and organize this company.

Mr. MILLARD. I am not referring to that; but the chairman has asked you three or four times what amount of money you were to receive.

The WITNESS. I made a contract with the company to organize this company down there, and I did organize it. I organized it on this basis.

By the CHAIRMAN:

Q. What basis?—A. On this \$20,000 basis.

Q. What else; anything else?—A. No, sir. Mr. Looney and I organized the company in Alabama; we organized it on this \$20,000 basis.

Q. The twenty thousand dollars cash that you paid the Pan-Electric?—A. It was to be paid. It was not all paid in cash. We took some paper.

Q. From your own statement they were to pay twenty thousand dollars cash, and thirty per cent. of the stock to the Pan-Electric company and ten per cent. to you?—A. Oh, no.

Q. Ten per cent. of the stock?—A. I said that we took ten per cent. of the stock originally.

By Mr. HALL:

Q. The subordinate company?—A. Yes, sir.

By the CHAIRMAN:

Q. You went in with the other stockholders, taking stock as they did?—A. Yes, sir.

Q. So that you were to receive nothing?—A. What do you mean by receiving nothing?

Q. The corporation was to pay twenty thousand dollars and thirty per cent. of the stock to the Pan-Electric company?—A. That was the basis on which the company was organized.

Q. I do not care about that; and I do not see where you were to get anything, as you were a subscriber to the stock like any person who went into the enterprise; were the subscribers to the stock to pay anything for it?—A. They paid so much for the right and organizing the company; yes, sir.

Q. That is the twenty thousand dollars for the right?—A. Yes, sir.

Q. Were they to pay anything more than the twenty thousand dollars?—A. They did not, sir.

Q. Were they to?—A. No, sir. Except the stock—this \$150,000 of stock, thirty per cent. of the—

Q. (Interposing). Am I not right, then, in saying that for your part in this undertaking you were not to receive anything?—A. No, sir; I think not.

Q. Well, then, what were you to receive?

Mr. HALL. Allow me to put a question.

The CHAIRMAN. Yes.

By Mr. HALL:

Q. If you will allow me, I will put the question in this way: I understand that you

went to work and organized an Alabama company upon a capital of \$500,000?—A. Yes, sir.

Q. Now, you say that in subscribing for that stock the stockholders paid in \$20,000 in cash?—A. No, sir; I did not say that.

Q. Well, how did they realize the \$20,000 in cash?—A. Well, there was some paper given, sir.

By Mr. RANNEY:

Q. What percent. was it you say you were to have?—A. I say there was thirty per cent. to go to the company, and then we took ten per cent., which made forty, and that was the basis upon which the company was perfected.

Q. That did not give you control?—A. I do not say it did. I said the Alabama people had control. There was sixty per cent. for the Alabama people, which gave them control of the company.

Q. You did not subscribe like other people?—A. I did. I took some stock that was subscribed for by other parties.

By Mr. HALL:

Q. You did not take this ten per cent. in that way?—A. No, sir.

By Mr. RANNEY:

Q. Did you pay anything for that that you took?—A. No, sir; I did not.

Q. Whether they gave paper or put in cash, was it not given in so-called pay for the stock originally subscribed for?—A. Yes.

Q. Then some of the members of that company did pay in cash, and some paid in paper obligations?—A. Yes, sir.

Q. Now, then, I want to ask whether, so far as the 10 per cent. you and Looney were to receive, you paid any cash or any paper, or whether that stock was given to you in consideration of the fact that you had organized the company?—A. I think that was the understanding; that the company and Mr. Looney and I should have 40 per cent. and this other company 60 per cent., thus giving them the control in Alabama.

Q. Then the real consideration received by you for organizing this company was the interest that was given you in the Alabama company?—A. Yes, sir; that is to say, from the Alabama Company. As to Pan-Electric, I decline to answer.

Mr. MILLARD. Then there is another question way back of that that I sympathize with the chairman in, and that is the amount of money he received from the Alabama company in addition to his stock.

The WITNESS. Well, I have answered that the best I can.

By the CHAIRMAN:

Q. You are not able to say?—A. No.

By Mr. MOFFATT:

Q. Did you receive anything in money?—A. I paid this company here between four and five thousand dollars, sir.

Q. Oh, no; but did you receive anything for your services?—A. I received that and turned it over to them.

Q. No, no; but for your services?—A. Well, I do not understand how I do stand with the company; it would take a Philadelphia lawyer to understand how I stand.

Mr. RANNEY. A Pennsylvania lawyer?

The WITNESS. Yes, sir; or a Massachusetts lawyer, and another Pan-Electric investigating committee.

By the CHAIRMAN:

Q. It is not a question of what you did receive; it is a question of what you were to receive. What was your contract with this corporation?—A. You have the contract.

Q. No; I have not the contract with the Alabama corporation. I have the contract with the Pan-Electric. I just want to know what were the terms upon which you disposed of this right to the Alabama people?—A. The Alabama people were to pay, or agreed to pay, \$20,000 and forty per cent. of the stock. That is as plain as I can answer it.

Q. Is that all they were to pay?—A. Yes, sir.

By Mr. MILLARD:

Q. Is your contract with the Alabama company in writing?—A. The contract was made by the Pan-Electric Company with the Alabama company.

Q. Have you any contract in writing with the Alabama company?—A. No, sir; my part of it ceased when this company transferred——

Q. (Interposing.) You do not answer my question.—A. I say not, sir; that my contract ceased with them when this company stepped in and took it off my hands.

By Mr. RANNEY:

Q. But you agreed yourself personally to pay \$20,000 in cash, or that it should be paid?

Mr. HALL. No, he did not agree that it should be. He said the corporation that organized should pay?

A. And the corporation which organized it satisfied the Pan-Electric company. One of its directors was present and made the transfer.

By the CHAIRMAN:

Q. Mr. Upshaw, we will pass from that. Do you know of any public officers having been connected with any one of these companies?—A. Well, I am interested in the Alabama company as a stockholder. I am in a public office now.

Q. You were not a public officer at the time of organization?—A. Not at the time; no, sir.

Q. Do you know of any other?—A. Well, I suppose all these gentlemen are interested in it: Mr. Garland, Mr. Atkins, and Mr. Young.

Q. I want to know whether you know of any public officer who was a stockholder or interested in the Alabama Company?—A. Are not these gentlemen in public office and interested in the company? They got the stock, and were interested. I am answering it the best I can.

Q. That is quite apparent. That is not answering my question. I want to know whether any public officer was a stockholder in the Alabama Company?

The WITNESS. At the time of its organization?

The CHAIRMAN. At any time.

A. I do not think there was at the time, and do not think there is now.

Q. Do you know any in the subcompany?—A. No, sir; only myself.

Q. And you were not a public officer?—A. At that time; no, sir.

By Mr. RANNEY:

Q. You say you have been connected with the press?—A. Yes.

Q. They call you General Upshaw. Were you a general?—A. I do not know that that is a pertinent question; I was on Governor Porter's staff while he was governor of the State of Tennessee, sir.

Q. It is only for the purpose of identification, as a mark of respect.—A. Thank you, sir; I notice you treat witnesses generally with very great respect.

Q. I understood you were connected with some press or newspapers formerly?—A. Well, sir, I owned two newspapers in Tennessee for a good long while, and I was subsequently connected with the Nashville American, the leading journal in the State of Tennessee.

Q. Were you connected with them when you made this contract?—A. I was not, sir.

Q. When did you become connected with them, and when did you cease to be connected?—A. Well, sir, I established the Columbia Journal at Columbia, Tennessee, in the year 1875. I conducted it until 1882, I think probably—1881 or 1882. I established a paper at Murfreesboro, in the county of Rutherford, Tennessee, in 1876. I owned both of those newspapers, weeklies, for some time.

Q. Do you own them now?—A. No, sir.

Q. When did you cease to be connected with them?—A. I disposed of my Rutherford County paper I think in 1876, probably, and the other in 1881.

Q. And you have no interest in them now?—A. No, sir.

Q. With whom did you negotiate this original contract before it was drawn? I mean the original contract between you and the Pan-Electric company signed by Joseph E. Johnston, president of the Pan-Electric company, and A. B. Upshaw?—A. I think the first party that ever spoke to me about it, sir, was Mr. Looney, at Nashville.

Q. Who was the next?—A. I do not know, sir.

Q. Did you meet Casey Young about it?—A. I do not think I ever had any talk with Casey Young in my life about it.

Q. Or General Johnston?—A. No, sir.

Q. By this contract you agreed thus:

"And in consideration of said agreement to convey, the said A. B. Upshaw, agrees and binds himself to organize a corporation for the purpose of constructing telephone lines and exchanges and conducting a telephonic business in the said State of Alabama, in the next twenty days, and that immediately after the organization of said corporation it shall pay to the said party of the first part \$20,000 in cash."

A. Yes, sir.

Q. You by that clearly and manifestly bind yourself personally not only to organize the company within twenty days, but that the corporation shall pay \$20,000 in cash. Those are the clear terms of agreement. Now, I understand that you never paid more than something like \$5,000.

Mr. HALL. I object to that question on the ground that it is a legal question, asking for the opinion of the witness, and that the statement is not a correct statement according to the contract.

Mr. RANNEY. I wait for the ruling of the chair.

The CHAIRMAN. I cannot construe the contract.

Q. (Resuming.) Now, why did you not pay the remainder of the \$20,000?

Mr. HALL. I say that that is asking the witness to answer as to the legal effect of that contract, which is a legal opinion.

The CHAIRMAN. I understood the gentleman from Massachusetts to make the statement upon his own responsibility as to the meaning of the contract, and then to put the question whether in point of fact he was to pay the money.

Mr. RANNEY. Why he did not pay it.

The CHAIRMAN. I do not say that the question is right or wrong. If the witness does not agree with the construction put upon the contract, he can say he does not so understand it. But I think the question is not an improper one, so far as it is a question. Most of it is a statement.

Mr. OATES. The question ought to be whether he did not pay more than five thousand dollars?

The WITNESS. I have not said that I paid five thousand dollars. It was between four and five thousand dollars.

By Mr. RANNEY:

Q. Why did you not pay the balance of the \$20,000 according to this agreement?—

A. That is my private affair, that I do not think you have anything to do with.

Q. Do you decline answering it?—A. If the chairman thinks it is a proper question for me to answer, I will answer it.

The CHAIRMAN. I would not undertake to say that it is or is not a proper question. If you think it is a private matter that you ought not to answer, I do not say that you are compelled to.

Mr. HALE. It is a question that he may or may not answer.

By Mr. RANNEY:

Q. Do you decline to answer? I claim the right to put the question in discharge of my own duty.

The CHAIRMAN (to the witness). You may state, sir.

A. I state this, sir—that I have not had a full settlement with the Pan-Electric company; that when the director came to Birmingham, Ala., and made this transfer to these gentlemen they were satisfied.

Q. You mean that they were satisfied to take five thousand dollars instead of \$20,000?—A. I did not say that; I say they were satisfied with what I had done.

Q. What had you done that satisfied them as you understood it?—A. Well, I decline to answer that.

Q. Had you given them anything in place of the remaining \$15,000?—A. I have stated time and time again, sir, that I had not finished settling with the Pan-Electric company.

Q. Do you understand that you owe them that now?—A. I do not understand that anybody has got anything to do with my private affairs or what I owe, and I decline to answer it.

Q. Did you give them a note for it?—A. I have not had a settlement with them, sir, hence I could not have given them a note.

Q. You mean that the balance of \$15,000 remains unsettled, then, do you?—A. I do not mean anything of the sort.

Q. Well, what do you mean?—A. I mean that I have not had a full settlement with the Pan-Electric company, and that is a matter that is between myself and the Pan-Electric company, and a matter that I do not think the public have got anything to do with.

Q. And you decline to answer?—A. Positively; yes, sir.

Q. Under any instruction?—A. You might take me up to the bar of the House and have me do it.

The CHAIRMAN. He does not understand the question.

Q. Do you decline under any instruction from any quarter?—A. No, sir.

Q. Have you conferred with Casey Young about it?—A. I do not intend to permit people to insult me on the stand, Mr. Ranney. That is an impertinent question, and one that you would not put to me outside of this committee room.

Q. Have you conferred with Casey Young on the subject, is my question?

The WITNESS (to the chairman). Do you want me to answer the question?

The CHAIRMAN. You can answer it or not, as you see proper.

The WITNESS. I do not think that the gentleman has any right to insult me on the stand.

The CHAIRMAN. You can decline to answer it if you like.

The WITNESS. Sometimes people who are clothed in the protection of members of

Congress say things that they would not otherwise say, and I think that any man that will attempt to browbeat a witness on the stand or to intimidate him acts cowardly.

The CHAIRMAN. Well, that is uncalled for. If you desire you can decline to answer.

The WITNESS. I do not own any stock in the Bell Telephone Company, and never have owned any.

Mr. MILLARD. I would like to know whether he has his pistols with him or not, Mr. chairman.

Mr. RANNEY. Will the stenographer read my question to the witness?

The STENOGRAPHER (reading). "Have you conferred with Casey Young on the subject, is my question?"

The WITNESS. What subject?

Mr. RANNEY. The subject to which I was referring in my previous question.

The WITNESS. As to whether I should answer that question or not, sir?

The CHAIRMAN. That is the question you are to answer.—A. Positively not.

By Mr. RANNEY:

Q. (Resuming.) Did the corporation give the parent company any note for the balance of the \$20,000?—A. I have stated time and again that the company made a transfer to the Pan-Electric company in Alabama, and one of its directors was present and did it, and that they were satisfied with the organization, and there is still a settlement to be made between me and the company. As far as the Alabama company was concerned the Pan-Electric company have got nothing to do with them, and the Pan-Electric Company is thoroughly satisfied.

Q. Do you mean in the organization of the company you acted as the agent of the Pan-Electric company, and whatever you did they were satisfied with, whether you got the \$20,000 or not?—A. No; I do not mean that. I never said that.

Q. What do you say or claim, then?—A. I said that this company was satisfied; that they did not look to the Alabama company for any more, and that they were satisfied as far as the Alabama was concerned with what they had gotten, and there is a settlement between me and the Pan-Electric company.

Q. They did not look to the Alabama Pan-Electric company for the balance of the \$20,000. That you understood. Now I want to know if you mean that they did not look to you either for that balance?—A. As I stated, sir, there is a settlement between myself and the Pan-Electric company which they look to me for, I suppose.

Q. Will you answer my question? I repeat it. A. I have answered the best I know how.

Q. Well, I will repeat it so that you may understand it fully, and I will take your answer, such as you see fit to give. You say you paid the parent company, the Pan-Electric Telephone Company, inside of \$5,000—about that—and that you did not get any more than that from the corporation, and that the director came down there and was satisfied with it and did not ask anything more from the Alabama company?—A. No, I did not say that.

Q. If you did not say that, state how the fact was?—A. I stated that the Pan-Electric company was satisfied with what I did. They were satisfied with the contract that was made with me, and they were satisfied to transfer to the Alabama company—gave them a complete transfer and they are operating under it.

Q. And getting no more than the five thousand dollars you have paid?—A. That is all they have gotten up to now.

Q. Now, I want to know if you mean to be understood that the parent company was satisfied with that, and not to receive any more of the \$20,000?—A. No; I do not mean to say any such thing.

Q. What do you mean to say?—A. They have never signified themselves as satisfied with that at all as a settlement between myself and the Pan-Electric Company.

Q. What else do they claim should be done?—A. Oh, I do not know.

Q. Will you be kind enough, now, to state what has been done in relation to the payment of the remaining \$15,000; I use that for an even number?—A. I did not say there was \$15,000.

Q. If less than five thousand dollars had been paid out of the \$20,000, I want to know what was done in relation to that balance?—A. I have paid since the organization of that company some money to Senator Harris here.

Q. How much?—A. I do not know; I do not remember.

Q. Please state how much.—A. I do not remember; I think it was about \$500, probably.

Q. Did you pay it to him individually or for the company?—A. For the company; and I think I took his receipt for it as vice-president.

Q. Or did he let you have the \$500 which was paid to the company, and you pay it back to him?

The WITNESS. Who let me have \$500?

Mr. RANNEY. Will the stenographer read the question?

The STENOGRAPHER (reading). "Or did he let you have the \$500 which was paid to the company, and you pay it back to him?"—A. No; he never let me have any money. I paid him \$500, I think. That was the last.

Q. Can you tell us about when it was?—A. It was some time in the latter part of 1884, I think.

Q. So that that was embraced in the \$4,500 which you have heretofore stated, was it not?—A. If I understood your question, Mr. Ranney, it was whether I had paid anything since the organization of the company, and I tried to tell you that.

Q. You have told me it, and I ask you now whether that five hundred dollars is not embraced in the \$4,500 you have stated you paid?—A. I do not know whether it is or not.

Q. How long has it been since you have had any talk with the company in relation to the things which remain unsettled as you before stated?—A. Well, I have talked to them occasionally. I do not know whether I have had anything to say to them recently or not. There has not been much said about it since. About that time there were some suits brought; one suit in Pennsylvania, I think, and I think that Senator Harris suggested to me that there ought not to be any steps taken to do anything further about asking people to pay that had agreed to pay down in Alabama, and under his instructions I have not done it. That is under his instructions and by his advice; I asked him about it.

Q. So that whether they can hold you for that \$15,000 (about that) remains undetermined yet—unsettled, does it?—A. There is still a settlement between myself and the Pan-Electric company, sir.

Mr. RANNEY. Will the stenographer read the question?

The STENOGRAPHER [reading]. "So that whether they can hold you for that \$15,000 (about that) remains undetermined yet—unsettled, does it?—A. There has been nothing said about that, sir.

Q. Then, what did you mean by your previous answer when you said that the company was satisfied with what you had done, without anything more, as was implied?—A. I did not say that.

Q. It seemed to be implied?—A. Yes, implication and—

The CHAIRMAN (interposing). He stated that the company did not look to the Alabama company; it was between him and the Pan-Electric.

The WITNESS. I took some paper and other collateral in Alabama, Mr. Chairman.

Q. (Resuming.) You say the capital stock of the Alabama company was \$500,000?—A. Yes, sir.

Q. And now, as I understand you, the only amount of money paid to them was about \$5,000, and that was all you got from the stockholders? Do I understand that is all the corporation got from the stockholders in cash for the stock taken?—A. That is about all they have got up to now, sir, I think.

Q. The capital stock subscribed for was \$500,000. Was it all subscribed for by individuals?—A. I think so; yes, sir.

Q. Individuals subscribed for the \$500,000?—A. Yes, sir.

Q. How much did they pay on their stock or were they to pay?—A. They organized a company themselves, sir. I had nothing to do with that.

Q. Do you not know what the subscribers who had got into that company were to pay for their stock?—A. I suppose they went into it on the basis of \$20,000 to \$500,000, sir. I suppose that was the basis upon which the company was organized.

Q. That is, if the par value of the stock was one hundred dollars, how much were they to pay on a share?—A. Well, sir, I think it was about one to fifteen probably. I think it would be about one to fifteen, would it not? I do not know; you can make the calculation.

Q. Twenty thousand is one-fifth part. That would be a fifteenth of five hundred?—A. Yes; twenty thousand, limited.

The CHAIRMAN. Four cents on the dollar, is it not?

Mr. HALL. Four cents on the dollar on five hundred is twenty dollars.

By Mr. RANNEY:

Q. (Resuming.) In other words, this fixes it that the patents were put into the corporation at \$20,000?—A. Yes.

Q. And the subscribers for stock, in all, were to pay twenty thousand?—A. Yes, sir.

Q. Was that so when the parent company was going to have \$150,000 of it?—A. As I remember it, they had three hundred thousand of the stock, and the parent company and Mr. Looney and myself had two hundred thousand, and they would pay as the twenty thousand is to three hundred thousand—about fifteen to one, sir.

Q. But all that was paid in by those who subscribed for it was about five thousand dollars?—A. I did not say that, Mr. Ranney, and you may question me all day and you cannot get me to say that, because that is not the fact; and your attempting to get me to say what is not the fact I will not submit to.

Q. Be kind enough to state the fact?—A. I have stated that I had some paper in Alabama; that some parties subscribed in Alabama that did not come up, and that I had taken some of the stock myself, and I feel that the Alabama company is relieved of any responsibility, and whatever responsibility there is I am responsible for to the Pan-Electric company.

Q. Well, would you be kind enough to state then what the fact is. How much was paid in if I have made the wrong inference?—A. Well, sir; I have stated all I know about it. I have given you as clear a statement of it as I can possibly do. I do not know what else I can say. I have tried to state it to you.

Q. Who is the treasurer of the Alabama company?—A. I do not know who is the treasurer now, sir.

Q. Who was when it was organized?—A. I think Mr. Lockwood was.

Q. What Lockwood?—A. I think Julius Lockwood is his name.

Q. Where does he reside?—A. He lives in Alabama.

Q. What part of Alabama?—A. Birmingham.

Q. Who was the president of the company?—A. Dr. Jordan.

Q. Be kind enough to give his given name.—A. I think his name is M. L. Jordan, sir.

Q. Where does he reside?—A. In Birmingham. I expect Mr. Oates knows him.

Q. You gave here what purports to be a list of stockholders?

The WITNESS. A list of what?

Mr. RANNEY. Stockholders, I understood.

A. A list of subscribers to instruments in Alabama.

Q. As I understood you, they were subscribers for the stock?—A. Oh, no; subscribers to an exchange in Alabama.

Q. You mean subscribers who took the instruments?—A. I mean there is an exchange in Alabama now, at Anniston, that had been running since August, 1884; subscribers just like you would be a subscriber here, taking an instrument and paying for it.

Q. Then you did not mean what I understood at the time. I thought you meant subscribers to the stock. That is what I understood the chairman to be talking about. Do you know who were subscribers to the stock?—A. I gave some of the names some time ago. I do not know many people in Alabama. I was there only a short time.

Q. How many in number were there?—A. Thirty-five or forty, sir, scattered all around.

Q. While you were engaged in organizing this corporation and attending to this business did you have a correspondence by letter with the parent company?—A. I do not know but what I did, sir. I suppose I did.

Q. How long a time were you engaged in it?—A. I was there, I suppose, probably forty to sixty days.

Q. With whom did you correspond?—A. I do not remember.

Q. Well, try and remember, if you please.—A. I cannot say, sir, who I corresponded with. I corresponded with the Pan-Electric company here, I think, sir.

Q. By name? Did you receive any letters in reply?—A. I take it I did, sir.

Q. Will you be kind enough to state where they are?—A. Oh, I have no idea, sir.

Q. Have you not kept them?—A. No, sir.

Q. Do you know what has become of the letters you wrote to the Pan-Electric company?—A. No, sir; I do not. I do not know whether I wrote any or not. I think I did, though.

Q. Well, now as to that subordinate company. Who is the president of that company?—A. Mr. Lockwood is the president, I think, sir.

Q. The same man that you mentioned before?—A. Yes, sir.

Q. And who is the treasurer of the subordinate company?—A. I think Mr. Looney is, sir.

Q. That embraced only one company?—A. Yes, sir.

Q. That was put in by the Alabama company?—A. Yes, sir; and they got \$750 for it from this local company.

Q. What was the capital stock of that?—A. The capital stock was put at ten thousand dollars.

Q. How much of that was subscribed for?—A. It was all subscribed, taken by the parties.

Q. How much was paid for it?—A. I do not now recall. I think, though, that the agreement was that they were to establish an exchange there and build it up, which they did do.

Q. They gave the use of the patents for the territory embraced in that one county?

The WITNESS. Who did, sir?

Mr. RANNEY. The parent company; the Alabama company.

A. Yes, sir.

Q. Gave it to that company for \$750?—A. And a certain percentage of their earnings.

Q. What per cent. of the earnings were they to have?—A. I think they were to have thirty per cent. of the local company—twenty-five, maybe.

Q. How much of the stock?—A. Twenty per cent. of the stock.

Q. Besides the \$750?—A. Yes, sir.

Q. You were one of the organizers of that corporation?—A. Yes, sir; I am a stockholder and one of the directors in that company.

Q. Well, how much did the original parties subscribe for the company?—A. I think that they put in at the time—I do not remember positively about it, but I think that in all it cost about three thousand dollars or thirty-five hundred dollars.

Q. The subscription to the stock, I mean?—A. No; I mean the organization of the company.

Q. Were there ten thousand dollars subscribed for in that telephone company for stock?—A. Yes, sir; the stock was regularly subscribed.

Q. Did they pay you the par value of the stock?—A. Oh, no.

Q. How was that?—A. Oh, they just subscribed so much stock.

Q. Well, how much were they to pay for it?—A. I do not now recall, sir.

Q. Do you remember what you paid, or did you get your stock for nothing?—A. I have stated, sir, that we built the company there—started it. It was the understanding that we were to establish a company there, and that it was to have so many instruments, and that it was to be thoroughly equipped and ready for business.

Q. Well, you are now speaking of the subordinate company?—A. Yes; the company I know something about, being a stockholder.

Q. I ask whether you got your stock for organizing the company or whether you paid for it?—A. I paid for it just like other people paid for their stock.

Q. For the stock originally how much did you pay?—A. We agreed to establish a company and put it in running order.

Q. Did you subscribe for the stock?—A. We subscribed for the stock.

Q. And had to put in capital?—A. Yes, sir.

Q. Were the patents or the right to use the patents for the limited territory put in as a payment of capital?—A. Yes, sir; we made the purchase of the home company, the Alabama company, for the right in that county, for which we paid \$750, and the directors took stock and subscribed for it.

Q. Was the stock put into the company as payment of the capital stock of \$10,000, the right to the patent?—A. I do not believe I understand the question.

Q. You formed a company with a capital stock of ten thousand dollars?—A. Yes, sir.

Q. Was that capital stock paid by putting in the patents for it—that is, the right to use them?—A. I think so. I think we subscribed the stock, and we agreed to establish the company in addition. I think in addition to the money paid to the home company, the Alabama Company, that we agreed to put in active operation fifty instruments in Anniston.

Q. The patent or right of patent which you obtained was put in in payment of ten thousand dollars?—A. The right to the patent and fifty instruments and wires and poles and switch-boards and everything of that sort was put in the ten thousand dollars. That is what I stated, sir.

Q. Were not those poles set after the company was formed?—A. Yes; they were to be furnished without any extra cost, and we were to furnish them.

Q. Did the money subscribed for the capital stock exceed the \$750 cash which you were to pay the Alabama Company?—A. I do not think I understand the question. I have tried to state it the best I know how.

Q. When a man got a share of the stock, how much in cash directly did he pay, for that stock; not what he paid in afterwards to develop the enterprise?—A. I think that was a part of the contract; that fifty instruments should be put up, the wires should be put up, and a switch board should be put up, and the Exchange should be put in active running order.

Q. And the expense of that was to be added to the \$750 which you paid the Alabama Company?—A. Yes, sir.

Q. How much did it amount to?—A. I do not know, sir.

Q. Can you not give us an idea?—A. I suppose it amounted to thirty-five hundred or four thousand dollars.

Q. Was that all that was subscribed for originally by the subscribers for the stock?—A. I do not know. I have given you a statement of all the facts I know about it.

Q. Was the original amount subscribed by the subscribers for the stock paid?—A. I have given you the clean-cut facts. I do not know.

Q. When you went to a man and asked him to subscribe for stock, supposing he subscribed one hundred shares, how much did you require him to pay in cash for those one hundred shares?—A. The stock was taken by five gentlemen, sir, for the Alabama

company. We established a company there. Mr. Looney and myself were interested in the organization of the original company, the Alabama company.

Q. It was established by five gentlemen, and they took the whole stock?—A. They took the whole stock and agreed to furnish the right to the Pan-Electric for that county and to put fifty instruments in.

Q. They sold the stock on the market?—A. They never sold it.

Q. They hold it still?—A. Yes, sir.

Q. Then there was no definite sum which they were to pay for that stock?—A. I think not.

Q. And whatever they put in was for the benefit of the company?—A. Yes, sir.

Q. Did you ever put it on the market?—A. No, sir.

Q. Did you have the opinion of Mr. Garland in any circular down in Alabama as to that patent?—A. I think that there was an opinion of Mr. Garland generally circulated in the papers that it did not infringe any other telephone.

Q. Do you remember what opinion that was, to identify it?—A. It was an opinion given to some gentleman; I have forgotten the name, sir.

Q. Was it Myers?—A. It strikes me that it was.

Q. You had it printed and circulated?—A. I think not, sir.

Q. Well, was it done?—A. I think it was in printed form.

Q. In what sort of printed form?—A. I do not remember.

Q. Was it a circular?—A. I cannot just now recall whether it was or not.

Q. Did you have the opinion of Senator Harris?—A. I think so.

Q. And that was printed and circulated, was it?—A. I do not know about that; I think it was, though.

Q. Did you have Mr. Young's opinion also?—A. No, sir; I think not.

Q. Do you know about how many stockholders there were in the Alabama company?—A. I do not, sir; I could not say.

Q. Well, about how many?—A. Well, I haven't any idea.

Q. Was that confined to a few, or was it sold in the market?—A. It was taken generally, sir.

Q. It went generally in the market?—A. I do not think it was sold. I think the people just went into the company and subscribed at the time.

Q. Was there a number of stockholders amounting to one hundred?—A. Oh, no, I think not.

Q. You say your telephone company there is in operation now?—A. Yes, sir; it has been running since 1884.

Q. Did you have any correspondence with anybody about the bringing of the Government suit?—A. I think not, sir.

Q. Are you sure?—A. I am sure that I did not.

Q. Did you have any knowledge of it before it was brought?—A. I do not know that I did.

Q. Do you know that you did not?—A. I do not know really when it was brought, I paid so little attention to it.

Q. Where did you get your first information in regard to it and from whom?—A. I do not know, sir.

Q. Can you not recall?—A. No, sir.

Q. Where is your office in the Interior Department?—A. I am in the Second National Bank.

Q. In the bank building?—A. Yes, sir.

Q. In the same place with General Atkins?—A. No, sir.

Q. On whose recommendation were you appointed?—A. I think, sir, that I was indorsed by the Tennessee Democratic delegation entire, by a number of prominent gentlemen from Tennessee and probably Mississippi.

Q. Did Senator Harris indorse and recommend you?—A. Yes; on paper.

Q. Casey Young?—A. Yes; on paper.

Q. John C. Brown?—A. I think so.

Q. Attorney-General Garland?—A. No, sir.

Q. Dr. Rogers?—A. No, sir.

Q. Senator Vest?—A. No, sir.

Q. Have you your paper by which you were recommended?—A. I do not think anybody recommended me for the place that I was appointed to, sir, except the Commissioner.

Q. You were recommended to another place?—A. Yes, I was recommended by the entire Tennessee Democratic delegation for an inspector's place, and Mr. Young and Mr. Harris urgently, persistently, and in person recommended another man for the place, and never opened their mouths in my behalf at all, and if the other man had been appointed I should not have been.

Q. An inspector's place where?—A. Indian inspector.

Q. In the Indian Office?—A. Yes, sir; and neither one of them ever opened his mouth for me, and I felt right sore about it after they were committed on paper.

Q. You are now in the Indian Office?—A. Yes, sir.

Q. Which is the higher office, the place you have?—A. The inspector's place pays \$3,000; the place I have pays \$2,000.

Q. If they had recommended you for the higher place, that would have been under General Atkins?—A. No, sir; General Atkins had nothing under the heavens of God to do with it.

Q. Did not a good deal of dissatisfaction grow out of this in Alabama?—A. I do not know that there has been any great amount of dissatisfaction.

Q. What has been the extent of it?—A. I have not heard anything from Alabama recently. About the time of the bringing of this Pennsylvania suit there was some little feeling, I think, probably.

Q. Growing out of what?—A. Of the bringing of that suit in Pennsylvania.

Q. Feeling towards whom?—A. I do not know that there was any special feeling against anybody, sir. It was just the thought that they would probably have a law-suit and they did not expect any.

Q. None of the stockholders were dissatisfied?—A. I expect they were, sir. I have never known a stock company to be organized without some dissatisfaction.

Q. Is the Alabama company in operation?—A. I do not know, sir; I do not think it is.

Q. Did it ever get so far as to put up instruments and go into business?—A. There were a number of private telephones put up in Alabama, sold outright by them under their charter.

Q. Did they go into the telephone business, putting up lines?—A. The only telephone lines that I know of put up, a regular exchange, was at Anniston.

Q. That is a subordinate company?—A. Yes; but that is under control of the Alabama company.

Q. How do they control it?—A. They gave the Alabama company so much of their stock.

Q. I only want to understand you. The Alabama company, the general one, the first one organized, never has put up lines and gone into operation?—A. Yes, sir.

Q. They have?—A. I do not think they have—that is, the Alabama company. There is an exchange in Alabama running.

Q. That is at Anniston, a subordinate company?—A. Yes, sir.

By Mr. MILLARD:

Q. What is your official position?—A. I am chief clerk of the Indian Office.

Q. Are you next to General Atkins?—A. I have charge of the entire office when he is away, sir.

Q. And were you appointed after or before you acquired this interest in the Alabama company?—A. I was appointed afterwards, sir.

Q. And about how long after?—A. Oh, eight or nine months, I take it, sir.

Q. Was General Atkins at the head of that Department at the time of your appointment?—A. He was the head of the Indian Office.

Q. At that time?—A. Yes; and I was appointed on his recommendation.

Q. You were appointed upon the recommendation of General Atkins, you say?—A. Yes, sir.

Q. In what way was the recommendation made?—A. Well, sir, the chief clerk of the Indian Office is a man that the Commissioner ought to have entire confidence in, and he asked that I be appointed to the place.

Q. Well, was the recommendation in writing?—A. I think not, sir. I think he went to the Secretary and asked to be allowed to appoint me to the place.

Q. Who went to the Secretary?—A. The Commissioner did. I think he asked him. I know Mr. Lamar previous to that time said he intended to give me a place. Mr. Lamar has known me ever since I was an infant.

Q. Did General Atkins ask Secretary Lamar?—A. Yes; I think it was done at his instance. I think he wanted it done.

Q. And you still hold the stock in the subcompany?—A. Yes, sir; I have got some stock in the subcompany.

Q. And you have got stock in the Alabama company?—A. Yes, sir.

Q. And consequently you are interested in the Government suit?—A. Well, I do not think I am, sir. As far as I am concerned individually I would very much rather the suit had never been brought, because I do not think it is going to benefit the Pan-Elctric company.

Q. Why, individually; you say individually you regret the suit was brought?—A. I do not think it is going to benefit the Pan-Elctric company. I do not think the suit, no matter how it is decided, will benefit the Pan-Elctric company. The annulling of the Bell patent, I take it, will turn all of them loose, and I do not think anybody's stock will be worth much.

Q. If the Bell patent is destroyed and yours takes its place it will benefit yours, will it not?—A. Well, I should say so, if it was destroyed and Pan Electric substituted. But that is hardly probable.

By Mr. HALL:

Q. I want to ask you a few questions. I do not know that I fully understand the original transaction. Were you a resident of Tennessee?—A. Yes, sir.

Q. And when you got this contract you went down into Alabama as a promoter of a new company?—A. Yes, sir.

Q. And you made an arrangement with a number of gentlemen to organize such a corporation?—A. Yes.

Q. On a capital of five hundred thousand dollars?—A. Yes, sir.

Q. And of that you provided that that company should pay over to you for the benefit of the interest received from the parent company two hundred thousand dollars?—A. Yes, sir. That was one hundred and fifty thousand dollars for the Pan-Electric and fifty thousand dollars for Mr. Looney and myself.

Q. Did you say Mr. Looney was interested, and you were acting with him?—A. Mr. Robert F. Looney, jr.

Q. Well, upon the \$300,000 that was retained by the local shareholders they were to pay enough money or its equivalent to pay the \$20,000 provided in your contract with the Pan-Electric company?—A. Yes, sir.

Q. Now I understand you to say that some of those parties paid in cash and some gave their personal obligations?—A. Yes, sir.

Q. And that cash and those personal obligations came into your hands?—A. Yes, sir.

Q. As the representative of this contract?—A. Yes, sir.

Q. Of the Pan-Electric company?—A. Yes, sir.

Q. And that after the organization had proceeded to that point an authorized director of the Pan-Electric company came down there to adjust matters as between the parent company and this newly-organized company?—A. Yes, sir.

Q. And that was done?—A. Yes, sir.

Q. And pursuant to that arrangement the new company received its patent right and exercised its privileges in the State of Alabama?—A. Yes, sir.

Q. And it was absolved from any further obligation except to pay royalties?—A. Yes, sir.

Q. And from that, on the adjustment for the money paid, and the notes given as the equivalent, rested between you and the company?—A. Between me as the representative of the Pan-Electric company and the Alabama company.

Q. And that fund thus coming into your hands was between four and five thousand dollars in cash?—A. Yes, sir.

Q. And you still hold notes, and there is an unadjusted and unsettled account between you and the company?—A. Yes, sir. I stated just right there that there were some parties who failed to take what they subscribed for, as there are in all companies.

Q. And you took that stock yourself?—A. Yes, sir.

Q. Now, the local company organized on a basis of ten thousand dollars of stock. I understand five gentlemen met together, and having ascertained that the right to that county could be purchased for \$750, and that the cost of equipping the company and putting it on its feet was another sum, they agreed to raise that sum of money themselves?—A. Yes, sir.

Q. And pay the \$750 to the Alabama company?—A. Yes, sir.

Q. Acquiring the equipment?—A. Yes, sir; giving them 20 per cent. of the stock.

Q. Giving them in payment of their contributions eight thousand in stock?—A. Giving the Alabama company two thousand.

Q. Which was regarded altogether as paid-up stock?—A. Yes, sir.

Q. You said a moment ago that the people generally subscribed in the Alabama company.—A. Yes, sir.

Q. Subscribed for it as people do in taking railroad stock, when there is an enterprise of that kind on foot?—A. Yes, sir. They agreed upon so much money for this right, and they got together and named the amount that they would capitalize the company at then, and the stock was issued.

Q. Now, was any of the fund that came into your hands from the Alabama company, whether it was money or notes, ever used by you for the purpose of influencing directly or indirectly any Government official?—A. No, sir.

Q. Has it ever been diverted from the trust under which it was originally placed in your hands?—A. Never on earth, sir.

Q. Was any of the stock of these companies ever issued for the purpose of influencing directly or indirectly any Government official?—A. Never on earth, sir; as far as I am concerned, or as I know.

Mr. HALL. I believe that is all.

The WITNESS. I would like to state that I am positive—to explain something about my appointment—that at the time of my appointment my having any connection with the Alabama Pan-Electric company or any other telephone company was not known by Mr. Atkins, or if it was it never entered his head, and any insinuation of that sort is without foundation in fact or at all.

By Mr. MILLARD :

Q. I have another question which I intended to ask you but it escaped me at the time. You spoke of a certain director going to Birmingham?—A. Yes, sir.

Q. Which one of the directors was that?—A. Col. Robert F. Looney.

Q. Of the Pan-Electric?—A. Yes, sir.

CECIL CLAY recalled and examined.

By the CHAIRMAN :

Question, Mr. Clay, you were to produce some papers from the Department?—Answer. Yes, sir; I have here certain papers where requests were refused in applications to bring suits to annul patents for inventions, going back as far as 1871, I think; I find six cases on the record. [Submitting papers.]

By Mr. RANNEY :

Q. Going back to the time the Department of Justice was established?—A. Yes, sir; as far as the investigation from which that list of cases in which the applications had been granted went during the time covered by the list formerly furnished of cases in which the request had been allowed, I find the six cases in which the request was refused.

By the CHAIRMAN :

Q. You have not made any other list of cases in which suits were allowed?—A. No, sir; these are the six cases, the original letters received. Those are the original letters received in each of those six cases, and, I think, certified copies in each of the six cases of the letters written from the Department, certified to separately, so as to accompany in each case the original letters received. It would be impossible to bring the original letters, but these certified copies were made from letter-press books.

Q. Have you a list of the applications granted?—A. (Submitting a paper.) This is a list of the applications granted, so that it can be seen in which cases reference was made, and in which cases no reference was made, to the Interior Department.

Hon. JOHN G. CARLISLE, Speaker of the House of Representatives, sworn and examined.

The CHAIRMAN. Mr. Ranney may examine the Speaker. I do not know of any matter to which I desire to call his attention.

Mr. RANNEY. The Speaker knows to what the investigation relates. I would prefer he should make his own statement.

The WITNESS. I suppose, simply because I know of nothing else that I could testify in relation to, that the committee desire perhaps to hear whether I have ever received any letter or offer from the Pan-Electric Telephone Company or any company connected or supposed to be connected with it. I know nothing about any other matter pending before the committee so far as I now remember.

The CHAIRMAN. So far as I know, that is the only matter.

Mr. RANNEY. Dr. Rogers has spoken of sending some stock to you, or letter about some stock. I do not remember just what his testimony was.

The WITNESS. I do not know whether I ever had a letter from Dr. Rogers or not. I do not know Dr. Rogers. But I have a letter from a gentleman who signs himself J. Harris Rogers.

Mr. RANNEY. Yes; that is the one.

The WITNESS. About the first of May, 1884, I received this letter, which is dated on the 28th of April, 1884, at the Continental Hotel, in Philadelphia, and which I will read.

The CHAIRMAN. If you please.

The WITNESS (reading):

“APRIL 28TH, 1884.

“DEAR SIR:”

I believe that is the address.

“I am instructed by The Rogers Telephone and Telegraph Company corporators to advise you that you have been elected a director in the company and that \$100,000 of the stock will be put to your credit for such occasional services as you may find it convenient to render. You will doubtless remember the cordial introduction given me to you by General Joseph E. Johnston, when I applied for the place of electrician of the House, and which you were anxious that I should obtain from the Architect. The new company will start under favorable auspices, with splendid instruments and the stock will appreciate in value as we build up.

“Requesting prompt reply and your acceptance, I have the honor to be

“Your obedient servant,

“J. HARRIS ROGERS,
“Secretary of the Board.”

That letter, as I say, must have been received about the 29th or 30th of April or 1st of May, because I find that my answer to it was made on the 1st of May. It frequently happens, and in fact is almost always the case, that I am a little behind with my correspondence, and sometimes do not reach for two or three days a letter on my table for the purpose of answering it.

By Mr. MILLARD:

Q. 1883 or 1884?—A. 1884. I have had my private secretary copy my answer from his stenographic notes, and I presume that it is a correct copy.

The CHAIRMAN. You may read it.

The WITNESS. It is not signed by me, because it is merely a copy from his own book.

Q. But you replied to it and signed it?—A. Yes, sir; I will sign my name to this. I have no reason to believe that it is not a correct copy. He can tell about that himself (reading):

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES, U. S.,
Washington, D. C., May 1, 1884.

J. HARRIS ROGERS,
Continental Hotel, Philadelphia:

DEAR SIR: Your favor, informing me that I have been elected a director of the Rogers Telephone-Telegraph Company, and that \$100,000 of the stock would be placed to my credit as a consideration for such services as I may perform, has been received.

Before accepting the position or the stock it would be necessary for me to be advised on two points:

First, I desire to see the charter or prospectus of the company; and, secondly, I want to know whether or not it will under any circumstances be dependent upon Congressional action for any favors or benefits. So long as I remain a member of Congress I will not become interested in any company or enterprise concerning which Congressional legislation may be asked.

Very respectfully, yours,

J. G. CARLISLE.

And that is the last I have ever heard of the matter. I want to say that when I received this letter I had no recollection whatever of ever having seen Mr. Rogers at any time, but I did remember after reading it that General Johnston brought some gentleman into my room one morning, who said that he was an applicant for the position of electrician of the House, an appointment which belongs to the Architect, but which is made subject to the approval of the Speaker, and my recollection was then and is now that I said to him that I had nothing to do with the making of the appointment, but would approve anything the Architect of the Capitol did, as the responsibility for this place was upon him and not upon me. Perhaps I am more strongly under the impression I made this statement to him for the reason that that is the statement I almost invariably made to everybody who came to me for this place, that I would approve whatever the Architect of the Capitol did.

By Mr. HALL:

Q. There is an allusion in his letter to an anxiety on your part to have him appointed to that position. I suppose that is simply a mode of expression in his letter.—A. I certainly manifested no anxiety about it, and so far as I know or believe, never heard the Architect say a word upon the subject, and I would not know Mr. Harris Rogers now if I were to see him. I ought to say that a great many gentlemen who wanted positions under the Architect after I became Speaker of the House applied to me for my influence in their behalf, and I always told them that I would approve whatever the Architect did.

By Mr. RANNEY:

Q. Were you aware of the resolution introduced on the subject of Mr. Rogers's appointment by Mr. Robinson, of New York, at that session; do you recollect anything about it?—A. I have no recollection whatever about it.

Q. I did not suppose you had?—A. No, sir.

Q. Were you aware while you were in the House that the establishment of a Government postal telegraph company was the subject of legislation?—A. Of proposed legislation; yes, sir.

Q. Do you recollect how long that had been pending before Congress; you were here some time?—A. I think that almost ever since I have been in the House there have been propositions of that sort either pending or talked about, perhaps bills introduced and referred to committees, and my recollection now is that there was at one time a bill reported back from the committee by Mr. Money, of Mississippi, not, I think, according to my present recollection, to purchase lines or to establish lines by the Government, but to employ some company to transmit messages for the Government.

Q. Do you recollect what term it was when Mr. Money reported that?—A. I think it was in the first session of the Forty-eighth Congress, the last Congress.

Q. Your recollection is that he reported it favorably?—A. I think he did, but the bill will show you how it was.

Mr. RANNEY. I had forgotten that.

The WITNESS. And while I did not have any reason to suppose that the purpose of this letter was to influence a public man in his official action, still I confess that I had a little shade of suspicion that something of this sort would come before Congress, as I knew that there were efforts being made to employ telegraph companies. This seems to have been a telephone and telegraph company, and, as my letter shows, I did not know but something of this sort might come up afterwards.

Mr. CASEY YOUNG. Mr. Chairman, may I ask the Speaker a question?

The CHAIRMAN. With the consent of the committee.

(No objection was made by any member of the committee.)

By Mr. YOUNG:

Q. Do you remember that the postal bill reported by Mr. Money had a clause that provided that no company could accept the terms of that bill that did not have a thousand miles of wire?—A. I would not like to state what the provisions of the bill were, because it has been a long time since I saw it; but I remember that I did examine it at the time, and was then familiar with its provisions.

Q. You do not remember what the last clause of that bill was?—A. No; I do not.

By Mr. MOFFATT:

Q. Mr. Speaker, you have no recollection of receiving a letter from J. W. Rogers?—A. I never received a letter from him in my life, that I know of.

(The Speaker here left the stand.)

The CHAIRMAN. Mr. Beach, I see, is present.

Mr. BEACH. Mr. Chairman, did you want to use me as a witness?

The CHAIRMAN. I suppose that is the purpose.

Mr. BEACH. I was told by the Sergeant-at-Arms to come down here. I was going to say that possibly I would be a more intelligent witness when I had the original letter that was sent to me. I suppose my being sent for relates to that?

The CHAIRMAN. Yes, sir.

Mr. BEACH. I haven't that here with me; it is at my rooms.

Mr. MILLARD. We can show you a copy of that.

Mr. BEACH. Very well, sir.

Hon. LEWIS BEACH, M. C., sworn and examined.

By Mr. RANNEY:

Question. How many terms of Congress have you been a member?—Answer. I came in in the 47th Congress. This makes the fifth session.

Q. One of the witnesses here has testified to having sent to you by letter at some time some stock in the Pan-Electric Telephone Company, or some of the companies growing out of it, I do not remember which. Will you state your recollection about it?—A. I did receive a letter, and it was signed by, I think, J. W. Rogers or J. H. Rogers, and it contained a certificate for a hundred shares of the capital stock of the American Postal Telegraph Company, as I now remember. I would state to the committee that I wish I had the letters before me. I would be able to testify then in regard to the dates.

Q. You have preserved the letters, of course?—A. I have the original letter and the draft which I prepared in reply.

The CHAIRMAN. You can furnish those hereafter.

The WITNESS. I can furnish them hereafter.

By Mr. RANNEY:

Q. You can state the substance of the letters and then they will speak for themselves when we get them.—A. The letter that I received from Dr. Rogers stated substantially that he inclosed a certificate for some shares of stock, and the idea was that it was to pay me for reading. He made some allusion to a poem. If Mr. Millard has the letter there before him—

Mr. MILLARD. (Interposing.) I will try and find it; but I doubt whether it has been published.

The CHAIRMAN. I doubt whether it has been published.

Mr. RANNEY. I do not think we have had it.

Q. (Resuming.) That is enough to identify it. You can say what you did, and let the letters speak for themselves.—A. I received that letter in my morning mail at the Portland, where I was stopping at that time and where I am now stopping. I brought it up to the House with me, and on the floor of the House I consulted Judge Holman,

and I showed it to Judge Holman, and when I returned to my rooms that afternoon I prepared an answer to the letter—

Q. (Interposing.) Can you state what your conversation was with Judge Holman, substantially?

The CHAIRMAN. Just a moment. I can see no reason why a conversation with Judge Holman should be put in evidence.

Mr. RANNEY. It may relate to the propriety of his accepting.

The CHAIRMAN. It would be incompetent.

The WITNESS. No, it was not with regard to the propriety of accepting it, but in regard to the manner of returning the stock. He was an old member, and I had great confidence in his integrity and honesty. I thought it would be well for me to advise with him in regard to the particular manner of returning the stock.

Q. Is there objection to your stating the conversation with Judge Holman?—A. None, whatever.

Mr. RANNEY. If it is a private conversation it is not proper to state it.

The WITNESS. No.

The CHAIRMAN. It is not competent to give an opinion expressed by Judge Holman as to the propriety or impropriety of his accepting the stock.

The WITNESS. He never expressed any. I did not consult him upon that point.

By Mr. RANNEY:

Q. Proceed and state what you did.—A. Upon my return to my rooms I prepared a draft letter, which I have preserved. I made a copy of it, and went up stairs to the floor above me to the rooms of Mr. Spriggs, of New York, a member of Congress, a colleague of mine, and asked him to read the letter, which he did. I showed him the certificate of stock, and we took notice of that, and then in Mr. Spriggs' presence I folded my reply to Dr. Rogers, and inclosed the certificate of stock. Mr. Spriggs and myself both put our initials at the foot of the draft letter, in order to authenticate it and identify it. Mr. Spriggs then went down to the main floor of the Portland building, where the United States postal box is located, and witnessed my depositing the reply, with the stock in it, in the postal box.

Q. And that is the last you heard of it, I suppose?—A. That is the last I heard of it until this investigation was inaugurated.

Q. Was the certificate that was sent to you made out in your name or transferred to you?—A. It was in blank.

Q. You mean the name in blank?—A. It was in blank.

Q. Well, was it a signed, executed certificate?—A. It was executed in blank.

Q. You mean the name of the stockholder was left in blank so that you could fill it in?—A. So that it could be filled in, but duly executed, so as to be negotiable.

Q. The American Postal Telegraph Company, was it?—A. That is my recollection of it, but my letter characterizes the title of the company.

Q. Did you know that company?—A. No, I knew nothing of it whatever.

Q. Well, you have spoken about some poetry; was there any poetry in it?—A. There was no poetry in it, but it was accompanied by some literature or circulars in relation to the telegraph business, which probably found their way into the wastebasket, as I have never seen them since.

Q. Was it a printed circular?—A. I think it was some printed matter of some kind.

Q. Was it the printed circular relating to the American Postal Company or the Pan-Electric company?—A. That I could not say; I have no recollection of that.

Q. Do you recollect whether there was a descriptive pamphlet of patents?—A. I do not. I have no recollection of that whatever. In fact, the whole thing escaped my mind very shortly afterwards.

Q. I recollect Dr. Rogers's testimony about it. He said that he sent some man (I forget whether you were the one mentioned or not) a pamphlet, in which a reference was made to the American Postal Telegraph Company and the possibility that Congress might establish a postal telegraph company and buy some lines.—A. I have no recollection of any conversation with him. I never saw the man but for about three minutes. I would not know him if he was in the room to-day.

Q. Do you recollect the catalogue itself?

The WITNESS. The pamphlet?

Mr. RANNEY. Yes; whether the pamphlet was inclosed in it?

A. I am inclined to think that came separately from the letter.

Q. Do you recollect how long it was—how many pages?—A. No, I do not.

Q. It was a printed document?—A. It was a printed document relating to the telegraph business.

Q. Was there a reference to some poetry in the letter?—A. There was; and I supposed that it was an attempt on the part of the writer to be facetious, and that the poem to which he referred was this printed literature. That was the construction that I put upon it at the time.

Q. That the poetry was in the stock or in the pamphlet?—A. It was in the pamphlet; at least in the letter—under the inclosure of the letter.

By Mr. MILLARD:

Q. One or two questions, Mr. Beach. Did you know the writer of the letter before its receipt? Had you any acquaintance with Mr. Rogers?—A. I never saw him, as I now recollect, but once, and that was when I was called out of the House and introduced to him in the corridor.

Q. Well, what was the object; who called you out, do you recollect?—A. I was called out by a Dr. Hathel.

Q. Of New York?—A. Of New York. Dr. Hathel was a dentist. He is a dentist to-day, I believe, in New York City. A great many years ago he was the dentist of my family, and the dentist of my mother's family before me. I had not seen Dr. Hathel up to that time probably for fifteen years before. I have never had any personal acquaintance with him except as a dentist in New York City.

Q. When was the date of this transaction? What was the date of the letter?—A. That is the reason I desired the letter, because it will show for itself. My impression is it was somewhere along in the early part of May.

Q. 1884 or 1883?—A. That I could not say. I am not good at remembering dates.

Mr. RANNEY. The letters will show.

The WITNESS. Yes, the letter will speak for itself.

Q. Can you give the substance of the reasons you gave for not accepting the stock?

The CHAIRMAN. We had better have the letter.

The WITNESS. The letter speaks for itself. I can remember its contents very well. I stated I would not accept of anything that I could not pay—

The CHAIRMAN. You need not state. Let the letter be produced.

Mr. RANNEY. The reason is stated in the letter.

The WITNESS. Yes, sir.

By Mr. MILLARD:

Q. (Resuming.) You have the letter?—A. I have the draft letter.

Q. You have the original letter you received from Rogers?—A. I have the original letter I received from Rogers.

Q. And you have a copy of the one you sent?—A. No; I have the original draft.

Q. You sent a copy of this draft?—A. I sent a copy of this draft, and it was an exact copy of the draft, and so certified at its foot by Mr. Spriggs's initials and my own.

Q. Now, will you state why you had Mr. Spriggs certify to the duplicate?—A. That was for my self-protection, to show that I had returned the stock, and that this letter was written at the time in answer to it.

Q. Did you know of the existence of the Pan-Electric company at that time?—A. No, sir.

By Mr. HALL:

Q. Are you sure that this was a certificate purporting to be issued by the Pan-Electric company?—A. No; my letter, which is the best evidence upon that point, states that I return the certificate for so many shares of the American Postal Telegraph Company, I think. The letter will tell what it was I received.

Q. Do I understand that this interview between you and the New York gentleman, the dentist, was before or after receiving this letter?—A. Oh, it was before; I met him for about three minutes in the corridor.

Q. Was that the interview at which you were introduced to Dr. Rogers?—A. That was the interview at which I was introduced, and that is the only connection or conversation I ever had with Dr. Rogers.

Q. Did anything occur at that interview that would justify or explain the sending of this letter?—A. Not at all. It was a complete surprise to me that I had received anything of the kind, and I felt so humiliated by the fact that it was sent to me that I never mentioned it to my wife. I mentioned it to Judge Holman and one or two others.

Q. You did not know but what it might be some improper scheme to entrap you?—A. That was the construction that I put upon it, sir.

By Mr. HALE:

Q. Do you remember what name was signed to the certificate?—A. No, I do not; and since this investigation has arisen I have thought that I was not as prudent as I might have been; that I might have made a copy of it.

By the CHAIRMAN:

Q. When did you come into Congress?—A. I came in in the Forty-seventh Congress.

Q. And have been in continuously since?—A. Continuously since then.

Hon. SAMUEL J. RANDALL, M. C., sworn and examined.

By Mr. RANNEY:

Question. Mr. Randall, I am desired by the chairman to examine you. You are

called here because of what Dr. Rogers has testified—that he sent you some letter or stock?

The WITNESS. Does he testify that he sent me some letter or stock?

Mr. RANNEY. Both. That you declined to receive it and sent it back.

Q. (Continuing.) Did you ever receive anything from Dr. Rogers of any kind?—A. I have no distinct recollection of ever having received a letter from Dr. Rogers, but it is possible that I received a letter, and answered it, as is my rule, which answer must show for itself, and in all human probability states a courteous and respectful declination to embark in any such enterprise.

Q. Did you retain the letter that you received?—A. I have made search for such letter since, unsuccessfully.

Q. Do you remember what enterprise or stock it was?—A. No, sir; I have no distinct recollection, but I know just what my course would be in such a matter as that.

Mr. RANNEY. Yes, we do not question that. I wanted to see if it alluded to any stock or any particular enterprise?—A. I have no recollection whatever of ever having seen a paper which purported to be stock.

Q. Or any letter which alluded to any poem being inclosed?—A. No, sir; I do not recollect anything about the letter as I said at first, and I would not be much disposed to stop to read poetry.

Q. Do you remember whether there was any pamphlet inclosed in it?—A. I do not, sir. I have no distinct recollection on that subject. If it came to me, as I said before, I gave in all human probability a respectful reply, which must have been a declination.

Q. Had you any acquaintance with Dr. J. W. Rogers or with Mr. J. Harris Rogers?—A. There was one of these gentlemen who was once connected with the House during my term as Speaker. I do not know which one of the gentlemen it was.

Q. However it may be, you had no acquaintance with him?—A. I may have had a speaking acquaintance. I never had any conversation with him on this subject. If he was the officer of the House that I think, he must have brought letters to me recommending him, but from whom I do not recollect.

Q. Do you remember his attempt, or that on the part of his friends, to get him appointed again electrician at the beginning of the 48th Congress—the 49th?—A. No, sir; I was not Speaker during that Congress, and I think the position he held, if it is the one I mean—well, there is a law on the subject. I think the electrician is appointed by Mr. Clark, who is the Architect.

Q. With the approval of the Speaker?—A. May be that is so. I know I was brought in contact with the appointment some way.

Q. In the Forty eighth Congress you were not Speaker?—A. No, sir.

Q. It has been testified to here that he made an attempt to get appointed again after having been out some years?—A. He never did with me, that I recollect. No one ever attempted any influence. It is not likely he applied to me, I not having any connection with the appointment.

Q. He seemed to have had a letter from Mr. Hewitt and Mr. Cox?—A. Quite likely.

Q. He had a letter from Senator Garland to Mr. Hewitt and Mr. Cox, introducing him.—A. I never had any intercourse with Senator Garland on these subjects, either by letter or otherwise.

Mr. OATES. A mere letter of introduction to Messrs. Cox & Hewitt.

The WITNESS. I do not think he had any to me from Mr. Garland. Perhaps I may have had as to his office years ago.

By Mr. RANNEY:

Q. Senator Harris and Mr. Garland speak of going and doing something about it personally?—A. Well, they did not come to me.

By Mr. MILLARD:

Q. Did you keep a copy of your letter?—A. No, sir; I do not keep copies. I have not time to keep copies, but I take care that letters I write the public can see.

Q. I understand that, and believe it, too. Can you give us about the dates?—A. No, sir; I have no recollection about the dates.

Q. You have been a member of Congress for how many years?—A. I was first chosen in 1862.

Q. And you have been ever since consecutively?—A. I was sworn in in December, 1863, and I have been re-elected eleven times.

Q. Now, will you state the impropriety of a member of Congress receiving such stock?—A. I am not here to give opinions on such subjects.

Q. You know you would not receive it?—A. You can put it that way. I am quite sure I would not receive it; I mean, not if it had any connection with legislation.

By the CHAIRMAN:

Q. Suppose it had no connection with legislation?—A. Well, a man must judge for himself in all those matters.

Q. It depends upon circumstances?—A. Upon circumstances.

Q. The company spoken of by Dr. Rogers in his testimony is the Rogers Telephone Company?—A. Well, I do not know one from another.

Q. Do you know anything of the Rogers Company?—A. No, sir.

Q. It is a Pennsylvania company?—A. It may be.

Mr. RANNEY. In some cases it was Pan-Electric stock that he sent.

The CHAIRMAN. In regard to Mr. Randall, he said the Rogers Telephone Company.

The WITNESS. I have never read his testimony. I know nothing about that. Surely he does not say in any part of his testimony that he sent me any stock?

By Mr. HALL:

Q. There is no letter of yours that appears in the evidence as far as I know. But as I understand you, as a matter of memory, you do not affirm or deny that you ever received such a letter or wrote such a letter?—A. No. I do say that the probabilities are that if I received any such letter I answered it, and which answer would show that I declined it, just as I have told you.

Q. You speak of probabilities? What are the probabilities of your having received a letter proposing to give you quite a large amount of stock in a corporation of that kind?—A. I say very distinctly, no one sent me any stock.

The CHAIRMAN. My recollection is Dr. Rogers did not say he sent you any stock, but that he made a proposition to you of some sort.

Mr. RANNEY. That he assigned it to him. He says distinctly that you declined it at once.

The WITNESS. I do not think I ever saw a share of the stock in my life, but I think the probabilities are that Mr. Rogers may be stating truthfully; that he may have written me a letter; that is, he thinks so; I do not recollect; but if he did, I answered it in all human probability, because I answer nineteen out of every twenty letters that come to me.

Mr. MOFFATT. The testimony of Mr. Rogers was [reading]:

"I wrote to Mr. Randall, telling him that if he would go into that Pennsylvania enterprise we would give him, I think, \$100,000; I am not sure; it may have been \$50,000, but I wanted him specially because he is a Pennsylvanian.

"Q. What was the capital of your Pennsylvania company?

"A. Five million dollars.

"Q. You may proceed?—A. Mr. Randall wrote me a very courteous letter saying that he did not know enough about the matter——

"Mr. RANNEY (interposing). Have you got the letter?

"The WITNESS. I think my son has a part of it, which says: 'Yours, respectfully, Samuel J. Randall.' But the balance of it is missing. His clerk probably keeps copies of his letters. The amount of it was that he did not know enough about the matter, and I think he intimated that he wanted to hear more about it."

The WITNESS. I think not.

Hon. ABRAM S. HEWITT, M. C., sworn and examined:

By Mr. RANNEY:

Question. Your name has been brought into this investigation. I think you were here once yourself?—Answer. Yes; I heard some testimony given by Dr. Rogers.

Q. Were you solicited ever to embark in this Pan-Electric enterprise and offered a one-tenth interest?—A. I was solicited to embark in it and an interest was offered to me, but I do not remember whether it was a tenth or not.

Q. From whom did you first hear of it, and by whom were you spoken to?—A. The first person who ever spoke to me about it was Gen. Atkins, now Indian Commissioner.

Q. When was that?—A. My recollection is that it was just at the close of the 47th Congress, when Gen. Atkins——

Q. (Interposing.) That would be somewhere before March, 1883?—A. Yes, sir; when Gen. Atkins's term of office as a Representative was about to expire or had expired.

Q. Will you be kind enough to state what occurred then? What was said between you and Mr. Atkins?—A. I think that we were talking about his future in some way. He said to me that he was going out of Congress; that he had been many years in Congress, giving very devoted service, and that it was necessary for him to do something or other to make a living; and I think out of that grew this reference to this thing. I think he stated to me that a proposition had been made to him to take up some telegraph matter, and he asked me what I thought about it. Of course I expressed no opinion about the matter, as I knew nothing about it; but I did express interest in General Atkins, whose public service had been very valuable, and whose integrity was unquestioned.

Q. What was said about stock?—A. I think he said if the enterprise were taken up it would not require the payment of money or any considerable amount of money to get the interest.

Q. What did he say about your going into it?—A. He asked me if I would be willing to join him in an enterprise of that sort. I cannot remember the precise terms of my answer except that I know I did not say I would go in it any way, because I did not know anything about it. I have no doubt I spoke kindly to him about it, and with sincere desire to be of use to him.

Q. Did you make any remark like this to him in the course of the conversation: that he was going out of Congress and you were going in?—A. I do not think I made any such remark; I may have made it, but I do not remember it. I do not think the subject of going in or out of Congress was mentioned, because no suggestion was made that any Congressional action would be required in the matter.

Q. Do you know the grounds on which you declined?—A. On that occasion I do not know that I absolutely declined; I must have answered in some general way. I had subsequent interviews which I will state whenever you are ready.

Q. You may state them —A. I heard no more of this matter until some time I think in the month of May, possibly the end of April, 1883, when I was called upon at my office, as Dr. Rogers testified, by himself and Senator Harris and General Atkins. I am not quite certain whether there was a fourth person or not; I cannot recall. The truth is if I had not heard his testimony—the thing had passed so entirely out of my mind—I should scarcely have recalled that interview. But it is as he stated. They came to my office and proposed to me to take an interest in this company and I declined to take an interest. There were very good reasons why I should decline at that time. Mr. Cooper had just died and I was charged with the care of his estate and many obligations, and I was in very bad health at the close of that session of Congress and generally I did not feel disposed to take any new obligations of any kind, and I declined. But I treated them very courteously, and after talking over the matter said I thought possibly the Western Union Telegraph Company who were interested in the Bell Company might, and I would give them a letter to General Eckert, and I think I did write the letter and give it to them and they took it.

Q. Do you remember the reasons you stated for declining?—A. I do not remember, except having heard Dr. Rogers state, and I have no doubt he stated them correctly.

Q. You gave real reasons?—A. If I gave any I gave real reasons. I know I was unwell at the time, and I was charged with these heavy duties and I did not wish to take up any new matter whatever.

Q. You knew Dr. Rogers or the son, or both, perhaps?—A. If you mean by knowledge, having seen one or the other, and possibly both, I did know them; but nothing more than having been introduced to one or the other, or both, during my term of office here.

Q. A letter has been put in evidence here from Senator Garland, directed to you and Mr. Cox, introducing, or purporting to introduce, or calling your attention to Mr. Rogers. I do not remember the exact language of it. Do you remember the letter being presented?—A. I think I do. If that be a letter which is addressed to me, "Dear friend," or "My dear friends," I would recall it.

Q. I will read you the letter.—A. If you will kindly do so. I think I remember a letter from Senator Garland.

Q. (Reading:)

"UNITED STATES SENATE, *January 18, 1884.*

"DEAR SIRS AND FRIENDS:"

The WITNESS. Yes; that is it.

Q. (Continuing to read:)

"Permit me to introduce to you Messrs. J. W. Rogers and son, accomplished and scientific gentlemen of this city, who desire to speak with you on some business.

"Please show them all proper attentions and command me when you will.

"Your friend,

"A. H. GARLAND.

"Hons. S. S. COX and A. S. HEWITT,

"*House of Representatives.*"

A. I remember that letter, and I believe the day I was here Dr. Rogers testified that it was never shown to me or delivered to me, and yet I think he must be mistaken, because I remember a letter from Mr. Garland which was unusual in having the word "friends." I was struck with the address. That was all. I remember such a letter, and this must be the letter, for I do not remember ever to have seen any other one. Whether Mr. Cox brought it and showed it to me, and then went out and saw these gentlemen, I do not know; but I certainly remember seeing a letter of that kind.

Q. I think he testified that, to do justice to Senator Garland, he did not know what his purpose was. I believe Senator Garland says he did come to see you?—A. I think he came to see me. That is my impression.

Q. State what occurred.—A. I cannot state very well what occurred, but the letter recalls the fact that somebody came to see me, and I only remember at that or some other time some suggestion was made about the employment of the son as electrician

at the Capitol, and I think I was asked at one time to speak to Mr. Clark or the Speaker on the subject.

Q. Who requested you to do that?—A. I can only give an impression again. I should think it was Dr. Rogers who did it.

Q. Do you remember whether father and son were together?—A. I do not.

Q. Or where you met them?—A. I cannot remember, except if I met them it was in the Capitol. They never came to my house.

Q. Do you remember whether, when they sent in a card, you went out and saw them in the corridor?—A. Well, I have a vague impression that I did see them in the corridor. I have a sort of an impression that I saw them either in the appropriations committee room or at the door of the appropriations committee room. It is simply an impression.

Q. Do you remember whether Senator Garland saw you at that time or subsequently?—A. I do not remember that Senator Garland ever saw me on the subject.

Q. Do you remember Senator Harris seeing you?

The WITNESS. In this interview in New York?

Mr. RANNEY. With regard to the appointment?—A. No; he never came to me, as far as I remember.

Q. Do you remember this matter of appointing his son to the office being canvassed?—A. I do not remember of anything that would perhaps justify the word canvass. I remember hearing about it, that he wanted to be appointed; but I never discussed the subject with any one, unless it was with Mr. Clark. I think I may have spoken to Mr. Clark on the subject, and I have a recollection of having spoken to Mr. Clark on the subject, because I remember his saying that the young man was a competent man.

Q. Please state the conversation with Mr. Clark.—A. Well, beyond that I cannot state any. I only remember that I got the impression that the young man was a competent electrician. He had been in the Capitol in the service of Mr. Clark, and he thought well of him.

Q. Do you remember whether when you went to see Mr. Clark you went alone, or whether Mr. Cox was with you?—A. Oh, no; if I saw Mr. Clark about it, I went alone. I certainly did not go with Mr. Cox.

Q. Were you in company with any one when you went to see him?—A. I do not remember.

Q. Did you go with a view of advocating his appointment?—A. You know I am bound to say that my memory is very indistinct of having gone at all, and yet from the fact that I remember Mr. Clark saying to me that he was a competent electrician, I must have seen him. But beyond that I cannot go. If I did it, it was because Senator Garland asked me to go, simply as a matter of good nature. I had no personal interest in it.

Q. Do you remember Mr. Clark saying anything about Mr. Rogers being connected with this telegraph company and it would create a scandal?—A. No, I do not. In fact, I do not remember that anybody ever said that to me.

Q. Do you remember Mr. Clark giving that as a reason why he should not be appointed?—A. No, I do not.

Q. Do you remember his giving any reason why he should not be appointed?—A. No, I do not. I do not remember any special reason.

Q. Were you aware of the introduction of the resolution by Mr. Robinson, of New York, relating to this appointment?—A. I never heard of it until it was testified to here.

Q. When they came to you to get you to take an interest in that enterprise do you remember whether they wanted to sell you an interest or whether they wanted to give it to you to come in on the same terms as the others did?—A. I do not think it ever got to the point of either selling or giving. I think they came to ask me to go into the enterprise, and I declined before we got to any discussion of terms, and I remembered then, as I remember now, what General Atkins had said to me previously, that it was not going to take much money to go into the enterprise.

Q. What did he say it was?—A. Oh, he said they were patents which had value, in his judgment, and that they would be capitalized in such way as to represent what he thought to be the value, and that parties could get in without the payment of much money, or any money, as far as I remember. At any rate, the money question never seemed to have made any impression on my mind.

Q. Are you aware that their telephone was on exhibition during the last part of that Congress?—A. No, I do not know it.

Q. At the Congressional Hotel?—A. I never heard it. I never gave it the slightest attention.

Q. Do you remember Dr. Rogers inviting you over to see it?—A. I do not remember it.

Q. Did you hear it talked of in the House?—A. I did not, further than this single conversation with General Atkins.

Q. Did you ever talk with Casey Young about it?—A. I do not recall any conversation with Col. Young about it.

Q. Are you aware that he was interested in it?—A. Not until these developments came out. I had no knowledge of his being interested in it.

Q. Did you know any member of the House that ever had any of it?—A. I never had the slightest idea that anybody in the House had any interest in it.

Q. You never had any information on that subject?—A. None whatever, except what I have got through the publications of the testimony here. That is all. I have seen the testimony.

Q. You did not know of its being canvassed in the House?—A. Never. No one ever spoke to me about it, except General Atkins, as far as I remember.

By Mr. MILLARD:

Q. A single question. Will you state the names of the gentlemen who called upon you in New York?—A. Yes, sir; Senator Harris, General Atkins, and Mr. Rogers, as I remember—three.

By Mr. RANNEY:

Q. The father or son?—A. The father. The son may have been with him, but it left no impression on my mind if he was.

By Mr. MILLARD:

Q. Senator Harris, General Atkins, and Mr. Rogers. Was Colonel Young there?—A. I think not; I do not remember seeing Colonel Young. I do not remember ever seeing him in connection with this business.

By Mr. MOFFATT:

Q. Mr. Hewitt, I just wish to call your attention to your testimony a moment. You said, as I understood you, that if you called on Mr. Clark or had any conversation with him it was out of regard for Senator Garland. You meant Senator Harris?—A. Yes; that is the only way I ever came to be brought into it.

Q. You used the expression "Senator Garland." You meant Senator Harris?—A. Oh, no; the letter brought to me was from Senator Garland. I never had any letter from Senator Harris.

By Mr. HALL:

Q. You do not mean to say you never had any interview with Senator Garland?—A. I never had any interview with him on the subject.

By the CHAIRMAN:

Q. You have been asked whether you gave to these gentlemen who called on you in New York your actual reasons for refusing to go into the enterprise?—A. Yes, sir.

Q. If you had been so situated in the matters that you speak of that you might have gone into an enterprise of this kind for the development of new and untried patents (that is, untried in the way of successful business operation) would it have been an objection on your part that a share in them was offered to you without the payment of a money consideration, you binding yourself to contribute to the development of them?—A. Not at all, if it had no relation to my public duties. If it had had any relation to my public duties I should have thought it a very great objection. Otherwise I would not. It is a very common thing in business. I suppose it has happened to me many hundreds of times in business for people to come to me and propose that very kind of thing, and people take them up or refuse as they think proper. No, there is nothing improper in it.

By Mr. RANNEY:

Q. Let me propose one question in that line. Supposing you were a member of Congress and a man should come to you and offer you a one-tenth interest in patents, many of which were completed, in actual operation, on exhibition, and you had examined them and satisfied yourself of their utility and great value, present or prospective, and you were to pay no money for them and to be liable to be assessed afterwards no sum exceeding \$150, and that to cover expenses, what would you assert to that proposition?—A. I should be put very much on my guard by such a proposition, and I should look at it very carefully to see how it might embarrass me.

Q. But supposing you added to that fact that there was pending before Congress the question, whether it should adopt the establishing of a postal-telegraph company, and these inventions involved an electrical system which might be adopted, or it was supposed would be adopted by the Government, what would you think of it then if you were a member of Congress?—A. Assuming your statement to be correct I should decline absolutely to have anything to do with it.

Q. Why?—A. Simply for the reason I have already given: that if I thought the proposition would bring me in any way in conflict with my public duties, or in sus-

picious relations with my public duties, I should be careful to avoid it. It might be the most honest enterprise in the world, but one holding a public trust should be like Cæsar's wife—above suspicion.

Q. If you had examined it and concluded it would be worth presently or prospectively a half a million dollars and you were to see nothing wrong, what would you think of it then?—A. Well, I should want to look at the source from which such an offer came. If my father or father-in-law, if I had them, were to offer me such an offer, I should take it instantly; but if I knew nothing of the parties, I should be very suspicious. I do not know that I should decline a half a million dollars if it was offered to me. I will take it under the will of Mr. Tilden to-morrow, if he should give it to me.

Q. But if you suspected it had any relation as a gift involving your official action, I do not think you would take it, would you?—A. I certainly would not.

Q. If it was simply for your name and influence because you were a member of Congress?—A. If it was because I was a member of Congress, I certainly would not; but if it was because I was a man engaged in business and was willing to take the risk of failure, which I am very willing to do always, I should probably take it; if it was offered because I was a member of Congress, I should decline it.

Q. Do you believe in the saying, "Beware of the Greeks when bearing gifts"?—A. Well, it depends upon whether they are "the Greeks."

By the CHAIRMAN:

Q. I understand you would be controlled, in deciding the matters suggested by the questions put by Judge Ranney, by the fact whether it was intended to or would affect your official action.—A. I think so. If I thought the gift was proposed in order to affect my official action, I should decline it without reference to the value of it.

Q. Would the fear of being misunderstood by the public control you so as to prevent you accepting?—A. On the contrary, since I have been a member of Congress, I have gone into many enterprises, in which I had to pay very much money, without fear of being misunderstood by the public.

Q. Something has been said about the liability being limited to \$150. Suppose you were to be liable to unlimited assessments for the purpose of developing the enterprise, would that fact make a difference?—A. It would be no objection in my business capacity. It might be an objection in my Congressional capacity.

Q. If it affected your official relations?—A. Yes. There are two enterprises that are usually started in that way, speculative ones—one, mines or mining, and the other patents; and the value of a mine or patent in advance no man knows. It has to be determined by experiments and the expenditure of money. You must open the mine or develop the patent. It takes money. Now, I know of patents that cost a very small amount of money and that have realized millions; the Bell patent for one, and the india-rubber patent for another. Those patents cost a very small amount of money, and whether you call the capital ten millions on paper or ten thousand dollars, it does not make a bit of difference as to the value of the property.

Q. Do you know of any patent that is untried in a business way, that is not put into operation for business purposes, that would be worth in the market five millions?

The WITNESS. In advance of its—

The CHAIRMAN. Yes.

A. I have known of such cases. I can give you a patent which has produced a great deal more than five million dollars, which really was sold for twenty thousand pounds originally; that is, the Bessemer patent. Mr. Bessemer's patent has yielded to the owners many millions of dollars, and yet the patent was originally sold to the Dowlais Works for twenty thousand pounds, and repurchased by Mr. Bessemer for the money they had given him.

Q. Do you know anything about the development of the Bell patents?—A. I know nothing.

Q. A two-third interest seems to have been parted with by the inventor for nothing.

Mr. MILLARD. I object to that if it is to go into the case.

The CHAIRMAN. That is the truth, and I desire to have it go in.

Mr. MILLARD. I do not know about that.

Mr. RANNEY. I think it is quite enough to let the witness argue without the chairman entering into the argument himself.

Mr. MILLARD. You are putting the very questions you would not let Mr. Randall answer that I put.

The CHAIRMAN. I am following Mr. Ranney.

Mr. RANNEY. You are asking for an opinion on a supposed fact.

The CHAIRMAN. This fact as to the Bell patents has appeared in evidence, but I will not go further.

By Mr. MOFFATT :

Q. In developing these patents generally are gentlemen invited into them who have large experience and means?—A. As a rule.

Q. They do not go to impecunious people to contribute?—A. There are impecunious men that cannot contribute money that can contribute brains.

The CHAIRMAN. And character?

The WITNESS. And character.

Mr. MILLARD. And influence?

The WITNESS. And influence.

Mr. MILLARD. And official influence?

The WITNESS. I suppose it is possible. I have no experience in that line.

By Mr. HALL :

Q. In regard to this matter of business interests which may ultimately involve some legislation in Congress or be effected rather by some legislation in Congress, is it not practically impossible to enter upon any large business enterprise which ultimately might not be affected by legislation in Congress?—A. I should think it exceedingly difficult. Congress is assuming jurisdiction over everything and I think it very difficult indeed.

Q. And when you speak of being very careful of entering into enterprises of this kind, you mean looking to the immediate condition of things?—A. If I supposed, in looking at the enterprise, that it was going to be the subject of legislation in Congress I should let it alone—if it were outside the ordinary things that have been the subjects of legislation from time immemorial. I should not object to it. For example, I am in the iron business. I cannot sit in the House, never could have sat in the House and failed to see that the tariff question was in some way affecting my interests, either favorably or adversely. Other people in the iron business think I am a fool, and am going against my own interests all the time. Therefore I feel relieved from any public censure.

Q. When you speak of the subject of Congressional legislation, do you mean where it appears to you that it is a scheme going to depend on Congressional legislation?—A. Yes, sir.

Q. Or do you mean a scheme that, without design of the promoters, sometime may be affected by legislation?—A. Well, the probability of such a thing would have weight in my mind—the probability that I might be called upon to act upon it. I would keep out of it if I could. If I thought it was improbable that I should be called upon to do anything about it, then it would not influence my judgment. But if I thought I was likely to be called to vote upon the question connected with the enterprise, I should certainly keep out of it.

Q. Would not your being in the iron business to-day involve a question?—A. No; I think the question has been well settled by precedent in the House for a long time. For instance, a banker, whether he can vote upon questions affecting the banking business, and a man in the iron business can vote upon questions affecting the tariff.

Q. Take the case of telegraph companies. Do you regard legislation of that character so remote and problematical as to come within the rule of being interested in telegraph companies?—A. Oh, no. I think if it was remote and problematical it would not be a serious question in my mind. But if it did come, I should refrain from voting if I thought it affected my immediate personal interests.

Q. I ask you, then, whether it is not true of nearly all lines of business that the fact that ultimately some legislation might affect the business would not preclude persons from entering Congress?—A. I answer that by saying that I have not the least hesitation on the question of tariff affecting iron, because in my mind I know I am controlled by general principles which address themselves to my conscience without relation to my personal interest, and I never have hesitated to express my opinion. That is a question of personal judgment, and I feel strong enough before the public and my own conscience to sit there and do it.

By Mr. RANNEY :

Q. Is it not your experience and judgment that with honorable men, insensible biases and influences have more control over their minds than direct bribes?—A. With highly honorable men the fact is, they are so straight they bend backwards and go the other way, as a rule. I think that if an honorable gentleman is conscious of having an interest he is apt to lean to the other side—not in favor of but against it; and I have seen gentlemen refrain from voting upon important questions in the House for fear they might be misunderstood.

Q. I refer to the question of insensible bias.—A. Well, if you ask me about an insensible bias, I am not sensible to any insensible bias.

The CHAIRMAN (laughing). I have never before been able to understand the reason for your course on the tariff.

SERENO E. PAYNE sworn and examined.

By RANNEY:

Question. I desire to examine you. How long have you been a member of Congress?—Answer. I came in in the 48th Congress.

Q. Do you know Mr. Casey Young?—A. Yes, sir.

Q. How long have you known him?—A. Since soon after that Congress was organized. He was chairman of the committee on which I was appointed.

Q. Did you ever own or have offered to you any Pan-Electric stock?—A. Well, I can tell you all there was about it.

Q. That is what we want. I do not know what you do know.—A. The House appointed a subcommittee, consisting of Mr. Young as chairman, and Mr. Storm of Pennsylvania and myself, to go down to Hot Springs, Ark., and examine into the conduct of the Government property there. On the way down, I think it was, I had some conversation with Mr. Young in which he was relating an experiment with the Pan-Electric telephone he had witnessed shortly before that, and he characterized it as a very wonderful invention, and Mr. Rogers, the inventor of it, as a wonderful electrician. I think he said that Mr. Rogers had at one time been electrician of the House. He said that they had organized or were organizing a company, and told who was connected with it; mentioned Senator Harris and Senator Garland and himself; I do not know but others, and said that they were organizing, I believe, under the laws of Tennessee, and that they paid in nothing for their stock except an assessment by way of paying expenses to develop the telephone, and that he thought it was going to be a profitable undertaking.

In the course of the conversation I suggested to him that I had understood that the Bell patents antedated everything else telephonic, and that I thought there would be a conflict with the Bell company in such an undertaking; and he said that Senator Garland was counsel for the incorporators, and they had a written opinion where he had examined the subject very carefully, and that they had nothing to fear from the Bell patents. I do not think he stated what the points were in which they were able to meet the Bell patent, and in the course of the conversation he said that if I wanted some stock he could get some for me on the same basis that the others had theirs. I think I asked him if the stock was not assessable under the Tennessee laws—if the parties were not liable not only for the amount but additional amounts in case the company became involved, and I think he told me they were not, and I finally told him it looked to me a good deal like investing in a law-suit or litigation, and that I did not care for any of it, and that closed the conversation, and we did not have any other.

Q. He told you if you wanted some of it you could go in at the same price the others were going in for?—A. Well, on the same terms. I understood him to say that they contributed ratably for the expense of developing the telephone and carrying on whatever litigation they might have.

Q. Did he tell you there was a limitation of \$150, and the rest of it was not to exceed that, unless by authority of the majority of his associates?—A. No, sir; I do not think he went into details of that kind. I do not know but he told me how much they had paid. I am not certain about that.

Q. Where was this conversation?—A. I think it was on the cars on the way to Hot Springs. What part of the journey it was I cannot say.

Q. Can you give the time more definitely?—A. I know we were there in Hot Springs on St. Patrick's day, and it was in the year 1884. It must have been some time in February or March that we went there. We were there for a week or more.

Q. Was there anybody else with you and Mr. Young at that time?

The WITNESS. During this conversation?

Mr. RANNEY. Yes.

A. I have an impression Mr. Storm was there a part of the time, but I am not certain about that. There were others in the car—Mr. Storm, Mr. Ranney, the stenographer, and Col. Low.

Q. Mr. Linney?—A. Mr. Linney was the stenographer. Col. Low of the Architect's Office was there.

Q. Whose stenographer was Mr. Linney?—A. He was the stenographer of the committee.

Q. You were at that time a member of Congress?—A. Yes, sir.

Q. Was Mr. Young on the committee?—A. He was chairman of the committee. It was a subcommittee from the Committee on Expenses of the Interior Department. Mr. Young was chairman of the committee and of the subcommittee.

Q. Do you remember who in the house he named was in the matter?—A. No, sir; I do not remember that he named any member of the House. I think he mentioned General Johnston's name and Senator Garland and Senator Harris.

Q. And you have never heard anything about it since until this matter came up?—A. No, sir.

(Here the witness left the stand.)

The CHAIRMAN. I want to put in evidence the two lists of stockholders identified by Mr. Driver, of the Bell Telephone Company.

The lists referred to are as follows:

List of stockholders of the American Bell Telephone Company, May 1, 1880.

Agassiz, Alex.....	522	Dexter, Frederick.....	50	Hastings, Sarah M.....	7
Amory, Frederic.....	35	Dexter, George.....	70	Hawley, S. R.....	10
Amory, Harcourt.....	70	Dexter, Wm. S.....	70	Hazard, Rowland.....	140
Ayer, Wells W.....	30	Dillaway, Geo. W.....	35	Hazard, Rowland G.....	742
Bacon, William B., jr.....	12	Dove, Geo. W. W.....	200	Hazard, R. J., 2d.....	7
Barbour, E. D.....	148	Dove, Helen C.....	12	Heard, Alice L.....	18
Bates, H. M., & Walley.....	6	Downer, F. W.....	6	Heath, C. H.....	28
Beaman, Chas. C., jr.....	66	Driver, Wm. R.....	3	Hecht, J. H.....	35
Bell, Alex. G.....	6	Du Bois, Gilman B.....	14	Henderson, Wm. H.....	7
Bell, A. D. S.....	7	Du Bois, Loren G.....	7	Higginson, Henry L.....	3, 510
Bell, Mabel G.....	3, 000	Duncan, Geo. W.....	20	Hill, Wm. H., jr.....	7
Bellfield, Henry & Co.....	25	Dwight, Mary C.....	21	Hodges, F. S.....	10
Bent, S. Arthur.....	14	Eaton, Edward.....	7	Holmes, Edwin.....	5
Beaumont, F. B.....	14	Eaton, Chas. L.....	14	Holmes, E. T.....	14
Benson, Geo. W.....	7	Edmands, Geo. D.....	50	Hooper, Jas. R.....	24
Benson, Emery K.....	7	Ellison, Wm. P.....	7	Hooper, John S.....	70
Bigelow, Jos. S.....	30	Ellis, Jas. M.....	7	Hornblower & Page.....	21
Binney, Mrs. J. H.....	18	Emery & Hodges.....	72	Horton, Chas. P.....	35
Blagden, Samuel P.....	70	Emmons, N. H.....	77	Hosmer, Crampton & Ham-	
Blagden, Thomas.....	35	Emmons, S. F.....	700	mond.....	14
Blake, Arthur W.....	750	Emerson, Chas.....	343	How, Frances H.....	7
Blake, Eli W., jr.....	70	Emerson, J. Haven.....	7	Howe, Henry S.....	7
Blake, Francis.....	1, 503	Emerson, Chas., tr.....	50	Howe, Nathaniel S.....	11
Blanchard, G. D. B.....	48	Emerson, Theresia.....	35	Howe, Sarah B.....	66
Bowditch, Chas. P.....	77	Emmons, A. B.....	200	Howe, Wm. G., agent.....	6
Bowditch, J. I.....	371	Endicott, Wm. P.....	7	Howes, Elizabeth.....	49
Bradley, Chas. S.....	525	Farmer, Moses G.....	18	Hubbard, Gardner G.....	3, 000
Bradley, D. H.....	14	Fay, Franklin L.....	14	Hubbard, Grace B.....	90
Bradley, Geo. L.....	1, 500	Fay, Richard S.....	502	Hubbard, Roberta W.....	90
Brewster, Bassett & Co.....	285	Field, E. G.....	14	Hubbard, Chas. E., tr.....	210
Brooks, Jas. W.....	112	Fiske, Oliver.....	14	Hubbard, Caroline T.....	270
Brown, Riley & Co.....	7	Fitz, W. S.....	84	Hubbard Bros. & Co.....	18
Brown, Arthur W.....	12	Fitch, Leonard M.....	7	Hubbard, John P.....	42
Brown, Jacob B.....	6	Fitch, B. S.....	35	Hubbard, Chas. T., exec'r.....	35
Brown, T. Wistar.....	25	Flagg, Augustus.....	35	Hubbard, Chas. Wells.....	35
Bullard, Geo. E.....	3	Foote, Thos. S.....	7	Hubbard, James M.....	77
Burley, Benj. D.....	5	Forbes, J. Malcolm.....	3, 325	Hubbard, Chas. E.....	108
Bush, W. M.....	15	Forbes, J. Malcolm, agent.....	18	Hunnewell, Hollis.....	42
Butters, Chas.....	43	Forbes, J. Malcolm, tr.....	108	Hunnewell, Walter.....	14
Butler, William.....	7	Forbes, Wm. H.....	4, 961	Huntington, James A.....	14
Cabot, Elizabeth R.....	112	Foster, Geo. E.....	7	Jackson & Curtis.....	397
Carleton, Anna N.....	30	Foster, Israel.....	7	Jacques, A. B.....	10
Carleton, Chas. A.....	7	Foster, Samuel J.....	21	Jacques, A. P.....	35
Carleton, Geo. H.....	12	Frost, Geo. H.....	140	Jenkins, C. T.....	35
Carleton, James H.....	140	Frankie, Annie W.....	30	Jenkins, John A.....	7
Carson, D. I.....	7	Frankle, Jones.....	12	Jenney, Bernard.....	14
Case, Hannibal G.....	7	Freeland, T. H.....	42	Jenney, Bernard, jr.....	7
Chase, Edward E.....	238	Forbes, W. H.....		Jenney, Francis H.....	14
Chase, L. E.....	6	Cochrane, Alex.....	} trs .. 1, 400	Jenney, N. S.....	7
Chase, Philip A.....	21	Bowditch, Chas. P.....		Johnson, Geo. J.....	70
Chase, R. Gardner, & Co.....	6	Gale, John E.....	21	Joy, Chas. H.....	70
Chase, R. Stuart.....	15	Gamble, John.....	21	Keyes, John S.....	7
Clark, D. Oakes.....	371	Gardner, Geo. A.....	150	Killam, C. H.....	12
Cochrane, A., & Co.....	3, 001	Gardner, John L., jr.....	371	Knapp, Arthur M.....	14
Coffin, Chas. D.....	1	Gargan, Thos. J.....	5	Ladd, Geo. V.....	49
Coffin, Chas. H.....	7	Garrison, Wm. L.....	14	Lang, Thos.....	196
Cole, Alice E.....	2	George, Jas. N.....	7	Lawrence, Abbott.....	119
Cole, Lester L.....	7	Gilbert, B. W.....	12	Lawton, James M.....	7
Converse, E. S.....	225	Gilbert, B. W., & Co.....	51	Lee, Elizabeth P.....	140
Corning & Stewart.....	7	Gillingham, J. E.....	50	Lee, Henry.....	160
Cornish, T. E.....	50	Glidden, John M.....	200	Lee, Higginson & Co.....	3, 567
Cotting, Chas. E.....	28	Gray, Francis C.....	7	Lewis, Clara E.....	7
Cotton, Wm. C.....	35	Gray, Horace.....	182	Lewis, Robert.....	10
Cox, Cornelius F.....	5	Gray, Morris.....	15	Little, Henry C.....	14
Crocker, Annie B.....	50	Gray, Reginald.....	18	Lockwood, Rhodes.....	21
Crocker, Cornelia M.....	7	Gray, Samuel S.....	37	Lodge, Henry C.....	77
Crocker, Geo. G.....	5	Gracie, Jas. K.....	35	Lovett, Joshua.....	7
Cross, Henry M.....	21	Green, H. A.....	12	Lowell, Abbott L.....	7
Cummings, Elizabeth W.....	12	Green, Jos. W., jr.....	28	Lowell, Augustus.....	200
Cummings, Isaac I.....	48	Grew, Henry S.....	50	Loring, John A.....	21
Cummings, J. A.....	7	Griffin, Chas. C.....	18	Lowell, John A., tr.....	360
Curtis, Annie M.....	7	Hall, A. I.....	7	Lowell, Percival.....	28
Curtis, Louis.....	77	Hall, John R.....	168	Lyman, Bessie H.....	6
Curtis, Louis, as coll.....	48	Hammond, Gardiner G.....	28	Mackie, J. Milton.....	63
Daly, J. W.....	4	Hammond, Samuel.....	14	Mackintosh, J. W. & Co.....	218
Dana, S. B.....	21	Harris, Ernest A.....	54	Mackintosh, W. H.....	6
Davis, Jos. P.....	10	Harris, Florence S.....	6	Magoun, Herbert.....	6
Davis, Frederic.....	294	Harris, Mary W.....	3	Market Nat'l Bank, coll.....	240
Dean, Chas. L.....	7	Harris, Thos. A.....	10	Mason, A. Lawrence.....	18

List of stockholders of the American Bell Telephone Company, &c.—Continued.

Mason, Henry	21	Richardson, Gedney K.	7	Sweet, C. A., & Co	72
Mason, William P	147	Richardson, John	2	Taylor, Levi	14
Maverick Nat'l Bank, coll.	900	Richardson, Hill & Co.	7	Thorndike, John L.	14
McKay, Gordon	154	Ridgway, John J., jr.	7	Thompson, Geo. W	70
McMin, Jas. B.	25	Robbins, Chandler	21	Thorndike, S. L.	147
Melville, Jane L	7	Rogers, Jacob C	77	Thorndike, Chas.	70
Merrill, Chas	5	Rogers, Richard D.	35	Tilney, J. S. & Co	43
Merwin, Elias	68	Rogers, W. C	126	Tower, Giddings & Co.	56
Milton, Wm. F	70	Rogers, George R.	6	Trowbridge, John	6
Miner, Geo. A	30	Rosenfield, Nathan	14	Tracy, Hannah M	24
Minturn, Rob't B	140	Russell, Mary F	7	Train, Stephen G	7
Mitchell, Jas. E	15	Russell, Henry S.	70	Tucker, Wales	14
Morgan, Ella M	300	Salisbury, Edward E	35	Turner, Seth	7
Moriarty, Stephen F.	1	Salisbury, Stephen, jr.	28	Vail, Theo. N	1, 178
Morse, E. R., & Bro	250	Saltonstall, Henry	189	Vickery, D. B.	14
Morse, John T., jr	14	Saltonstall, Wm. G	150	Wainwright, H. C., & Co ..	584
Morse, Marion R	12	Samson, E. H., tr.	86	Walback, Penelope R.	7
Mussey, Edward W	25	Samuel, Nathan	20	Walley, Henshaw B.	7
Nichols, Chas. S	7	Sanborn, John H.	14	Warden, Clarence	70
Nichols, Lyman	30	Sanders, Thos.	2, 038	Ware, Thos. M.	6
Nelson, Thos	24	Sanders, Mary A.	245	Ware, Elizabeth C	103
Osborne, Wellman	7	Sargent, Wm. D.	25	Washington Nat'l Bank,	
Page, W. H.	2	Schlesinger, B	21	coll	252
Parker, Chas. Henry	7	Schlesinger, S. B	21	Watson, J. M	7
Parker & Stackpole	30	Sears, R. W	6	Watson, Thos. A.	1, 970
Parsons, Thos	7	Sears, K. W	77	Wells, Chas. B	100
Patee, Mary E	3	Sewall, Wm. B	147	Wharton, Wm. F	170
Peters & Parkinson	170	Sewall, Richard B	168	Wheeler, Chas	50
Peabody, Francis	35	Shepard, Elizabeth A.	42	Wheelwright, Andrew C ..	50
Peabody, S. Endicott	70	Sherwin, Henry	12	Wheelwright, John W	7
Peirce, W. A	7	Sherwin, Edward	150	Wheelwright, Josiah	20
Perkins, Chas. C	12	Sherwin, Thos	18	Whitcomb, Austin F	15
Perkins, Chas. E.	1, 200	Silsbee, Geo. S	7	White, H. Ann	164
Pickering, J., & Moseley ..	60	Silsbee, Geo. Z	140	White, Jas. D	60
Pickman, Dudley L	189	Smiley Bros	21	White, Will O	6
Pickman, Wm. D	182	Spencer, Henry F	7	Whitney, Clarence S	7
Piper & Sawyer	126	Stackpole, J. Lewis	35	Whitney, E. Herbert	140
Platt, Chas. B	70	Steadman, Enoch	5	Whitney, Israel G	6
Pond, Mary E	47	Stevens, E. A	10	Whitney, James L	18
Porter, Mariana C	30	Stevenson & Peirson	896	Whittier, Elizabeth C	7
Potter, W. W	7	Stone, Sarah J	7	Wigglesworth, Edward	100
Pratt, J. Winsor	7	Stone, E. Fenwick	7	Wilder, Geo. E	14
Pratt, Edwin B	7	Storrow, Chas	100	Williams, Chas., jr	320
Prescott, Wm. G	68	Storrow, J. J., & C. E. Hub-		Williams, Judson	8
Prescott, Wm. G., tr	30	bard, trs	300	Williams, Sarah C	7
Puffer, D. J	7	Sturgis, John H	71	Woods, Harding	6
Putnam, C. A	7	Sullivan, Henry D	246	Woods, J. E	14
Rand, F. T	12	Sullivan, H. D., for J. A. S ..	70	Wright, Chas. F	14
Rand, Jeannette W	30	Sullivan, Thos R	18	Wright, Esther Fidelia ..	21
Randall, H. S	10	Sullivan, Richard	65	Wright, Mary E	14
Read, E. M	6	Sullivan, John L	80		
Read, Wm. & Sons	90	Sweat, L. D. M	7	Total shares	73, 500
Remick, Timothy	7				

List of stockholders of the American Bell Telephone Company, April 23, 1886.

Abbe, Edward P	125	Allison, J. Walter	10	Anthony, S. Reed	3
Abbe, Hannah B	5	American Loan and Trust		Anthony, Stephen M	25
Abbot, Elizabeth G	22	Company	75	Appleton, Anne P	3
Abbott, Edw. W	7	American Academy Arts		Appleton, Francis H	35
Adams, Abner S	5	and Sciences	5	Appleton, Martha W	12
Adams, Chas. H	5	Ames, Sarah R	18	Appleton, Mary G	4
Adams, Hannah C	2	Amory, Anna S	50	Atherton, Wm	
Adams, Samuel G	16	Amory, Augustine H	40	Atkins, Henry H	68
Agassiz, Alexander	100	Amory, Chas. W	50	Atkinson, Chas. M	2
Albiston, Roger W	8	Amory, Elizabeth G	100	Atkinson, Elizabeth A. L ..	1
Alger, Izette M	7	Amory, Katharine L	1	Atkinson, Eudora C	18
Alexander, Chas. B	10	Amory, Harcourt	175	Atlas Nat'l Bank, coll. G.	
Allen, Achsah B	5	Amory, William, jr	50	S	
Allen, Annie L	25	Anderson, Ellen S	162	Atlas Nat'l Bank, coll. G.	
Allen, Caleb C		Anderson, William H	35	H. C	25
Allen, Charles	40	Andrew, Frank S	21	Atlas Nat'l Bank, coll. W.	
Allen, Daniel B	100	Andrews, Adaline	34	C. C	105
Allen, Elbridge G	10	Andrews, Eliphalet F	50	Attwood, M. Jenny	1
Allen, Frederick	10	Andros, Sybil A	2	Atwill, Elizabeth B	2
Allen, Gideon, jr	30	Anthony, Ann B	20	Ayer, Frederick	414
Allen, Gilbert		Anthony, Annie R	10	Ayer, Martha A. H	18
Allen, Henry H	50	Anthony, Benjamin	10	Baker, Nelson K	5
Allen, Mary A		Anthony, David M		Baker, Sarah M	13
Allen, Mary R	20	Anthony, Edmund, jr	5	Balch, Eunice A	1
Allen, Samuel S	60	Anthony, Ella M		Balch, Francis V., guardian	4
Allen, Thomas	67	Anthony, Geo. W	10	Balch, John K. P	20

List of stockholders of the American Bell Telephone Company, &c.—Continued.

Baldwin, Geo. W.....	35	Blake, Arthur W., A. T.		Brown, Buckminster.....	19
Baldwin, Louise A.....	3	Lyman, and Geo. R. Har-		Brown, Edward J.....	3
Bancroft Abba A.....	5	ris, exec.....	590	Brown, Elizabeth A.....	23
Bancroft, Ellen.....	10	Blake Brothers & Co.....		Brown, Ellen T.....	3
Brancroft, Jacob.....	2	Blake, Charles M.....	10	Brown, Eugene F.....	14
Bancroft, John C., guardian	10	Blake, Francis.....	800	Brown, George E.....	2
Bancroft, Robert H.....	20	Blake, Henry T.....	18	Brown, George P.....	8
Bangs, E. D., & Co.....	7	Blake, Louisa D.....	10	Brown, Irene T. J.....	5
Bangs, Geo. P.....	65	Blake, Stanton.....	508	Brown, John M.....	10
Bangs, Geo. Pemberton ..	2	Blake, Thomas D.....	4	Brown, John T.....	3
Barbour, Edmund D.....	220	Blanchard, Charlotte F....	14	Brown, Lavinia M.....	20
Barker, Frederick A.....	2	Blanchard, Luke.....	3	Brown, Mary D.....	7
Barlow, Ellen Shaw.....	4	Blanchard, Roxanna N....	1	Brown, Samuel H.....	10
Barnard, Jacob W.....	50	Blodgett, Anna R.....	5	Brown, T. Wistar.....	25
Barnes, Mrs. Augustine ..	17	Blodgett, Georgianna C....	5	Brown, Riley & Co.....	69
Barnes, E. Henry.....	16	Blumpey, Phillip H.....	60	Browne, Francis C.....	15
Barnes, Herbert.....	14	Boody, McLellan & Co.....	10	Browne, Thos. Q., jr.....	1
Barnes, Myra.....	17	Booth, Seth.....	5	Brownell, Leander.....	5
Barrett, Edwin S.....	5	Boott, Elizabeth O. L.....	16	Brush, Geo. J.....	20
Barrett, Richard F.....	5	Boott, Francis.....	184	Buck, Elizabeth G.....	10
Barrows, Cordelia.....	2	Borland, John N.....	56	Buck, Walter.....	14
Barrows, Frank C.....	2	Borland, M. Woolsey.....	50	Buckley, Chas. H.....	1
Barrows, Henry F.....	12	Borup, Henry D.....	20	Bull, Sidney A.....	7
Barrows, John H.....	5	Boston Nat'l Bank, coll. T.		Bullard, Geo. E.....	100
Barrows, Sarah M.....	10	D. L.....	15	Bullard, Josephine H.....	38
Barstow, Elizabeth T.....	10	Bourne, Emily H.....	1	Bullard, Stephen.....	5
Barstow, Jane Williams..	1	Bourne, Jonathan.....	70	Bullard, Wm. S., atty., coll.	
Barstow, Jane Wilson.....	1	Bowditch, Alfred.....	499	J. & C.....	800
Bartlett, Hannah M.....	7	Bowditch, Chas P.....	559	Bullock, Anthony D.....	35
Bartlett, Horace S.....	15	Bowditch, C. P., and Al-		Bumstead, N. Willis.....	10
Bartley, Francis.....	10	fred, exec., coll. G. L. B.	174	Burbank, Anna G.....	7
Bartol, Cyrus A.....	103	Bowditch, J. and C.....	65	Burgess, Catherine.....	12
Barton, Otis.....	17	Bowditch, Charlotte.....	8	Burgess, Edward.....	5
Basset, Whitney & Co.....	237	Bowditch, Ernest W.....	160	Burgess, John M.....	15
Bassett, Wm. A.....	5	Bowditch, Frederick C....	10	Burgess, Martha C.....	5
Batchelder, Alice S.....	1	Bowditch, Henry P.....	12	Burley, John.....	10
Batcheller, Robert.....	2	Bowditch, J. Ingersoll....	635	Burnham, Arthur, trustee,	
Batchelor, Chas.....	32	Bowditch, J. I., C. U. Cot-		C. T.....	6
Bates, H. M., & Walley....	8	ting.....		Burnham, Arthur, & Jas.	
Bates, Thos. G.....	5	Bowditch, E. I. Browne,		A. Hayes.....	35
Baxter, Edwin.....	7	and H. Stockton, trs.,		Burrows, Elizabeth.....	10
Bayard, Ellen H.....	56	coll. L. H. & Co., coll. J.		Burton, Clara S.....	68
Beach & Hunt.....	5	and C.....	225	Bush, Emma B.....	10
Beane, Enoch.....	3	Bowditch, James H.....	176	Bush, S. Dacre.....	40
Beardsley, Wm. P.....	5	Bowditch, W. I. & C. P.,		Butler, Ann G.....	17
Beck, Hannah M.....	63	trs. coll. G. L. B.....	44	Butler, Chas. S.....	100
Beck, Joseph F.....	12	Bowness, Mary A.....	2	Butler, Chas. S., jr.....	2
Beck, Wm. H.....	20	Boyd, Alexander jr.....	1	Butler, Daniel W.....	50
Beebe, E. Pierson.....	30	Boyden, Cora C.....	42	Butler, Elizabeth S.....	10
Beebe, Emily B.....	30	Bradford, Chas. F.....	75	Butler, Jennie E.....	4
Beebe, Esther E.....	60	Bradford, Martin L.....	25	Butler, Simon A.....	20
Beebe, Frank H.....	30	Bradlee, Alice.....	32	Butler, William.....	50
Beebe, Beetle Rodolphus ..	77	Bradlee, Josiah.....	50	Butterfield, Elizabeth B ..	5
Tell, Alex. Graham.....	1	Bradley, Frederick.....	135	Butters, Chas.....	35
Bell, A. Melville.....	80	Bradley, Helen M.....	60	Buttick, Frederick A.....	2
Bell, Chas. Jas.....	26	Bradley, Moses.....	10	Byam, Chas. F.....	20
Bell, Chichester A., & C. J.	25	Bradley, Wm. H.....	125	Byington, Alice.....	10
Bell, David Chas.....	5	Bradstreet, Chas. W.....	10	Byram, Jos. R.....	10
Bell, Ellen Adine.....	10	Braley, Jasper W.....	9	Cabot, Arthur T.....	38
Bell, Mabel G.....	2, 038	Brandeis, Louis D.....	2	Cabot, Edward C.....	12
Bemis, Frank B.....	5	Brazer, Ralph F.....	3	Cabot, Elizabeth R.....	200
Benjamin, Isaac W.....	13	Brennan, Mary A.....	6	Cabot, F. Elliot.....	2
Benson, Geo. W.....	50	Brewer, Joseph.....	20	Cabot, Godfrey L.....	73
Bent, S. Arthur.....	27	Brewster, Cobb & Esta-		Cabot, Henry B.....	5
Bergman, Sigmund.....		brook.....	61	Cabot, J. Elliot.....	25
Berry, Geo. F.....	5	Bridges, Henry G.....	10	Cabot, John H.....	27
Berry, Wm. H.....	10	Bridgman, Raymond L....	7	Cabot, Louis.....	12
Bickford, Erskine F.....	17	Briggs, Andrew G.....	15	Cabot, Samuel.....	
Bickford, Julia L.....	15	Briggs, Rebecca.....	20	Cabot, Susan B.....	229
Bickford, Maria R.....	29	Brightman, Geo. A.....	7	Cabot, S. & J. Elliot, trs ..	412
Bigelow, Anna S.....	50	Brightman, Lucy M.....	5	Cabot, Walter C.....	12
Bigelow, Caroline T.....	5	Brightman, Mary A.....	5	Caddigan, John J.....	1
Bigelow, Joshua R.....	100	Brightman, Oliver P.....	54	Cady, Geo. L.....	5
Bigelow, Mary Anna.....	31	Brimmer, Martin.....	20	Cape Ann Savings Bank,	
Bigelow, Samuel.....	10	Broadway Nat'l Bank, coll.		coll. L. H. & Co.....	425
Billings, Chas. E.....	25	D. & Co.....	40	Capen, Clara E.....	47
Binney, Henry P.....	10	Brooks, Jas. W.....	52	Carleton, Jas. H.....	152
Binney, James A.....	10	Brooks, Louise.....	10	Carmalt, Wm. H.....	15
Bird, James H.....	1	Brooks, Lucetta M.....	20	Carpenter, C. C.....	93
Bishop, Nathan P.....	1	Brooks, Mary C.....	2	Carpenter, Fred. E.....	20
Bixby, Chas. L.....	1	Brooks, Peter C.....	217	Carroll, Edward P.....	8
Blagden, Francis M.....	13	Brown, Abby C.....	11	Carter, Chas. M.....	50
Blagden, Thomas.....	1	Brown, Alpheus R.....	6	Carruth, Chas.....	10
Blake, Anna S. C.....	500	Brown, Arthur W.....	12	Carter, Ellen M.....	4

List of stockholders of the American Bell Telephone Company, &c.—Continued.

Carter, Martha H.....	20	Cox, Charles A.....	5	Dean, Chas. A.....	
Cary, Alice F.....	37	Cozzens, Martha S.....	16	Dean, Chas. L.....	20
Castelhun, Karl.....	9	Crafts, Clemence H.....	25	Dearborne, F. M.....	70
Chadwick, Mary E.....	5	Crafts, Henry W.....	5	Demmon, R. A.....	43
Chadwick, Louisa.....	102	Crafts, James M.....	42	Denison, Emma D.....	12
Chadwick, William L., trustee.....	23	Crane, Roman A.....	15	Denison, Henry C.....	5
Chandler, Emily J.....	10	Crane, W. Murray.....	200	Dennen, Clara W.....	5
Chandler, John.....	25	Crane, Z., jr.....	100	Dennis, Hannah E.....	4
Chapin, Henry B.....	50	Crane, Zenas M.....	600	Denton, Eben.....	2
Chapman, Harriet M.....	5	Cranston, Henry C.....	13	Derby, J. Warren.....	1
Chapin, Horace D.....	25	Creagh, Martha M.....	4	Derbyshire, Jos.....	10
Chase, Edmund.....	100	Crehore, Lucy C.....	30	Devens, Agnes R. E.....	25
Chase, Frank E.....	10	Crehore, Sarah A.....	16	Devens, Richard M.....	8
Chase, Geo. B.....	10	Creighton, C. A.....	23	Dexter, Frederic.....	
Chase, Philip A.....	35	Crocker, Annie B.....	112	Dexter, Geo.....	75
Chase, R. Gardner, Chase & Co.....	186	Crocker, Cornelia M.....	8	Dexter, Wm. S., coll. H. A.....	
Chase, R. Stuart.....	7	Crocker, George G., trustee under will Henry Hall.....	10	Dixey, Ellen S.....	25
Chase, Theodore.....	5	Crocker, Sarah R.....	1	Dixwell, Epes. S.....	3
Chase & Barstow.....	1	Crocker, Uriel.....	50	Dixwell, Epes S., trustee coll. J. & C.....	
Cheney, Jane L.....	20	Crockett, Sarah L.....	29	Dodd, Mary.....	1
Childs, Wm. A.....	229	Croll, A. Ivins.....	7	Dole, Chas. A.....	10
Church, Andrew J.....	5	Cross, Charles R.....	27	Donovan, John.....	40
Church, Henry A.....	15	Crowell, Eugene.....	427	Douglass, Benj., jr.....	5
Citizens Mut. Ins. Co., coll. B. & W.....	35	Crowninshield, Caspar.....	137	Dove, Isabella.....	25
Clapp, Channing.....	51	Cruft, Samuel B.....	5	Dow, Anna.....	8
Clapp, Helen.....	5	Cummings, Benjamin.....	35	Dow, Fred'k C.....	57
Clapp, Mrs. L. D.....	6	Cummings, Elizabeth W.....	14	Downer & Co.....	760
Clark, D. Oakes.....	33	Currier, Thomas.....	2	Downer, Jennie M.....	1
Clark, Elizabeth W., executrix.....	67	Cunningham, Lucinda S.....	1	Downer, R. C.....	36
Clark, James.....	29	Curry, Mary A.....	20	Draper, Wm. F.....	100
Clark, Joel C.....	1	Curtis, A. J. W., and Lawrence, trustees.....	20	Dreier, Theo.....	50
Clark, Mary A.....	4	Curtis, Anna Shaw.....	2	Driscoll, Church & Hall.....	20
Clark, Mary V.....	9	Curtis, Caleb A.....	35	Driver, Wm. R.....	35
Clark, Robert F.....	920	Curtis, Charles P.....	200	Du Bois, Ellen R.....	5
Clark, Robert F., agt.....	7	Curtis, Daniel Sargent.....	35	Du Bois, Gilman B.....	70
Clewley, Lucy A.....	13	Curtis, Edgar C.....	25	Du Bois, Loren G.....	15
Clewley, Clavel August.....	5	Curtis, Greely S.....	100	Duffield, Henry M.....	33
Cobb, Hattie F.....	7	Curtis, Hall.....	88	Duncan, Elizabeth M.....	20
Clifford, Sarah P.....	50	Curtis, Hamilton R.....	13	Duncan, Mary W.....	11
Coburn, Frank J.....	70	Curtis, Henry P.....	16	Duncan, Samuel W.....	2
Coburn, Lucy C.....	25	Curtis, Isabella P.....	21	Dwight, Edmund.....	31
Cochrane, A., & Co.....	528	Curtis, James F.....	60	Dwight, Jas. M. B.....	56
Cochrane, Mary L.....	40	Curtis, John.....	15	Dwight, Mary C.....	2
Codman, Wm. C.....	2	Curtis, Louis.....	115	Eager, Geo. H.....	25
Coe, E. S. & D., Pingree, trs.....	44	Curtis, Louis, F. I. and C. W. Amory, trustees.....	41	Eames, Chas. E.....	10
Coffin, Grace P.....	13	Curtis, Mary F.....	15	Eaton, C. Herbert.....	4
Coffin, Hiram B.....	10	Curtis, Mary G.....	8	Eaton, Grace F.....	40
Coffin, Sallie R.....	2	Curtis, N., and N. W.....	50	Edgerton, Chas. A., jr.....	10
Coggill, Henry.....	2	Curtis, Samuel H.....	12	Edmands, Geo. D.....	51
Coit, T. Gurdon.....	1	Cushing, Susan P.....	15	Edmunds, John.....	10
Cole, Adalbert E.....	2	Cushing, Thomas F.....	100	Edwards, Elizabeth R.....	1
Coleman, Isabella J.....	5	Cutler, Calvin.....	10	Edwards, George K.....	1
Comey, Josephine L.....	5	Cutting, George F.....	2	Edwards, John C.....	1
Conner, Lydia T.....	4	Cutts, Martha J.....	5	Edwards, S. Louise.....	10
Converse, Costella C. } Converse, Mary M. D }	6	Dabney, Clara B.....	25	Eider, Wm. A.....	30
Converse, Elisha S.....	115	Dabney, Roxana.....	250	Eldridge, A. Louisa.....	4
Converse, Harry E.....	4	Dalrymple, Jos. A.....	2	Eliot, Emily B.....	5
Cook, Cornelia A.....	7	Dana, Julia.....	5	Eliot, Mary L.....	3
Coolidge, J. I. T.....	22	Dana, Samuel B.....	102	Eliot, Nathaniel G.....	3
Coolidge, J. Randolph.....	100	Danforth, Isaac W.....	22	Eliot, Nat'l Bank, coll. G. A. F.....	35
Coolidge, Julia.....	50	Daniell, Sarah F.....	5	Elliott, Wm. H.....	3
Coolidge, T. Jefferson.....	103	Darling, Horace E.....	15	Elliott, Elmira Julia.....	2
Cooper, Theo.....	6	Davenport, Chas. L.....	10	Elliott, Frederic B.....	4
Cordley & Young.....	200	Davenport, Henry, tr.....	43	Ellis, James M.....	6
Cordova, Julian de.....	10	Davis, Edwin A., tr.....	5	Ellis, Lillie H.....	
Cornell, Jos. H.....	7	Davis, Esther N.....	12	Ellis, Maria L.....	10
Corning, Gilman.....	41	Davis, Frederick.....	265	Ellis, Mary A.....	4
Cornish, Thos. E.....	190	Davis, Frederick A.....	10	Ellis, Ralph W.....	10
Costello, Jas. J.....	30	Davis, Henrietta.....	200	Elwell, Thos. M.....	10
Cotting, Chas. E., coll. J. & C.....	30	Davis, Horace J.....	1	Emerson, Chas.....	170
Cotting, Chas. U., ag't coll. J. & C.....	91	Davis, Jefferson.....	5	Emerson, Edward W.....	12
Cotting, Chas. U., tr., coll. J. & C.....	50	Davis, Joseph P.....	62	Emerson, Ellen T.....	5
Cotting, Susan D.....	10	Davis, N. Frank.....	15	Emerson, George.....	60
Cotton, Elizabeth A.....	7	Davis, Susan, E. M.....	2	Emerson, Harriet O.....	1
Cotton, Wm. C.....	277	Davis, Walter S.....	11	Emerson, H. Wilder.....	56
		Day, Moses H.....	5	Emerson, J. Haven.....	23
		Day, R. L., & Co.....	10	Emerson, Theresia.....	26
		Day, Sarah F.....	33	Emery, David W.....	10
		Day, Sarah F., Allen A., & Jos. E. Brown, Trs.....	38	Emery, James W.....	10
		Day, Sarah L.....	1	Emery & Hodges.....	35
				Emmons, Arthur B.....	270
				Emmons, Elizabeth W.....	39

List of stockholders of the American Bell Telephone Company, &c.—Continued.

Emmons, Nath'l H.	125	Frost, George A.	20	Grew, Jane N.	126
Emmons, Samuel F.	40	Frost, Henry	10	Griffin, Chas. C.	65
Emmons, Weltha A.	180	Frost, Henry W.	20	Griffin, Chas. S. D., jr.	15
Endicott, Wm. P.	15	Frothingham, Edward	5	Griffin, Solomon B.	4
Eustis, Julian J.	15	Frothingham, Edward and		Griffith, Olivia H.	20
Evans, Irving A. & Co.		Ellen, trustees	10	Grinnell, Fred'k	50
Evans, Glendower	75	Frothingham, Eugenia	3	Grinnell, Lydia W.	23
Everett, Fred'k W.		Fteley, Alphonse	5	Grovesnor, Wm., 50.	100
Fabyan, Geo. F.	25	Furber, Thos. F.	8	Grovesnor, Wm., jr, 50.	
Fabens, Caroline A.	3	Furber, Wm. H.	46	Grueby, Edward L.	10
Farley, Geo. F.	55	Fulton, Jos. W.	10	Gryzanooski, E. G.	36
Farley, Otis L.	6	Gage, Chas. O.	5	Guild, Chas. E., coll. H. C.	
Farlow, John S.	10	Gage, Edwin	15	W. & Co.	70
Farlow, Mary C.	2	Gale, John E.	35	Haines, Harris B.	5
Farlow, Nancy W.	183	Gamble, John	34	Hale, Katherine D.	2
Farlow, Wm. G.	14	Gammell, Eliza A. H.	2	Hall, Edward H.	3
Farnam, Alice M.	20	Gammell, Elizabeth A.	150	Hall, James	28
Farquhar, Jas. F. M.	18	Gammell, J. Franklin	2	Hall, Joseph E.	5
Farquhar, Robert	24	Gammell, William, jr.	12	Hall, Margaret W.	10
Farrell, Wm. G.	25	Gardiner, Eugenia	5	Hall, Walter S.	10
Faulkner, John B.	5	Gardiner, Gannett John S.	1	Hallowell, Hannah P.	25
Fay, Dudley B.	175	Gardiner, Rob. H., jr., and		Hallowell, Norwood P.	30
Fay, Jos. S., jr.	6	Wm. Minot, jr., trustees	5	Halstead, S. H.	10
Fay, Richard S. (est.)	300	Gardiner, Sophia H.	20	Hamblen, Annie V.	6
Fay, Sarah A.	165	Gardner, Geo. A.	35	Hamblen, Lissa J.	5
Fay, Sarah S.	100	Gardner, Geo. P.	20	Hammond, Edward J.	10
Fearing, Wm., 2nd	10	Gardner, Harrison	30	Hammond, Susan G.	2
Felton, Cornelius C.	44	Gardner, John L.	100	Hammons, David A.	7
Felton, Fred. L.	4	Gardner, John L., jr.	100	Hamner, Julia P.	4
Felton, Thomas C.	20	Gardner, Sarah M.	21	Harding, Thos.	1
Fenno, Geo. A.	100	Garrison, Wm. L.	10	Harris, Andrew L.	23
Fenno, Isaac	150	Gassett, Henry, tr. E. G. E.	10	Harris, Ernest A.	10
Fernald, Herman N.	14	Gaston, Wm., coll. C. T. H.	50	Harris, Ernest A., tr. E.	
Fiedler, August	3	Gay, Elizabeth G.	3	A. H.	10
First Nat'l Bank, Boston,		George, Mary F.	5	Harris, Mary D.	7
coll. O. E. M.	100	Gerry, Thos.	2	Harris, Robert Carr	76
First Nat'l Bank, East-		Gibbs, Frances M.	3	Harris, Ursula Sarah	13
hampton, coll. J. W. G., jr.	28	Gifford, Geo. E.	2	Harris, Wm. Dale	41
First Nat'l Bank, New		Gilbert, Geo. E.	5	Haseltine, Fanny C.	5
Bedford.	75	Gilbert, Almira L.	7	Haskins, Chas. H.	102
Fisher, Eliza	15	Gilman, Susan H.	5	Haskins, Cyrenius W.	10
Fisk, David	10	Gillingham, Jos. E.	100	Hastings, Elizabeth O.	4
Fiske, Arthur I.	1	Glidden, Daniel A.	20	Hastings, Theo.	11
Fitts, Frank W.	3	Globe Nat'l Bank, coll. J.		Hatfield, Edward H.	190
Fitts, Sarah J.	2	B. R.	82	Hathaway, Cornelia A.	10
Fitz, W. Scott	154	Glover, Washington	1	Hathaway, Edward S.	1
Fitzgerald, Wm. F.	3	Goodnow, N. B. & Co.	3	Hathaway, Georgiana A.	10
Flagg, Augustus	100	Goodwin, Frank	25	Hathaway, Grace D.	10
Flagg, Elisha	100	Goodwin, Geo. H.	10	Hathaway, Horatio	175
Flagg, George	6	Goodwin, Richard D.	25	Hathaway, Savory C.	5
Flatley, Michael F.	5	Goodwin, Wm. W.	20	Hathaway, Thos. D.	5
Flint, Frances A.	25	Gordon, Elizabeth	1	Hatheway, Amos L.	140
Flint, Frederick W.	5	Gordon, Helen	1	Hatheway, Cora M.	18
Folsom, Anna S.	7	Gorwaiz, Albert M.	1	Haven, Franklin, jr.	70
Folsom, Ellen M.	5	Gould, Benj. A.	30	Hawes, Chas. E.	100
Foote & French	90	Gove, Wesley A.	9	Hawley, Jotham B.	3
Forbes, Alice B.	50	Gracie, Jas. K.	50	Hayden, J. Alex., exec'r.	30
Forbes, Edith E.	107	Graves, Edmund P.	8	Hayden, Thos. W.	19
Forbes, J. Malcolm	2,407	Graves, Jennie W.	3	Hayward, Geo. G.	3
Forbes, J. M., & Co.	480	Gray, Ellen	100	Hayward, Mary B., guard-	
Forbes, Sarah J.	596	Gray, Elizabeth C.	75	ian	12
Forbes, Sarah S.	392	Gray, Francis C.	100	Hazard, Barclay	20
Forbes, W. H.	4,470	Gray, Harriet	45	Hazard, John N.	5
Forbes, Wm. H., agent	25	Gray, Horace	236	Head, Chas., & Co.	138
Forbes, Cochrane & Bow-		Gray, John C.	76	Head, Alice L.	34
ditch, trs.	1,050	Gray, Morris, 100	200	Heaton, Robert C.	30
Ford, Daniel S.	9	Gray, Reginald, 100		Hecht, Jacob H.	41
Foster, Charlotte	10	Gray, Russell	60	Henderson, Wm. H.	
Foster, George F.	7	Gray, Samuel S.	10	Herald, Edward, jr.	2
Foster, Israel W.	3	Gray, Thos. J., & A. G.		Hervey, Jos. B.	20
Foster, Lydia	5	Richardson	4	Heywood, Seth	20
Foster, Lucy B.	9	Green, Jos. W., jr.	5	Hicks, John J.	40
Foster, Samuel J.	8	Green, J. Orne	6	Higginson, Francis L.	17
Foster, Susan P.	3	Greenleaf, Albert W.	10	Higginson, Francis L., agt.	100
Fowle, Seth A.	102	Greenough, Catherine S.	12	Higginson, Geo. et al.,	
Fowler, Ella F.	1	Greenough, Frances B.	20	trs. Mgh	10
Fowler, John S.	2	Greenough, Louisa I.	21	Higginson, John A.	20
Francis, Hiram S.	9	Greenough, Minnie L.	10	Higginson, Julia	274
Frank, Daniel	10	Greenough, Malcolm S.	10	Higginson, Margaret G.	7
Frankle, Annie W.	1	Greenwood, Alvin M.	25	Higginson, Robert M., tr.	48
Frankle, Jones J.	30	Greland, Ruth E.	5	Highley, Andrews, & Co.	
French, Alexis H.	5	Grew, Edward S.	5	Hill, Abram G.	4
French, John D. W.	75	Grew, Henry	7	Hill, John M.	3
French, Reuben L.	7	Grew, Henry S.	390	Hill, Lew C.	2

List of stockholders of the American Bell Telephone Company, &c.—Continued.

Hilliard, Julia E.....	1	Iasigi, Jos. A.....	10	Ladd, Wm. J., atty. M. H. W.....	7
Hilliard, Sarah Miriam.....	1	Ingalls, Eliza C.....	16	Lake Superior Iron Co., coll. C. H. & Co.....	50
Hills, Wm. S.....	24	International Trust Co., coll. B. R. & Co.....	30	Lake Superior Iron Co., coll. E. R. M. & Bro.....	400
Hinckley, Elizabeth D.....	13	Ireson, Kate C.....	10	Lamb, Horatio A.....	35
Hinds, Chas. L.....	4	Irish, Benj.....	9	Lamson, Mary A.....	3
Hoar, E. Rockwood.....	10	Ivers, Samuel.....	15	Lander, Louisa.....	14
Hoar, J. Emory.....	4	Jack, Peter.....	2	Lane, Wm. H.....	30
Hodges, A. D., jr.....	72	Jackson, C. C., tr.....	22	Lang, Eliza.....	22
Hodges, Frederic S.....	20	Jackson & Curtis.....	3, 025	Lang, Thomas.....	64
Holbrook, Chas. S.....		Jackson, Edward.....	70	Lanza, Gaetano.....	5
Holmes, Edwin.....	16	Jackson, Edward, tr.....	56	Lavers, Jos. W.....	5
Holmes, Nellie L.....	1	Jackson, Isaac.....	1	Lawrence, Amory A.....	100
Holt, Carrie G. R.....	5	Jackson, Susan C.....	300	Lawrence, Caroline W.....	5
Homans, Chas. D.....	4	Jacobs, E. H.....	2	Lawrence, Chas. R.....	10
Homans, John.....	102	Jacoby, Rudolph.....	5	Lawrence, Emily F.....	5
Homans, Sarah E.....	9	James, Alice.....	2	Lawrence, Francis W.....	100
Homer, Geo. S.....	40	James, John S., & Co.....	10	Lawrence, Robert M.....	40
Hood, Martin H.....	46	Jay, Augustus.....	50	Lawrence, Sarah E.....	200
Hood, Johnson & Co.....	10	Jenkins, John A.....	10	Lawrie, Andrew B.....	20
Hoogs, Thos. W.....	4	Jenkins, Thos. H.....	3	Lawton, C. H. & H. A.....	8
Hooker, Henry.....	40	Jenney, Bernard, jr.....	4	Lawton, James M.....	30
Hooper, Edward W.....	50	Jenney, Francis H.....	25	Lawton, Sarah D.....	60
Hooper, Franklin H.....	10	Jenney, Francis H., ? guar- dian.....	4	Lee, Elizabeth P.....	152
Hooper, Jas. R.....	4	Jewell, Chas. A.....	33	Lee, Henry.....	1, 110
Hooper, John S.....	52	Johnson, Charlotte.....	20	Lee, Higginson & Co.....	915
Hopkins, Helen E.....	40	Johnson, Jas. C.....	5	Lee, John Howard.....	10
Hoppin, Eliza H.....	20	Johnson, Sophia O.....	10	Lefavour, Frances P.....	6
Hornsby, Annie W.....	1	Jones, Amelia H.....	153	Lefavour, Joseph W.....	10
Horsford, Cornelia C. F.....	10	Jones, Boyd B.....	30	Leland, Arthur S.....	24
Horsford, Eben Norton.....	102	Jones, Edwin K.....	5	Leverich, J. D. & E. F.....	6
Horsford, Katharine.....	13	Jones, Frances D.....	2	Lewis, Albert.....	5
Horsford, Lilian.....	13	Jones, Mary A.....	4	Lewis, Robert.....	14
Horton, Chas. P.....	30	Jones, Mary L.....	143	Lincoln, Arthur.....	1
Hovey, Marian.....	20	Jones, Mary L., tr.....	21	Lincoln, George F.....	10
Howard, Annie T.....	5	Jones, Zenas H., jr.....	1	Lincoln Nat'l Bank.....	67
Howard, Ethel Barstow.....	1	Jordan, Horace W.....	5	Lincoln Nat'l Bank, coll. J. W. B.....	131
Howe, Henry S., 81.....	88	Jordan, W. H. S.....	38	Lincoln, Solomon.....	5
Howe, Katharine D.....	2	Joy, Chas. H.....	175	Linder, Geo.....	20
Howe, Martha A.....	1	Joy, Marie Louise.....	75	Lippitt, Mary A.....	6
Howe, Moses G.....	1	Kaull, H. Augustus.....	5	Livingston, John Henry.....	38
Howe, Oscar F.....		Keep, Caroline W.....	3	Lockwood, Mary J.....	5
Howe, Sarah B.....	74	Keep, Robert P. and Mar- garet V., trs.....	16	Lockwood, Philip C.....	51
Howes, Elizabeth.....	78	Keith, Jane.....	1	Lockwood, Thos. S.....	5
Howes, Enoch H.....	15	Keith, Wm.....	2	Longley, Chas. E.....	50
Howes, Wm. T.....	18	Keith, J. H., & Co.....	2	Longfellow, Emily.....	10
Howland, Jacob A.....	23	Kelley, Clarence E.....	2	Longyear, Ephraim.....	1
Howland, Jane.....	9	Kelly, Caroline P.....	5	Lord, William.....	1
Howland, Peleg C.....	20	Kelly, Catharine J.....	30	Loring, George B.....	22
Howland, Peleg C., cashier	65	Kell, Fitzroy.....	107	Loring, Mary H.....	3
Hoxie, Abby E.....	10	Kempton, David B.....	98	Lo:ing, Thacher.....	20
Hubbard.....		Kendall, Ellen K.....	5	Lothrop, Thomas J.....	5
Hubbard, Caroline T.....	76	Kennedy, John C.....	1	Loud, John J.....	3
Hubbard, Chas. Eustis.....	42	Kent, Isabel.....	1	Lovett, John D.....	5
Hubbard, Chas. T.....	55	Kettell, Rebecca G.....	13	Low, Helena M.....	4
Hubbard, Gardiner G.....	1, 000	Keyes, John S.....	10	Lowell, Abbott L.....	50
Hubbard, G., exec'r.....	34	Kidder, Camillus G.....	20	Lowell, Augustus.....	545
Hubbard, Grace B.....	102	Kidder, Jerome H.....	20	Lowell, Augustus, coll. S. & P.....	90
Hubbard, Harriet A.....	13	Kidder, Peabody & Co.....	49	Lowell, Augustus, agt., coll. S. & P.....	100
Hubbard, Jas. M.....	90	Kimball, Carrie V.....	5	Lowell, Augustus, agt., coll. S. P. & Co.....	10
Hubbard, Sarah H.....	32	Rimball, Curtis H.....	5	Lowell, Georgiana.....	5
Hudson, John E.....	25	Kimball, Edwin C.....	5	Lowell, Katharine B.....	255
Hull, Josephine.....	20	Kimball, Geo. A.....	25	Lowell, Percival.....	300
Humphrey, Dana B.....	40	Kimball, John F.....	3	Lowell, Percival, tr.....	55
Hunt, Cyrus D.....	80	Kimberly, A. Denison.....	10	Lowell, Wm. L.....	8
Hunt, Harrison G.....	10	King, George P.....	150	Luce, John E.....	5
Hunt, Leander W.....	10	King, Geo. P., tr.....	30	Luce, Lydia E.....	7
Hunt, Mary A.....	15	King, Mary L.....	6	Luce, Thos.....	22
Hunt, Elizabeth L.....	6	Kingman, Francis.....	17	Luffkin, John W.....	5
Huntington, Frederick E.....	13	Kinsman, Wm. L.....	20	Lund, Parkman M.....	34
Huntington, Jacob R.....	10	Kissam, Harriet E.....	2	Lyman, Bessie H.....	7
Hurd, Catharine.....	5	Knapp, Arthur M.....	21	Lyman, Geo. H.....	10
Hurd, Elizabeth.....	5	Kneeland, Harriet M.....	5	Lyman, Geo. H., jr.....	10
Hurd, Francis W.....	25	Kneeland, John.....	5	Lyman, Theo., & H. S. Russell, trs.....	204
Hurd, Helen.....	5	Knight, Frederic I.....	10	Lyman, Theo., coll. S. P. & Co.....	120
Hurd, Joseph.....	5	Knight, John P.....	10	Mackie, David.....	9
Hurd, Rebecca G.....	5	Knowles, Joseph C.....	10		
Hussey, Abby H.....	3	Knowlton, Edwin F.....	50		
Hussey, Daniel.....	107	Ladd, Geo. V.....	21		
Hussey, Elizabeth R.....	5	Ladd, May Gertrude.....	14		
Hussey, John B.....	5	Ladd, Wm. J.....	29		
Hussey, Sarah H.....	3				
Hyde, Geo. E.....	1				

List of stockholders of the American Bell Telephone Company, &c.—Continued.

Mackie, J. Milton.....	80	Minot, Lawrence.....	1	Olsen, Peder.....	26
Mackintosh, Klous & Co..	1	Minot, Wm.....	25	Osborn, John B.....	5
Madden, Oscar E.....	143	Minot, Wm., jr.....	105	Osgood, Eliza F.....	6
Magoun, Herbert.....	13	Minot, Wm., jr., F. V. B.	2	Oudinot, A. Francois.....	20
Magoun, Sarah F.....	1	Minot, Wm., jr., & and F.		Page, Henry R.....	4
Maignuy, Ferdinand B....	30	V. Balch, trs.....	15	Page, Susan G.....	36
Mann, Henry S.....	20	Minot, Wm., jr., Henry D.		Paine, Fred'k W.....	2
Mansbach, Emile.....	2	Minot, Trs.....	10	Paine, Robert Treat.....	65
Mansfield, Edith L.....	3	Minot, Wm., jr., and N.		Paine, Webber & Co.....	90
Mansfield, Olivia W.....	20	Thayer, trs.....	20	Palfrey, John C.....	5
Marquand, Elizabeth.....	15	Minturn, Robert B.....	10	Palmer, Andrew R.....	75
Marquand, Mary.....	15	Mitchell, Henry.....	21	Palmer, Charles.....	2
Marquand, Laura M.....	26	Mongan, Edward J.....	35	Palmer, Wm. R.....	5
Marquand, Margaret C....	15	Monroe, Albert N.....	20	Parker, Abigail C.....	15
Martin, Emma.....	5	Moody, Rebecca.....	2	Parker, Adeline N.....	30
Mason, Flora E.....	1	Morrison, I. Edwin.....	10	Parker, Chas. Henry.....	30
Mason, Harriet S.....	5	Morse, Chas. W.....	9	Parker, Elizabeth F.....	20
Mason, John J.....	55	Morse, E., Rolins & Bro...	745	Parker, E. Francis.....	100
Mason, Wm. P.....	200	Morse, Nathan.....	3	Parker, Francis E.....	200
Mass. Bible Society.....	5	Morse, Samuel T., agt....	34	Parker, Francis V.....	71
Mass. Hospital Life Ins.		Moses, Henry C.....	102	Parker, Geo. B.....	4
Co., coll. F. A.....	60	Mosher, Henry C. W.....	8	Parker, Gustavus D.....	65
Mass. Hospital Life Ins.		Mosher, Wm. S.....	10	Parker, Joseph.....	51
Co. coll. H. S. G.....	200	Mott, John P.....	281	Parker, L. Josephine.....	10
Massasoit Nat'l Bank, coll.		Moulton, Caroline F.....	18	Parker, Moses G.....	175
N. F. D.....	20	Moulton, Caroline F., guar-		Parkinson, John.....	25
Mather, Chas. D.....	2	dian.....	12	Parkinson & Burr.....	161
Mathes, Susan H.....	1	Moulton, Georgianna.....	12	Parkman, Henry, tr. S. C..	12
Mayo, Edward R.....	15	Moulton, Joseph.....	23	Parsons, Theophilus.....	6
McDonough, Jas. H.....	2	Moulton, William.....	10	Parsons, Thomas.....	152
McFarlane, Lewis B.....	8	Mudge, Frank N.....	5	Patee, Mary E.....	4
McGrath, Mary.....	10	Mullen, Francis H., tr....	7	Peabody, Francis.....	3
McKay, Gordon.....	459	Munson, C. La Rue.....	13	Peabody, George.....	820
McKay, Marion.....	33	Myers, Jas. J.....	2	Peabody, Robert S.....	6
McKechnie, Wm. T.....	1	Mygatt, Andrew B.....	5	Peabody, S. Endicott.....	83
McKenney, Fred'k W.....	2	Nat. B'k of Commerce,		Pearce, Henry.....	50
McKenney, Minnie A.....	3	Boston—		Peck, Allen M.....	30
McKenzie, Jas. H.....	17	Coll. R. H. & Co.....	175	Peirce, John W.....	5
McKeon, Julia.....	4	J. M. F.....	300	Peirce, Joshua R.....	6
McKim, Marie A.....	1	F. H. P. & Co.....	60	Peirson, Chas. L., tr.....	25
McLean, Chas. R., execu-		Nat B'k of Commerce, N.		Peirson, Ellen E.....	10
tors est. of.....	10	Bedford—		Pell, Alfred.....	73
McMullen, Harriet P.....	1	Coll. H. & P.....	113	Pemberton, Henry A.....	5
Mead, Fred. S.....	1	Nat. B'k of North America—		Penhallow, Thos. W.....	5
Mead, Hannah.....	2	Coll. R. H. & Co.....	160	Peoples' Nat. Bank, coll.	
Mechanics' Nat'l Bank		J. & C.....		E. S.....	20
New Bedford, coll. B. C.		Nat. B'k of Redemption—		Perkins, Chas. Eliot.....	1,021
& E.....	20	Coll.....	50	Perkins, Jane S.....	24
Merchants' Nat'l Bank,		Nat. Exchange Bank, Bos-		Perkins, Mary.....	12
Boston—		ton—		Perrin, Philemia W.....	4
Coll. J. S. F., jr.....	25	Coll. T. S. R.....	100	Perry, Chas. F.....	20
R. S. W.....	412	Nat. Security Bank.....	170	Pettes, Emily C.....	26
D. & Co.....	20	Nat. Union Bank, Boston—		Phelps, Geo. H.....	40
C. S.....	360	Coll. C. T. H.....	100	Phillips, Anna D.....	14
H. C. W. & Co.....	78	A. B. E.....	35	Phipps, David W.....	3
C. E. H.....	10	S. F. E.....	300	Pickering & Moseley	
C. T. H.....	50	J. S. F., jr.....	75	(John).....	35
Merchants Nat'l Bank,		P. & B.....	40	Pickman, Dudley L.....	170
New Bedford.....	111	Nat. Webster Bank, Bos-		Pickman, Wm. D.....	153
Meredit, J. Morris.....	20	ton—		Pierce, Dean.....	15
Merrill, Chas W.....	1	Coll. P. & B.....	120	Pierce, Elizabeth D.....	10
Merrill, Henry, est.....	1	Neal, Caroline F.....	1	Pierce, Louisa H.....	6
Merrill, Paul A.....	1	Nelson, Henry W.....	40	Pierce, Mary B.....	12
Merriam, Frank.....	55	Nelson, Thomas.....	10	Pineo, Peter.....	5
Merriam, Mary J.....	11	Newell, Maria D.....	20	Piper, Frances A.....	3
Merriman, Daniel.....	67	New Eng. Mut. Life Ins.		Piper, Wm. T.....	10
Merriman, Helen.....	59	Co—		Platt, John H.....	135
Merwin, Elias.....	167	Coll. G. W. T.....	30	Plimpton, Albert.....	10
Merwin, Elias, & Helen C.		New Eng. Trust Co.—		Plock & Co.....	5
Montague, trs.....	13	Trs. L. E. B., et al.....	175	Plunkett, Kate C.....	1
Messinger, Adeline F.....	15	Nichols, Frederick S.....	18	Pollard, Geo. E.....	10
Messinger, Emma A.....	5	Nichols, George R.....	10	Pomeroy, Samuel W.....	15
Meyer, Alice A.....	10	Nichols, Horatio F.....	38	Poole, Edmund A.....	2
Meyer, Geo. A.....	34	Nichols, Mary W.....	2	Poole, Henry S.....	10
Metropolitan Nat'l Bank,		Nickerson, Priscilla S.....	20	Poor, Anna A.....	3
coll. L. H. F.,.....	3	Norling, Chas. G.....	5	Poor, Benj. F.....	2
Miller, Chas.....	20	Northey, Margaret F.....	7	Poor, F. N., and E. F. &	
Miller, Gerrit S.....	35	Northey, William.....	35	Stone, trs.....	35
Miller, Gerrit S., agt.....	246	Nowell, Susan R. C.....	5	Poor, Isaac.....	6
Miller & Peck.....	133	Old Boston Nat. Bank—		Pope, Frank J.....	3
Milliken, Emily M.....	5	Coll. H. C. W. & Co..	160	Pope, Susie W.....	5
Milton, Wm. F.....	10	H. B. S.....	25	Porter, A. Maria.....	1
Minnerly, Mary F.....	3	Oliver, Chas. B.....	50	Porter, Ann E.....	8
Minot J. Grafton.....	25	Olmstead, H. B., cashier..	161	Porter, Dudley.....	1

List of stockholders of the American Bell Telephone Company, &c.—Continued.

Porter, Herbert.....	13	Robbins, Chandler.....	77	Sewall, Geo. P.....	12
Porter, Mariana C.....	33	Robeson, Louis.....	5	Sewall, Lella M.....	20
Post, Carrie M.....	1	Robinson, Elizabeth W.....	12	Sewall, Lena I.....	67
Potter, Abby T.....	5	Robinson, Roswell R.....	12	Sewall, Linnie P.....	26
Potter, Elizabeth H.....	5	Rogers, Geo. R.....	10	Sewall, Richard B.....	281
Potter, Fred S.....	72	Rogers, Jacob C., treas.,	40	Sewall, Sarah A.....	10
Potter, Nath'l, jr.....	10	coll., L. H. & Co.....	40	Sewall, Wm. B.....	594
Pratt, Edwin B.....	75	Rogers, John.....	4	Sewall & Samson.....	55
Pratt, Eliott W.....	31	Rogers, John H.....	4	Shattuck, Chas. W.....	40
Pratt, Frances B., tr.....	3	Rogers, Richard D.....	72	Shattuck, Edward.....	10
Pratt, Laban.....	20	Rogers, Wm. C.....	82	Shattuck, Geo. C.....	50
Prescott, Geo. B.....	510	Rollins, Amos E.....	4	Shattuck, Joseph.....	100
Prescott, Lucy E.....	10	Rollins, Miriam W.....	20	Shaw, Fanny H.....	1
Prescott, Oliver.....	30	Romans, Jane.....	6	Shaw, Frank.....	150
Prescott, Wm. G., tr. J. A. P.....	150	Romans, Sarah.....	6	Shaw, Frederick P.....	36
Preston, Ann Maria.....	5	Romney, Chas. W.....	2	Shaw, Louis A.....	25
Preston, Frank W.....	3	Ross, Wm., jr.....	10	Shaw, Quincy A.....	500
Prichard, Amelia M.....	3	Rotch, Abbott Lawrence.....	20	Sheffield, Geo. St. John.....	120
Prince, F. H., & Co.....	28	Rotch, Arthur.....	50	Sheldon, Eudora C.....	2
Proctor, Grace B.....	1	Rotch, Wm.....	3	Sheldon, Wm. C., & Co.....	300
Purinton & Brown.....	10	Rotch, Wm. J.....	143	Shepard, Elizabeth A.....	61
Putnam, Florence J.....	10	Ruddock, Thos. S.....	63	Shepard, Harvey N.....	9
Putnam, Geo.....	156	Ruddock, Walter R.....	17	Sherwin, Edward.....	5
Putnam, Harriet L.....	30	Rugg, Frederic W.....	1	Sherwin, Isabel F.....	25
Putnam, Jas. Jackson.....	10	Ruggles, John A.....	4	Sherwin, Thos.....	30
Putnam, Sarah B.....	10	Rumery, Wm. M.....	30	Shimmin, Chas. F.....	50
Putnam, Sarah G.....	26	Russell, Edward B.....	30	Shiras, Jas. O.....	52
Putnam, W. E., & Co.....	100	Russell, Lillian H.....	5	Shriver, Mary Jane.....	20
Queen, Walter W.....	20	Russell, Margaret P.....	10	Silsbee, Arthur B.....	14
Quimby, Wm. H.....	1	Russell, Mary F.....	9	Silsbee, George Z.....	80
Quincy, Edmund, guard'n.....	12	Russell, Mary J.....	3	Silsbee, John H.....	40
Quincy, Henry P.....	61	Russell, Samuel H.....	30	Silsbee, N. D., & W. E. Sils-	
Quincy, Josiah P.....	4	Russell, Sarah E.....	5	bee, & F. A. Whitwell,	
Quincy, Samuel M., tr.....	15	Russell, Sarah S.....	38	executors.....	26
Rackeman, Chas. S.....	4	Russell, Wm. E.....	4	Simes, Wm.....	10
Rackeman, Chas. S., tr.....	15	Sabine, Geo. K.....	17	Simmons, Mary E.....	13
Railroad Nat. Bank, Low-		Sabre, Geo. W.....	5	Simonds, H. Augusta.....	5
ell, coll. D. & Co.....	150	Salem Savings Bank, coll.		Simonds, Nath'l G.....	2
Rand, Arnold A.....	33	A. W. B.....	650	Simonds, Stanley.....	
Randall, Chas. S., tr. S. S. R.....	44	Salem Savings Bank, coll.		Simpson, Albert P.....	3
Randall, Chas. S., tr. S. R. G.....	20	B. B. & Co.....	346	Simpson, Edith M.....	150
Randall, Howard S.....	40	Salisbury, Edward E.....	61	Simpson, Frank E.....	8
Randall, Sarah S.....	33	Salisbury, Stephen, jr.....	49	Simpson, Michael H.....	305
Randall, Wm. P.....	6	Saltonstall, Ella B.....	1	Simpson, Thomas C.....	25
Ranney, Mary F.....	1	Saltonstall, Henry.....	275	Sise, Albert F.....	61
Raynes, Abby B.....	1	Saltonstall, Henry, and		Sise, Chas. F.....	37
Read, Lucy R.....	13	Wm. G., trs.....	7	Sise, Helen W.....	4
Read, Nath'l G.....	10	Saltonstall, William G.....	200	Skinner, Sarah E.....	4
Read, Sarah E.....	14	Sampson, Eliza B.....	2	Slade, Daniel D.....	4
Read, Wm., jr.....	20	Samson, Edward H.....	17	Slade, Mina Louise.....	6
Reed, Mrs., E. Y. R.....	3	Samuel, Nathan.....	25	Slater, Andrew C.....	80
Reed, Sophia.....	5	Sanborn, Sarah F.....	1	Smalley, Orrick.....	10
Reed, Wm. G.....	5	Sanders, Chas.....	329	Smeath, Wm.....	10
Reid, Peter.....	230	Sanders, Mary A.....	359	Smiley Brs.....	53
Remick, John A.....	39	Sanders, Thomas.....	5	Smiley, Chas.....	10
Remick, John A., tr.....	1	Sandford, Timothy W.....	7	Smith, Alice E.....	3
Renwick, Wm.....	81	Sanger, Sabin P.....	2	Smith, Almon L.....	10
Revere, Augustus L.....	5	Sargent, Albert A.....	2	Smith, Angenette E.....	14
Revere, Rosana D.....	15	Sargent, Amelia J.....	55	Smith, Arthur A.....	3
Reynard, Robert P.....	13	Sartwell, Amarilla B.,		Smith, Chas. H.....	10
Reynolds, Edward B.....	1	exec'x.....	54	Smith, Edward M.....	33
Reynolds, Lucretia R.....	5	Saunders, Jennie O.....	5	Smith, Elmer F.....	1
Rhodes, John B.....	71	Savage, Samuel H.....		Smith, Frank E.....	13
Rhodes, Wm.....	8	Sawtell, Sarah G.....	5	Smith, Frank Hill.....	3
Rice, Allie W.....	5	Sawtell, W. H.....	35	Smith, Jas. G.....	4
Rice, Ella M.....	1	Sawyer, Albert P.....	75	Smith, Louisa.....	5
Rice, Elmira.....	15	Sawyer, Alfred P.....	5	Smith, Mary A.....	1
Rice, Reuben N.....	30	Sawyer, Azariah H.....	5	Smith, Nathan G.....	6
Rice, S. Augusta.....	17	Sawyer, Ira O.....	10	Smith, Ruth L.....	21
Richards, Anne.....	100	Sawyer, Sarah R.....	5	Smith, Sidney L.....	20
Richards, Anne, guardian.....	200	Schenkl, Frederika.....	10	Smith, Sarah E.....	10
Richards, Geo. H., admr.....	45	Schlesinger, Barthold.....	600	Smith, Susan D.....	5
Richards, Henry.....	17	Schlesinger, Sebastian B.....	200	Smith, Thomas P.....	6
Richards, Howard.....	26	Schneider, Chas.....	4	Snell, George.....	150
Richards, John E.....	8	Schuman, Carl.....	2	Snow, Geo. K.....	1
Richards, Laura E.....	8	Scott, Thos.....	40	Snow, Henry C.....	25
Richardson, Ellen B.....	3	Scudder, Bessie M.....	2	Snow, Mary J.....	1
Richardson, Francis H.....	1	Scull, Gideon.....	650	Snow, Sarah H.....	10
Richardson, Susan C.....	5	Sears, David.....	31	Soley, Stearns & Gay.....	
Richardson, Wm. L.....	91	Sears, Fred. R., jr.....	184	Somers, John E.....	3
Richardson, Hill & Co.....	105	Sears, Knyvet W.....	100	Soren, Geo. Wales.....	22
Ricker, Fred L.....	10	Seaver, Francis E.....	5	Soule, David E.....	10
Ricketson, Benj. T.....	5	Second National Bank,		Soule, Rufus A.....	5
Ricketson, Chas. W.....	10	Boston, coll. D. & Co.....	300	Southack, Theodore L.....	
Ripley, Geo.....	102	Seely, Wm. W.....	30	Souther, Chas. H.....	4

List of stockholders of the American Bell Telephone Company, &c.—Continued.

Speed, Jas. B	5	Sweet, Henry N	1	Tucker, Sara E	40
Spiller, Joseph B		Sweetser, Isaac	35	Turner, Abbie E	1
Sprague, Henry H	10	Swett, Philip C	10	Turner, Edward C	4
Sprague, Lucius K	5	Swift, Alfred G	4	Turner, J. Emmons	3
Sprowls, Silas	3	Swift, George B	4	Turner, Seth (est.)	10
Stackpole, Bessie V	1	Taber, Henry F	5	Tuttle, Emma A	2
Stackpole, J. Lewis	40	Taft, O. A., coll. E. R. M. & Bro	100	Tuttle, Wm	5
Stackpole, Susan M	20	Talbot, Geo. N	148	Tyer, Catharine L	10
Stackpole & Ely	38	Tapley, Amos P	40	Tyer, Horace H	25
Starr, Geo. H	20	Tappan, Mary A	16	Tyler, Edward R	25
State Nat'l Bank, Boston, coll. L. H. & Co		Taylor, Amos S	5	Tyler, Martha A	5
State Nat'l Bank, coll. J. P. & M	10	Taylor, Benj. P	1	Tyler, Mary C	5
Steadman, Enoch	10	Taylor, Caroline M	1	Underwood, Adin B	7
Stephenson, Geo. H	5	Taylor, Levi	30	Upson, Andrew S	25
Stephenson, Martha E	10	Tenney, Samuel P	10	Van Raalte, Albert	4
Sterett & Britton	20	Tenny, Martha J	76	Vail, Theo. N	12
Stetson, Emma L	6	Terry, Alice F	2	Van Zandt, Albert, & C. F. Shimmin, trs	37
Stetson, Geo. R	31	Terry, Lemuel T	37	Valentine, Emma Kate	5
Stevens, Annie G	7	Thacher, Anna	1	Vansize, Wm. B	10
Stevens, Elizabeth P	16	Thatcher, H. L	2	Veasey, Arthur D	30
Stevens, Henry J	10	Thatcher, Sarah A. D	1	Vickery, Isabella F	1
Stevens, Lillian A	2	Thaxter, Charlotte	1	Vinal, Chas. H	6
Stevens, Mary O	21	Thaxter, Lucy P	5	Wadleigh, Geo. C	10
Stevens, Nath'l, guardian	10	Thayer, Albert P	10	Wadleigh, Levi C	16
Stevens, Samuel F	2	Thayer, Chas. E	10	Wadleigh, Levi C., jr	15
Stevenson, Caroline J	50	Thayer, Clarina E	17	Wadleigh, L. C. & Sons	36
Stevenson, Hannah	52	Thayer, Theodore A	2	Wadsworth, Mary E	17
Stevenson, J. Henry	8	Thayer, Wm. R	10	Wainwright, H. C., & Co	857
Stevenson, Robert H., trustee	50	Third Nat'l Bank, Boston, coll. C. P. H	50	Wainwright, Charles	4
Stevenson, Robert H., agent	80	Third Nat'l Bank, Boston, coll. D. & T	10	Wainwright, Wilton P	1
Stevenson, Pierson & Co	105	Thomas, Laura B	30	Waite, Benj. H	30
Stewart, Charlotte E	1	Thompson, Francis	25	Walbach, Penelope R	7
Stewart, Helen A	1	Thompson, Geo. W	8	Walcott, Henry P	20
Stewart, John	10	Thompson, John C	2	Wales, Mary Anne	30
Stewart, Sarah H	3	Thorndike, Albert	5	Wales, Mary F	14
Stockbridge, Elizabeth A	13	Thorndike, Chas	113	Walker, Clarence O	5
Stockton, Mary A	25	Thorndike, Chas., & E. I. Browne, trs	20	Walker, Henry M	5
Stoddard, John L	22	Thorndike, Geo. Quincy	50	Walker, Horace L	17
Stone, Annie	9	Thorndike, S. Lothrop	116	Walley, Abbie B. P	5
Stone, Chas. W	1	Thorndike, S. Lothrop, & C. P. Gardiner, trs., coll. C. C. P	16	Walley, Henshaw B	10
Stone, E. Fenwick	8	Thurlow, Wm	4	Walley, Hetty S. B	5
Stone, Laura H	8	Thursby, Helen M	15	Walley, Wm. P	40
Stone, Lincoln R	6	Thurston, Caroline A. W	7	Walter, Caroline L	2
Stone, Richard	5	Thurston, Robert H	20	Walter, Howard & Co	10
Stone, Sophia W	10	Tilley, Geo. W. T	2	Ward, Chas. M	3
Stone, Wm. E	25	Tillinghast, Sadie C	7	Ward, Chas. M., jr	1
Storer, Abby J., est	41	Tilton, J. B	65	Ward, Fanny Augusta	6
Storer, Abby M	2	Tilton, Stephen & Co	50	Ward, Geo. K	1
Storer, Abby M., & Mary G., exec	10	Tinkham, Sarah L	4	Ward, John	1
Storer, D. Humphreys	10	Todd, Elizabeth L. W	4	Ward, John M	10
Storer, Mary G	2	Todd, Marianna	5	Ward, Samuel G	67
Storey, Moorfield	1	Tolman, Elizabeth M. S	20	Ware, Elizabeth C	105
Storin, Jas. H	1	Tolman, Harriet S	10	Ware, Horace E	5
Storrow, Anna A	14	Tomfohrde, Andreas	20	Ware, Mary L	70
Storrow, Chas	12	Topliff, Louisa McK	2	Waring, Sarah D	2
Storrow, J. J., & C. E. Hubbard, trs	150	Topliff & Brooks		Warner, Geo. G	5
Stover, Joseph W	25	Tourtellot, John F	10	Warner, Geo. M	7
Sturgis, Frances A	10	Tower, Giddings & Co	160	Warner, Jos. B	2
Sturgis, John H	54	Townsend, Anna S	5	Warren, Frederick	10
Sturgis, Robert S	6	Townsend, Grace P	6	Warren, Geo. H	72
Sturgis, Russell, 3d	100	Tracy, Helen E	10	Warren, Susan B	14
Sturtevant, Wm. L	5	Train, Stephen G	50	Washburn, Alfred F	3
Suffolk Sav's B'k for Seamen and others, coll. B. B. & Co	1,430	Travis, Chas. B	10	Washburn, Martha T	5
Sullivan, G. S. B	4	Tremont Nat. Bank, coll. C. S	170	Washington Nat'l Bank—Coll. H. C. W. & Co	239
Sullivan, Henry D	229	Tremont Nat. Bank, coll. C. & B	10	G. B. C	100
Sullivan, Henry D., att'y J. A. S	73	Trowbridge, John	3	Watkins, Wm	30
Sullivan, Thomas R	18	True, Cyrus B	10	Watson, Francis S	42
Sumner, Jeannie W	10	Trumbull, Chas P	5	Watson, Horatio J	5
Swain, Lloyd S	2	Tuck, Henry	10	Watson, R. Clifford	15
Swan, Margaret M	4	Tucker, Alanson	21	Watson, Mary F	6
Swan, Robert	5	Tucker, Charles	150	Watson, Robert S	133
Swan, Sarah Alden	20	Tucker, Edward T	65	Watson, R. C., agent	100
Swan, Walter S	10	Tucker, Geo. F	2	Watson, Susan G. H	12
Swasey, Horatio E	10	Tucker, James	2	Watson, Thomas A	1,627
Sweat, L. D. M	10	Tucker, James & Co	37	Watts, John, jr	1
Sweet & Co., Edward	35	Tucker, John F	50	Webb, Harriett K	4
				Webb, Josiah	79
				Webb, Mary E	10
				Weeks, Eunice M	50
				Weeks, Chas. E. S	20
				Weir, Julia	6
				Welch, Edith	6

List of stockholders of the American Bell Telephone Company, &c.—Continued.

Welch, Francis C.....	2	White, Jas. D.....	77	Williams, L. Dowley.....	10
Welch, Wm. H.....	4	White, Mary.....	5	Williams, Robert B.....	5
Weld, Edith.....	4	White, Margaret E.....	4	Williams, Sarah C.....	20
Weld, Eleanore C.....	27	White, Wm. O.....	23	Williamson, Matilda A.....	15
Weld, Hannah M.....	10	Whiting, Mary J.....	4	Willis, Elizabeth.....	9
Welles, F. R.....	8	Whitney, Clarence S.....	8	Willis, James M.....	16
Wells, Chas. B.....	220	Whitney, E. Herbert.....	77	Wilson, Joseph F.....	11
Wells, Herbert C., treas.		Whitney, Geo. F.....	15	Wilson & Tuck.....	5
Hamilton Ass.....	2	Whitney, Isaiah.....		Wing, John, 2d.....	1
Wentworth, Hiram W.....	8	Whitney, Jas. L.....	11	Wing, J. & W. R.....	3
Wesselhoeft, Minna.....	8	Whitney, Jos. C.....	2	Wing, Lyman.....	36
Wesselhoeft, Selma.....	1	Whitney, Maria.....	1	Winn, Hannah C.....	4
Wesson, Frank L.....	20	Whitney, Martha W.....	10	Winslow, Joshua B.....	10
West, Geo. W.....	50	Whitney, Mary D.....	7	Winsor, Mary G.....	10
West, John W.....	30	Whitney, Wm. E.....	2	Wintringham, Frances E.....	5
Weston, Jas. A.....	40	Whiton, Starkes.....	1	Witherbee, John B., cash-	
Wetherbee, Eliot J.....	2	Whitwell, Henry.....	18	ier.....	60
Wetherbee, John F.....	1	Whitwell, Mary Hubbard.....	3	Woburn Savings Bank,	
Wharton, Edward R.....	3	Widger, Arthur C.....	12	coll. L. H. & Co.....	
Wharton, Nancy C.....	1	Widger, J. Roswell.....	13	Wolcott, Roger.....	51
Wharton, Wm. C.....	30	Wiethauper, John H.....	11	Wolff, Charles.....	300
Wharton, Wm. F.....	130	Wiggin, Chas. E.....	20	Wood, Elizabeth T.....	50
Wheeler, Chas. (est.).....	72	Wiggin, Chas. R.....	5		10
Wheeler, Chas. J.....	5	Wigglesworth, Edward.....	110	Wood, Hannah G.....	13
Wheeler, Jas. H., jr.....	4	Wigglesworth, George.....	110	Wood, Horace.....	10
Wheeler, John F.....	10	Wigglesworth, Thomas.....	100	Wood, Heustis & Co.....	100
Wheeler, John M.....	18	Wight, John B.....	3	Woodward, George B.....	1
Wheelwright, Josiah.....	30	Wight, Lawrence T.....	2	Woodward, Edson F.....	1
Wheelwright, Sarah C.....	12	Wight, Lloyd B.....	2	Woodwell, Jos. A.....	20
Wheelwright Scientific		Wightman, Henry M. (est.).....	15	Woodwell, Elbridge C.....	2
School, coll. E. R. M. &		Wilbour, Jackson & Co.....		Woodwell, Hannah D.....	2
Bro.....		Wilcox, Benjamin.....	14	Work, Jos. W.....	14
Whidden, Stephen H.....	27	Wilcox, Sarah E.....	3	Wright, Charles F.....	15
Whitcomb, Chas. M.....	3	Wilcox, Theodore T.....		Wright, Esther F.....	150
Whitcomb, G. Henry.....	10	Wilde, William A.....	20	Wright, Gideon B.....	5
Whitcomb, Geo. O.....		Wilder, George E.....	5	Wright, Mary E.....	107
Whitcomb, Walter O.....	1	Wildes, Frederick B.....	1	Wright, William J.....	15
Whitcomb, Wm. F.....	12	Willard, Henry A.....	50	Wyman, Edward, jr.....	5
White, Alverse L.....	130	Willet, Joseph N.....	33	Yeaton, George S.....	2
White, A. Tenny.....	15	Williams, Charles, jr.....	422	Young, Alex.....	6
White, Chas. G.....	5	Williams, Charles H.....	4	Young, Charles L.....	151
White, Eliza O.....	5	Williams, Henry W.....	69	Young, Fanny.....	7
White, Geo. A.....	36	Williams, John D.....	10	Young, Francis G.....	30
White, Geo. A., tr. G. W.		Williams, Josephine.....		Young, John W.....	2
W.....	6	Williams, Judson.....			
White, H. Ann.....	195	Williams, Matilda A.....		Total.....	98, 021
White, Ida C.....	28				

CECIL CLAY resumed the stand.

By Mr. RANNEY:

Question. Have you looked up the items which you were requested to look up in a letter of mine—I mean all of them?—Answer. All of them, except to bring the papers which resulted in suits. There was one of the cases mentioned in the original papers which resulted in suits. Those papers are being gotten up, and can be brought here in the morning if you want them.

Q. The first list was where they were refused?—A. Yes, sir.

Q. Those are how many in number?—A. Six cases—five which were absolute and one which seemed to be.

Q. You have produced all the papers?—A. Yes, sir.

Q. How many were referred to the Interior Department?—A. All of them.

Q. How many of them?—A. All of the five in which there was a definite refusal. One case in which I thought best to bring the papers was an application, I think, for general information as to how the thing should be gotten out, and the letter was written by the Department, and after that no further steps seem to have been taken by the applicant.

Q. How many cases did you find where application was granted?—A. I think ten in that original paper.

Q. How many were referred to the Interior Department?—A. All, I think, but one. That is my recollection of the list.

Q. And which is that one?—A. That one, I think, is the Roberts torpedo case—something or other. I do not know what it is. I think it is a patent for exploding oil-wells.

Q. What was done with that? This is a new list.—A. That list is got out in reply to one of the requests in your note as to stating which of the ten cases mentioned in the original list had been referred to the Interior Department.

Q. The original list is the one we want. They are all here but one, and that is the barbed-wire case?—A. No, the Roberts torpedo case.

Q. Was not that the one where they desired the Government to intervene in a suit pending between the parties?—A. I cannot say. My knowledge of the case is only what I find from looking at the papers, and my impression is that there is but one letter actually upon the records of the Department. We now have in the files a number of letters and papers which were returned there.

Q. Won't you show me the files in the torpedo case?—A. That is not there, because it was one of the ten cases where suits went on. It is not one where it was refused. I can produce all those papers here when I produce the others.

Q. Can you give me a paper to show on what ground it was based?—A. I do not know. I could not answer that question now without examining the records whether it simply states "after consultation with the Secretary of the Interior or Commissioner of Patents you are authorized," &c.

Q. Well, I would like all the papers in that torpedo case?—A. There are a mass of papers in that case returned there by General Walker, and I think General Butler.

Q. I see you produce certified copies here. Are they letters of the Attorney-General?—A. Yes, sir.

Q. And have you produced a copy of the letter of the Attorney-General in all other cases where the application was granted?—A. No, sir; those are the letters in the cases in which the application was refused.

Q. You haven't those in?—A. There had been no request for the papers to be furnished in the cases where the application had been granted; only those in which it had been refused.

Q. You have not papers here to show on what ground the application was based and on what ground it was granted?—A. No, sir; I have none of the papers here concerning granted applications; only those concerning refused applications.

Q. I do not know that my request covered the others. Have you the original papers in the cases in which it was granted?—A. At the Department we have.

Q. Well, I would thank you to bring me the original papers in all of them.

The WITNESS. In each of the cases?

Mr. RANNEY. Yes, sir. Be sure and bring all the papers in the torpedo case.

By the CHAIRMAN:

Q. You have stated all the cases were referred but one—the torpedo case?—A. I think all but one.

Q. Was the barbed-wire case referred?—A. I do not remember. By running down that list I could tell. All these were cases before my coming into the office, and I cannot answer from memory.

Q. Could you have a better list made than this, giving all the facts?—A. Oh, yes. That was a memorandum gotten up giving the title of the cases.

The CHAIRMAN. That has been mislaid. Probably some member of the committee has it.

The WITNESS. The original list appears in print, I think.

The CHAIRMAN. I was not aware of that.

The WITNESS. I think it does.

The CHAIRMAN. I offered it a few days ago, but upon suggestion it was withheld until we could have a complete list. [To the committee.] Gentlemen, I have a letter here to Mr. Ranney from Judge Lowell, dated on the 28th of April, which he desired to have read to the committee. [To Mr. Ranney.] Do you desire to have it go into the printed record?

Mr. RANNEY. I have no request to make about it. It was sent to me to hand to the committee. The committee can take such action as it sees fit. It was sent to me.

The CHAIRMAN. I see no objection to it going in.

Mr. RANNEY. The committee can take such action as it thinks proper.

The CHAIRMAN. I will put it in.

The letter is as follows:

3 PEMBERTON SQUARE, BOSTON, *April 28, 1886.*

DEAR MR. RANNEY: I observe in to-day's dispatch to The Boston Daily Advertiser, that in the investigation before the committee of which you are a member (on telephone matters), it was said that my father, brother, and son have or had shares of stock of the Bell Telephone Co., and that I made a decision on the patent.

I did make a decision 27 June, 1881, which has been approved by other courts. If any person of my name had shares in the co. at that time I was not aware of it. My only brother is now in California, but I have inquired of his son, who, in his absence, has the custody of his books and my father's book.

I find that my father never owned a share of the co.; though, as trustee, having considerable sums to lend, he has lent to solvent persons, taking Bell telephone as collateral.

My brother and his two sons own some shares; how many or when bought I did not inquire, except that none were bought during 1881.

I did not know until to-day that my nephews had any stock, nor until this year (1886) that my brother had any.

It is hardly necessary to tell you that no son of mine ever owned a share of this stock. Such is the fact. It is well known to patent lawyers that my eldest son, who was admitted to the bar two or three years before my retirement, never took a retainer in a patent case, tho' some were offered him.

I may add that my father (who died Nov. 1, 1881) was a business man, and so is my brother, and I am not. For this reason they had no occasion to talk to me about any of their investments, and never did, except in the most casual and incidental way. The Bell Telephone Co. was not exceptional at all in this respect. I do not recollect that I ever exchanged a word with either of them about that company, or anything connected with it, until my brother, in 1886, speaking of the suit by the Gov't vs. the Bell Co., mentioned that he had some shares, which, up to that time, I had neither known nor suspected.

Yours, very truly,

JOHN LOWELL.

Hon. A. A. RANNEY,

House of Representatives, Washington, D. C.

I will ask you kindly to read this letter to the committee, or, as we say at the bar, to state the substance of it.

At this point the committee adjourned until Tuesday next, the 4th proximo, at 12 m.

WASHINGTON, D. C., *Tuesday, May 4, 1886.*

The committee was called to order at 12.30 p. m.

Hon. LEWIS BEACH was recalled and further examined.

By the CHAIRMAN (Mr. Boyle):

Question. Have you the letters called for at the time of your last examination?—
Answer. I have them with me, and now produce them; I produce the original letter, written by J. W. Rogers under date of January 10, 1884.

Mr. RANNEY. Will you read them in order?

The witness read as follows:

315 FOUR-AND-A-HALF STREET, N. W.,

Washington, D. C., January 10, 1884.

MY DEAR SIR: I hand you herewith my last poem and \$10,000 to repay you for reading it.

Yours, &c.,

J. W. ROGERS.

P. S.—Dr. Hassel left last night for N. Y. He is greatly interested in the American Postal.

In response to that letter I sent a letter—

Mr. RANNEY. Before you read that, was there any poem with that letter?

The WITNESS. There was no poem.

Mr. RANNEY. What was there?

The WITNESS. Accompanying the letter and in a different envelope or cover, as I now remember, there was some literature relating to the postal telegraph business.

Mr. RANNEY. A pamphlet?

The WITNESS. A pamphlet, I think it was; and I supposed that the word "poem," in that letter, referred to that literature.

Mr. MILLARD. What is the date?

The WITNESS. This is dated January 10, 1884, and my answer to it is dated January 11, 1884.

Mr. RANNEY. You say there was a pamphlet; was there any stock?

The WITNESS. There was inclosed in this a certificate for 100 shares of the American Postal Telegraph Company.

Mr. RANNEY. That you mentioned the other day. That you understood to be the poem?

The WITNESS. Yes, sir; this is my reply:

HOUSE OF REPRESENTATIVES, U. S.,
Washington, D. C., January 11, 1884.

SIR: In my mail of this morning I find a letter from you dated yesterday, covering a certificate for 100 shares of the capital stock of the American Postal Telegraph Company of the par value of \$100 each, which certificate is as signed in blank by J. W. Rogers (presumably yourself).

Herewith I return the certificate. I cannot accept anything for which I have not paid, and I most assuredly would not hold stock in any corporation which is seeking legislation of a body of which I am a member.

LEWIS BEACH.

To J. W. ROGERS,
315 Four-and-a-half street N. W., Washington, D. C.

In the margin of this letter I find the following words and initials: "Compared—T. S., L. B., 11th January, 1884, 7 p. m."

That refers to the authentication of the letter, as I stated in my previous testimony. I took the stock and the original letter up to the room of Mr. Spriggs, my colleague, and we compared the letter I sent with this draft, and put our initials at the bottom. I do not know whether my brother Spriggs has any middle initial in his name or not.

Mr. RANNEY. That is of no consequence. You meant those initials as evidence of having authenticated the draft retained as being an exact copy of the letter that was sent?

The WITNESS. Yes, sir. My object was to show that I had inclosed the stock in the letter. Then Mr. Spriggs went with me to the mail box and saw me deposit it in the mail box, and that ended the transaction.

By Mr. RANNEY:

Q. Do you know whether during that Congress there was anything pending before Congress relating to a postal telegraph company, where it was supposed that the Government would establish or buy some telegraph lines?—A. I have no distinct recollection on that subject. I have an indistinct recollection that the question of establishing a postal telegraph, to be under the control of the Government, was being agitated at that time, and that I took considerable interest in it.

Q. Dr. Rogers says that the pamphlet he sent you stated that the Government would make some purchase of telegraph lines.—A. I do not remember anything about that.

Q. Did you keep that pamphlet or return it?—A. I did not keep it; it probably found its way to the tomb of pamphlets.

Q. I believe he testified to having sent it to you as an inclosure. You heard nothing more about it?—A. Nothing more.

Q. Did you know anything about any project to get young Mr. Rogers appointed as electrician of the House?—A. I never knew Dr. Rogers, and never knew anything concerning any application for the appointment of young Rogers or of Dr. Rogers to any position whatever.

Mr. RANNEY. That is all.

The CHAIRMAN. Does any other member of the committee desire to examine Mr. Beach?

By Mr. MILLARD:

Q. A single question: You say in your letter, "I cannot accept anything for which I have not paid, and I most assuredly would not hold stock in any corporation which is seeking legislation of a body of which I am a member." How came you to use such an expression as that?—A. When I opened the letter from Dr. Rogers that was in my mail that morning, and which contained this certificate of stock, I looked upon it as an attempt to influence me in my legislative action—as an attempt to bribe and corrupt, and I made that disposition of it.

I will ask the chairman of the committee whether he desires to retain these letters.

Mr. RANNEY. Give them to the stenographer, so that he may take a copy of them.

The WITNESS (to the stenographer). You can authenticate your copies of them, and then I would like to have the originals returned to me.

The CHAIRMAN. Assistant Secretary Muldrow has been requested to be present; he is present and ready to be examined.

Hon. H. L. MULDROW sworn and examined.

By the CHAIRMAN:

Q. What position under the Federal Government do you hold?—A. I am now the First Assistant Secretary of the Interior Department.

Q. When were you appointed?—A. I was appointed Assistant Secretary March 26, 1885, and First Assistant July 1, 1885, and confirmed January 18, 1886.

Q. Have you any recollection of an application, made by W. Van Benthuyzen to the Department of Justice for the use of the name of the United States in a suit to be brought against the American Bell Telephone Company, having been submitted to the Interior Department by the Attorney-General?—A. I only know what I find of record, from an examination I have made since receiving a subpoena to appear here and testify. I have no personal recollection of it in the world.

Q. Have you the original application with you?—A. I have with me the only paper in the Department pertaining to that subject, and that is a communication from the Attorney-General, dated at the Department of Justice, Washington, July 14, 1885, and addressed to the Secretary of the Interior:

SIR: I have the honor to send you, for your consideration and for an expression of your views thereon, a letter of the 12th instant from Mr. Van Benthuyzen asking the institution of a suit against the Bell telephone patents.

Please return Mr. Van Benthuyzen's letter with your reply.

Very respectfully,

A. H. GARLAND,
Attorney-General.

That is the only paper I found bearing upon the inquiry and which seemed to be desired, from the subpoena that I received, and that was in relation to this communication of Mr. Van Benthuyzen's in relation to bringing a suit. That paper has this indorsement on it:

DEPARTMENT OF THE INTERIOR,
July 15, 1885.

Respectfully referred to the Commissioner of Patents for report.

H. L. MULBROW,
Acting Secretary.

There is also this further indorsement:

On request of writer and on assurance that it is in accordance with the views of the Attorney-General this paper is returned to such writer without report.
July 31, 1885.

M. V. MONTGOMERY,
Commissioner of Patents.

There is also a still further indorsement, reading as follows:

NEW ORLEANS, October 23, 1885.

Finding that the law referred to in the within letter to General Garland has not been adopted, and being informed that the bill had been stolen from the Senate after being adopted by the House of Representatives, and being advised by my attorney to pursue another course, consent to withdraw the letter was obtained, and the letter was withdrawn by H. Von Briesen, esq., my attorney.

W. VAN BENTHUYSEN.

I will say that there was one other communication at one time in the possession of the Interior Department, which was the letter referred to in that communication.

Q. The letter from Mr. Van Benthuyzen?—A. Yes, sir. But that letter was returned to the office of the Attorney-General, and I haven't it in my possession now. I see by this receipt, taken from the Department of Justice, that it was returned to that Department:

"Letter from Van Benthuyzen to Attorney-General, dated July 12, 1885, requesting that suit be brought against Bell telephone patents on account of fraud."

That receipt is dated January 21, 1886, and signed by Cecil Clay, who is chief clerk of the Department of Justice, as I understand; I do not know it.

Mr. MILLARD. Will you not read that again?

The WITNESS. I say that the letter referred to in the communication which I have just read was at one time in the Interior Department, but it has been returned to the Department of Justice, as is shown by this receipt of the chief clerk of the Department of Justice, acknowledging the return of certain papers which were forwarded to that Department.

Mr. RANNEY. That is the letter which was published in the first volume of proceedings before the Secretary of the Interior?

The WITNESS. I do not really know about that.

Q. Is that a copy of the letter from Mr. Van Benthuyzen to the Attorney-General?—A. That is the letter from Mr. Van Benthuyzen to the Attorney-General referred to in that receipt.

Q. You have no copy of the letter?—A. I have not; I do not think there is one in the Department; I could not find it.

Q. It was returned by request of the Attorney-General contained in the letter communicating it to your Department?

The WITNESS. The letter of Mr. Van Benthuyzen?

The CHAIRMAN. Yes, sir.

A. Yes, sir.

Q. Have you any personal recollection of the receipt of the Van Benthuyzen letter in your Department?—A. None whatever.

Q. Did it come within your knowledge at the time?—A. If I saw it I have no recollection about it at all, and I do not remember making that indorsement on that paper, which I find I did make, referring it to the Commissioner of Patents. Frequently there are several hundred papers that pass under my pen during the day.

Q. Have you any knowledge of the withdrawal of the letter?—A. I have not; I know nothing about that personally.

Q. Have you any knowledge whatever of the letter except as mentioned in this receipt?—A. That is all.

Q. Do you know whether the letter was in your Department at the date of the indorsement on the Attorney-General's letter, that is to say, on the 31st of July, 1885?—A. I do not know whether it was or not. As I tell you, I have no recollection about it; I did not even know that I had made that indorsement on that paper until I examined it the other day, after getting your subpoena, but I find my signature in my handwriting.

— By Mr. RANNEY:

Q. It seems that this receipt of Mr. Clay's is dated January 21, 1886, and appears to be a receipt for the papers and documents which were furnished and used in the hearing before the Interior Department?—A. Yes, sir.

Q. That occurred subsequent to the bringing and dismissal of the first Government suit and after the opinion of the Secretary of the Interior in regard to recommending the second suit?—A. Yes, sir; it was all subsequent. I want to say in that connection, however, that that receipt does not embrace all the papers that were returned to the Department of Justice.

Q. When the original application of Mr. Van Benthuyzen came, under the reference which appears in the first paper you have read, were there any other documents accompanying it?—A. I cannot say whether there were or not; I have no recollection about it. As I remarked awhile ago, I do not even remember seeing the paper which I find I did see, and that is the letter of the Attorney-General.

Q. By the letter of the Attorney-General it would seem that he referred to the Secretary of the Interior the application of Mr. Van Benthuyzen.—A. I presume that that accompanied the letter of the Attorney-General, but I do not recollect it.

Q. It would seem to be so from the letter.—A. I infer that from the indorsement I made upon the paper; I am satisfied that it was in that letter.

Q. That was the paper withdrawn. So that this indorsement on Mr. Garland's letter seems not to have been an indorsement on the application of Mr. Van Benthuyzen, but on the letter.—A. I do not recollect, but I take it that the letter of Mr. Van Benthuyzen was probably inclosed in that letter of the Attorney-General's, and the indorsement on the letter of the Attorney-General was intended to refer the whole matter to the Commissioner of Patents.

Q. Do you know what has become of that application of Mr. Van Benthuyzen's?—A. Only by hearsay; I do not know personally. Mr. Montgomery has told me what became of it; but he will be here to testify.

Q. I only wanted to call your attention to that fact. In the printed record of proceedings before the Secretary of the Interior these endorsements, as there set out, purport to have been made on the application of Mr. Van Benthuyzen itself, do they not?—A. I did not understand the question.

The CHAIRMAN. They purport to have been made on the letter of the Attorney-General.

Q. Do you know how it happened that Mr. Van Benthuyzen had an opportunity to make this endorsement, which has been read, on the letter of Mr. Garland?—A. I do not, except from hearsay. Mr. Montgomery knows about that, and will tell you; the only information I have about it was obtained from him.

Q. His endorsement purports to have been made in "N. O.," New Orleans?—A. Yes, sir.

Q. Did he have this letter of the Attorney-General's in New Orleans?—A. I do not know; I am so informed.

Q. He took the letter away, as well as his own application?—A. I am so informed; I do not know; Mr. Montgomery will tell you about that, and the circumstances connected with it.

Q. You had nothing to do with that withdrawal by Mr. Van Benthuyzen?—A. Nothing whatever.

Q. Do you know anything about an application for a Government suit, coming from Rochester, New York, to the Attorney-General, and by the Attorney-General referred to the Interior Department on the 23d of July, 1885?—A. I have no recollection of that now.

Q. Do you remember having acted upon it?—A. I do not remember to have acted upon it, though I may have done so.

Q. Have you looked at the records to see?—A. I have not, in that case.

Q. It is the case of Sargent and Warren, referred by the Attorney-General to the Interior Department, by a letter, a copy of which we have.—A. Since you mentioned the names of the parties I have some recollection of those parties being there for that purpose.

Q. If I remember the names correctly they were Sargent and Warren, of Rochester, New York.—A. I recollect that there were some parties of that name there who were seeking some action of that kind, but precisely what I do not remember, and I do not remember what action was taken.

Mr. RANNEY. I will tell you sufficiently to identify it to you, and I would like to see the papers in your Department in relation to it. It came from Rochester, N. Y., with an application of Mr. Townsend, district attorney, and Mr. Beckley, city attorney of Rochester, relating to a patent issued to Sargent and Warren, jointly, and there was an application for a Government suit to have it vacated because it was obtained by fraud. That application was referred to your office—

The WITNESS. I remember there was a letter.

Mr. RANNEY. Wait until I get through. On July 23, 1885, that application was referred to your Department by the Attorney-General, was acted upon and reported upon by the Commissioner of Patents, and by Mr. Lamar, Secretary of the Interior, on the 30th of July, 1885.

The WITNESS. Now what is the question you ask me?

Mr. RANNEY. I wanted to see what record there was in your office.

The WITNESS. I could not tell you here; I would have to examine and see.

Mr. RANNEY. I am sorry; I supposed you were informed of that. It is my fault, undoubtedly, that you were not. I wanted to know what papers and records there are, and to get copies of them.

The WITNESS. There will be no trouble about getting whatever is there. I do not really know what is there.

Q. After Mr. Van Benthuyzen withdrew those papers did he come to your office?—A. Not to my office.

Q. By "those" I refer now to the Van Benthuyzen application.—A. I think not. I do not remember ever to have seen him in my office at that time.

Q. Did you ever see him there?—A. Yes, sir; I have seen him there several times, but I do not recollect of his being there at that particular time.

Q. When do you recollect his being there first?—A. I saw him there last summer or fall; he came to my office several times.

Q. That is, during the summer of 1885?—A. In the summer or fall, I do not recollect which; it made no special impression upon me, except that I think I have seen him in there.

Q. Do you recollect seeing him in there at any other time, or how many times do you remember his being there?—A. It is very difficult to answer that question, for I don't recollect; I think I have seen him in my office, but how often I do not recollect.

Q. Do you recollect what he was there for?—A. I think he came there once to make an inquiry about what time a decision might be expected in the telephone case.

Q. That is in his case?—A. A case that was before the Secretary. I do not think I ever saw him in my office before the commencement of the telephone investigation in the Interior Department.

Q. I want you to distinguish between the application which he made in July, 1885, which has been referred to the Secretary of the Interior, and the one that was subsequently referred and where there was a long hearing.

The WITNESS. Will you repeat the question, I did not understand you?

Mr. RANNEY. There were two occasions when he was in the Interior Department. One under the first application and one under the second application.

The WITNESS. If I ever saw him in the Interior Department on the first application, I do not remember it. I do not think I saw him at all in the Department on the pendency of the first application.

Q. Do you remember how he came to inquire whether he could get a report in regard to the first reference of the Attorney-General on the first application?—A. No, sir; I say that the time I saw him I recollect was when he wanted to know when the Secretary of the Interior would probably render a decision in the case that was pending before him.

Q. You spoke about the summer; your first impression was that it was in the summer of 1885?—A. Yes; well, I do not recollect; I do not remember to have seen him during that time, if you are inquiring about him now.

Q. Do you remember that you did not?—A. No; I would not be positive one way or the other, but I say if I saw him I do not recollect it.

Q. Did you have anything to do with what occurred in the Interior Department—and by that I mean by the Secretary's office and the Commissioner of Patents as well—on his first application?—A. No, sir; I do not know what occurred. In fact, I never knew anything about that matter until this committee summoned me, and I had looked over these papers and found this endorsement on this paper.

Q. Can you explain how it happened that between the 14th of July and the 28th of July, 1885, no report had been made on Mr. Van Benthuyzen's application?—A. I cannot; I do not know.

Q. Do you know of any reason why action on that application should have been delayed from the 14th of July, 1885, to the 29th of July, 1885, when the application from New York (Rochester), which came in on the 23d of July, was reported on the 30th?—A. I do not know. I only know that that application was made, as shown by that paper, and was referred to the Commissioner of Patents.

Q. Were you aware that they decided in the case which came from New York that no Government suit would be instituted; or rather, that the cases were very rare and exceptional indeed where a Government suit could be instituted, and that they declined to do it in that case, although the ground alleged was fraud purely?—A. I remember that there was a case, but I do not even recollect now what the decision was. I do not recollect the purport of the decision.

Q. Have you any knowledge whether Mr. Van Benthuyzen ascertained, before he withdrew his application from the office of the Secretary of the Interior, that the two Departments, the Secretary of the Interior (embracing Mr. Lamar and the Commissioner of Patents) and the Attorney-General, had decided that they had not authority to institute a Government suit in that Rochester case, where it was purely a question of fraud?

The WITNESS. Do you ask me if I know that they did not?

The CHAIRMAN. My recollection is that there is no evidence that there was such a decision.

Mr. RANNEY. I beg your pardon.

The CHAIRMAN. It was decided that the facts in that case did not warrant the use of the name of the Government.

Mr. RANNEY. I allude to the facts of the case as presenting purely a question of fraud, as appearing on the papers. Will you read my question, Mr. Stenographer? Perhaps it is not intelligible.

The stenographer read as follows:

“Q. Have you any knowledge whether Mr. Van Benthuyzen ascertained, before he withdrew his application from the office of the Secretary of the Interior, that the two Departments, the Secretary of the Interior (embracing Mr. Lamar and the Commissioner of Patents) and the Attorney-General, had decided that they had not authority to institute a Government suit in that Rochester case, where it was purely a question of fraud?”

Mr. RANNEY (to the stenographer). Leave out the last expression “in that Rochester case.”

A. I do not know. If that fact had ever been communicated through Mr. Van Benthuyzen I never heard of it.

Q. That was not a matter within your special province, I suppose?—A. Sometimes matters that have been referred to the Commissioner of Patents come back to me when I happen to be acting as Secretary in the absence of the Secretary, and then I act upon them myself, but when the Secretary is there he acts upon them himself.

Q. You keep copies in your office of letters sent to the Attorney-General, do you not?—A. I presume we do, sir.

Q. Will you be kind enough, when you are looking up the other things to which I have referred, to look at the letter which we have had produced here by the chief clerk of the Department of Justice from your Department, wherein the first date, which was July 30, 1885, had been erased, and August 3 substituted? Look at the recorded letter on the books, and give us a copy of it as it appears on the books.

The WITNESS. In relation to what matter?

Mr. RANNEY. In relation to the Rochester case. The original letter has been produced, purporting to have come from the Interior Department, and it appears that the original date was July 30, 1885, and that that had been erased and August 3 substituted. I would like to see the copy that is on your books, of the original, if you are willing.

The WITNESS. I see no objection whatever to your seeing it.

Mr. RANNEY. I do not mean to intimate that there is anything wrong about it, but as a matter of fixing the date I desire to see what the original letter was and its date. That is all.

By Mr. MILLARD:

Q. This letter or application from Mr. Van Benthuyzen was received by you on the 14th of July, as I understand it?—A. That is the date of the indorsement on the back of it.

Q. It is indorsed July 14, referred on the 15th, and withdrawn on the 31st of July. Do you know of any action having been taken by the Department during that time?—A. If any was taken I have no knowledge of it.

Q. Your indorsement is for an expression of views of your Department in regard to bringing the suit. Did not the withdrawal of the letter forestall any action of the Department?—A. Will you please repeat your question, Mr. Millard?

Q. Did not the withdrawal of the letter on the 31st of July forestall any action of the Department?—A. I should think so. I think that when the letter was withdrawn the Department considered that that matter was at an end, and that is shown by the indorsement of Mr. Montgomery on the paper.

By Mr. RANNEY:

Q. Is it usual to give up an original letter to the Department to the party himself?—A. No, sir; that is unusual to give up an official letter.

Mr. MILLARD. That is the very question I was going to ask.

By Mr. MILLARD:

Q. Was your attention called to this particular passage of the letter, about returning it?

The WITNESS. Do you mean the letter of Mr. Van Benthuyzen?

Mr. MILLARD. Yes; the letter from the Attorney-General.

A. As I told you a while ago, I have no recollection of what is contained in the letter of Mr. Van Benthuyzen.

Q. In the letter is contained this passage: "Please return Mr. Van Benthuyzen's letter with your reply."

The WITNESS. Reply to the Attorney-General?

Mr. MILLARD. Yes.

A. I do not know whether we replied to the Attorney-General or not; I do not think we did. I did not look especially for that, but in looking over the papers I found no reply to the Attorney-General. I think it is likely we did not, because we were waiting to hear from the Commissioner of Patents to get his report before replying to the Attorney-General, and it seems that the paper was withdrawn and was afterwards brought back in some way, as shown by the indorsement of Mr. Van Benthuyzen.

Q. Do you know why there should have been this delay from the 14th to the 31st of July?

The WITNESS. In the office of the Commissioner of Patents?

Mr. MILLARD. Yes, sir.

A. I do not.

The CHAIRMAN. We have gone through that.

Q. You say you do not know of any action having been taken?

The WITNESS. In the mean time?

Mr. MILLARD. Yes, sir.

The WITNESS. From the 14th to the 31st?

Mr. MILLARD. Yes, sir.

A. I think there was none. If there was any I do not know it. I know I took none; or if I did, I have no recollection of it.

Q. Have you looked to ascertain whether there was any action taken?—A. No, I have not; but I am satisfied there was none.

Q. When you have referred a letter, as you did this, and received your reply or report, do you keep a copy of that report or reply?—A. Yes, sir; we copy all official papers that go out of the office. That is the habit of the Department, and if it is not done, it is an accident.

Q. In regard to the report made by the Commissioner, the question I put to you is this: Whether if you had a report from him in this particular case you would have made a copy of it?—A. That would have been put on file.

Q. Only put upon file and not recorded?—A. And it would be usual to transmit his report to the Attorney-General in cases like that, I should think—either the report itself or a copy.

Mr. RANNEY. I would like that to be copied in the record.

The CHAIRMAN. The paper is already in the record.

The WITNESS. That paper belongs to the files of the Department.

Mr. OATES. Did you not take it down, Mr. Stenographer?

The STENOGRAPHER. If it has been read I took it down; I do not know what paper it is.

Q. Did you know that this letter was to be withdrawn before it was withdrawn?—
A. I did not; if I did, I have forgotten it.

By Mr. HALE:

Q. Did you take part in this investigation before the Interior Department when this last suit was brought?—A. Yes, sir; I sat with the Secretary and heard the evidence.

Q. I do not remember whether there was a written opinion filed as given by the Secretary in that case; was there or not?—A. I delivered an opinion to the Secretary of the Interior, yes, sir.

Q. Did he deliver a written opinion giving the reasons for recommending the institution of a suit?

The WITNESS. Who?

Mr. HALE. The Secretary of the Interior?

A. He did.

Mr. OATES. His opinion is in evidence.

Mr. HALE. Then that is all.

By the CHAIRMAN:

Q. You have been asked whether it is unusual on the part of the Attorney-General or any other head of a Department to request the return of a letter submitted to your Department?

The WITNESS. Do you say I was asked if that was unusual?

The CHAIRMAN. Yes, sir.

The WITNESS. I do not remember that question.

The CHAIRMAN. I think you were asked the question as to whether the request contained in this letter of the Attorney-General to your Department, covering the Van Benthuyzen letter, that the Van Benthuyzen letter should be returned with your reply was unusual. I want to know whether such a request is unusual?

A. It seems to me that is the usual form of communication from the office of the Attorney-General in such cases.

Q. To request the return of the paper submitted?—A. Yes, sir.

The CHAIRMAN. That is all.

By Mr. RANNEY:

Q. To request it to be returned to him. Can you tell any instance where the letter of the Attorney-General to the Interior Department, referred to the Commissioner of Patents or otherwise, has been returned to the party applicant?—A. No, sir.

Q. There are no other instances that you know of?—A. I understood that to be your question, as to whether it was usual for the letters to be returned to the parties applicant, which letters had been sent down in an official way.

Q. The ordinary course of business would be to return Mr. Van Benthuyzen's letter with your reply to the Attorney-General, and you know of no instances where such a letter was delivered to another party than to the head of the Department preferring it to you?—A. I know of no other, and I did not know of this until the other day.

Q. It would not have been the ordinary course of business to do so?—A. I think not.

Q. If you did it you would ordinarily require the written assent of the Attorney-General?

The CHAIRMAN. He has not stated that.

Mr. RANNEY. Perhaps it is unnecessary to speculate as to what he would do when he knows his duty.

The CHAIRMAN. That is all.

MARTIN V. MONTGOMERY then came before the committee and was duly sworn.

By the CHAIRMAN (Mr. BOYLE):

Q. What office do you hold?—A. I am Commissioner of Patents.

Q. When were you appointed?—A. I think my appointment bears date the 21st of March, 1885.

Q. Have you looked at the letter of the Attorney-General addressed to the Secretary of the Interior, which has been referred to?—A. Yes, sir; I have seen it.

Q. Have you any recollection of the reference to you, by the Secretary, of the Van Benthuyzen letter?—A. I cannot say that I have a distinct recollection of receiving it. I have a distinct recollection of its being there and of writing Mr. Van Benthuyzen's attorneys in relation to it. That is my first and present recollection about the letter.

Q. At what time did you write his attorney?—A. On the 25th of July.

Q. Have you a copy of your letter?—A. Yes, sir; I have.

Q. Will you allow us to see it?

The WITNESS. Shall I read it, Mr. Chairman?

The CHAIRMAN. After we have looked at it.

The WITNESS. It is in my letter-book, and I had better read it so that stenographer can take it. This letter bears date the 25th of July, but my recollection is it was written on the following day, for I recollect it was written on Sunday. I will read it:

WASHINGTON, D. C., July 25, 1885.

Messrs. BRIESEN & STEELE,
No. 229 Broadway, New York:

GENTLEMEN: A communication dated July 12 instant, addressed to Attorney-General Garland, signed by Mr. Van Benthuyzen, was referred by the Attorney-General to the Secretary of the Interior, and by the Secretary of the Interior to me. In this letter Mr. Van Benthuyzen says that you are his attorneys. He refers to a "law passed last session of Congress making it incumbent on the Attorney-General to proceed against patents issued fraudulently, or having fraudulent claims, at the request of any citizen." Before making my report to the Secretary I should be glad to be referred to the statute indicated by Mr. V. If you are aware of it you will kindly cite me, that I may consult it, and greatly oblige

Yours, respectfully,

M. V. MONTGOMERY,
Commissioner of Patents.

Q. Have you a reply to your letter?—A. I got no reply in writing. This letter with its inclosure, the letter from Mr. Van Benthuyzen to the Attorney-General, reached me on the 16th of July. The letter I have just read was written on the 25th, or more properly on the 26th, Sunday. On the 30th or the 31st, I think the 31st, Mr. Von Briesen, one of the gentlemen to whom my letter is addressed, called at the office, and that was the time that this indorsement was made on this letter, and the two returned to him, and he then stated to me orally that his client was mistaken; that there was no such statute, a thing I had supposed was so before.

Q. Had any other action been taken in your office on the application, between the receipt of the Van Benthuyzen letter and the withdrawal of it on the 31st of July?—

A. Nothing, except the letter I had written to Mr. Von Briesen.

Q. You say that Mr. Von Briesen came there when?—A. On the 31st of July, I think it was.

Q. Did he state to you at that time that he had authority to withdraw the letter?—

A. He did.

Q. What did he say?—A. I recollect it was a very hasty interview. He came and said that he had called in response to my letter of the 25th to say to me that Mr. Van Benthuyzen was mistaken; that there was no such statute. I said to him that I thought that was so, but I had delayed writing for some time, with a view to looking at the statute myself, and then I thought I would ask him to refer me to it if there was one. He said there was no such statute, "And besides that," he said, "it is not desired to prosecute this matter any further, and I desire, at Mr. Van Benthuyzen's indication, to withdraw the request." This was attached to it, and I said to him, "I do not know about allowing you to withdraw this document that came from the Attorney-General"; and he then assured me that it was in accordance with Mr. Garland's views, or Mr. Garland had directed him, or something, and thereupon I made this indorsement on this paper and returned both to him.

By Mr. RANNEY:

Q. That it was according to his own views that the letter of the Attorney-General should be returned to him?—A. I think I was a little careless about that; I think that is the fact. I do not think I should do that now. But I understood Mr. Von Briesen to say that Mr. Garland was willing that the whole thing should be withdrawn, and that they did not desire to prosecute it any further. I had never heard of it before, and I never expected to again.

By the CHAIRMAN:

Q. Did Mr. Von Briesen make any mention of the Attorney-General's letter?

The WITNESS. Especially?

The CHAIRMAN. Yes.

A. I could not say as to that; I presume not; it was one of the documents; they were fastened together. I have, gentlemen, a copy of that letter if you desire it.

Q. What letter?—A. The letter from Mr. Van Benthuyzen to the Attorney-General.

Q. We have that in the record.—A. You inquired of Mr. Muldrow about it.

Q. You say you delivered both of those letters to Mr. Von Briesen?—A. Yes, sir; to Mr. Von Briesen.

Q. Was any person with him at the time you delivered them?—A. I think not; I think he was alone.

Q. Have you any recollection of Mr. Van Benthuyzen calling upon you about that time?—A. I do not think I ever saw Mr. Van Benthuyzen in my life until after the hearing on the other petition had commenced.

Q. Under what circumstances were these letters returned to your office? You seem to have possession of them now.—A. About six or seven weeks after I had done this stupid thing, the chief clerk of my bureau called one day and told me that somebody wanted a copy of a letter that had been sent by Mr. Van Benthuyzen to the Attorney-General, and by him referred to the Secretary of the Interior, and thence referred to me. The whole thing had passed out of my mind; I hadn't the remotest recollection about it. I commenced to look for data in relation to it, and after quite a search I then was able to recall the facts by finding this letter and various other things that I have found in the way of data. I think I had already dictated a letter to Mr. Von Briesen (I did it at once, within two hours after Mr. Duryea, my chief clerk, came to me), asking him to see to it that these letters were returned to me, as a call had been made upon me for a copy of them. Before the letter left the office Mr. Von Briesen, who lives in New York, happened in the office, and I then told him there had been a call made for a copy of that letter, and I wanted him to see that it was at once returned to me, which he promised to do, and after three or four letters had been sent, I succeeded in getting back that letter with the indorsement Mr. Muldrow has read on it.

Q. By whom was it returned?—A. I could not tell you; I have no personal recollection about it. Whether it came to me by the mail, or came to the Secretary and was sent to me by him, or was handed to me, I could not tell. I only know it came back. First a copy of it was sent. Mr. Van Benthuyzen either sent himself, or caused to be sent, a copy of it to me, and I wrote to his attorney that I did not want the copy, but I wanted the original.

Q. And that original letter, as I gather from the receipt produced here, was returned to the Department of Justice?—A. My recollection is that the original letter went back to the Department of Justice with the report made by the Secretary of the Interior on the second petition.

By Mr. RANNEY:

Q. Was Mr. Van Benthuyzen a gentleman known to you?—A. I never knew or heard of him in my life until I saw that letter.

Q. He was not a man accustomed to practice in your office, since you have been there?—A. No, sir; he is not a lawyer, not a patent solicitor.

Q. Did he come into your office without an introduction?—A. That I cannot recollect. If I was going to guess, I should say not. My recollection would be that he called there, perhaps, in company with Col. Casey Young, or some of those gentlemen concerned in that Bell litigation.

Q. Is it your recollection that Casey Young was with him?—A. I could not say it was my recollection, because I haven't any recollection on the subject. I could not tell you who introduced me to Mr. Van Benthuyzen.

Q. Do you remember whether he had an introduction to you at that time?—A. I do not.

Q. Anybody to indorse him?—A. I do not. I have no doubt that somebody introduced me to Mr. Van Benthuyzen, but I could not tell you who, when, or where.

Q. You would not have been likely to deliver up an original paper like that from the Attorney-General to an entire stranger.

The WITNESS. Is that a question?

Mr. RANNEY. You would not have been likely, I judge, to deliver up to Mr. Von Briesen the original letter of the Attorney-General when he was an entire stranger to you, would you?

A. I haven't said any such thing. I didn't deliver it to an entire stranger; I delivered it to Mr. Von Briesen, as I told you.

Q. I understood you to say that he was a stranger to you when he called.—A. I did not say Mr. Von Briesen was a stranger to me; I said that Mr. Van Benthuyzen was a total stranger to me.

Q. Were you and Mr. Von Briesen acquainted?—A. He was a practitioner before my office, and I had met him several times as a New York lawyer who had been in the habit of appearing before the bureau in litigations.

Q. He was then acquainted with the business of your office?—A. Yes, sir.

Q. Mr. Von Briesen, then, was not a stranger to you?—A. No, sir; he was not a stranger.

Q. He had been accustomed to practice in your office?—A. Yes, sir; and besides that Mr. Van Benthuyzen's letter referred to him as his attorney.

Q. Certainly. I thought I said Mr. Von Briesen instead of Mr. Van Benthuyzen. He had no order from the Attorney-General?—A. He had not; no order in writing.

Q. And you took his word for it that it was by the assent of the Attorney-General?—A. I did.

Q. Without a query?—A. I never had any doubt about it. I do not think I shall do it now with anybody, but I did hastily do it.

Q. Do you remember whether prior to that date Mr. Von Briesen had been in there?

The WITNESS. Mr. Von Briesen or Mr. Van Benthuyssen?

Mr. RANNEY. Mr. Von Briesen.

A. Not about this matter. I do not think I ever heard of this matter in my life until I got the letter, and never knew until I wrote the parties. Mr. Von Briesen had been there many times on patent business connected with the Department, but not on this business.

Q. Did you ever talk with him upon this application?

The WITNESS. Before this time?

Mr. RANNEY. Yes.

A. Never in the world. I did not know about it or care anything about it.

Q. What had you done in relation to the matter before you wrote to Von Briesen and Steele?—A. I had set down to wait. The fact is this, as all lawyers know, when we are not ready to do a thing we wait. I had been waiting to get time to look at this business, and besides I was pretty well persuaded there was no such statute. Mr. Van Benthuyssen's letter started out on that allusion to the statute passed by the last Congress, and I kept saying to myself, I will look up that statute when I get time, and I kept waiting, and waited nine days, from the 16th to the 25th, and then I said I will write these gentlemen and ask them to cite me the statute, which I do not think they can do.

Q. You had the statute in the Department here before you, hadn't you?—A. It was in the office; it was not exactly before me.

Q. Did you look to see if there was any?—A. No, sir; I did not.

Q. Had you looked over the papers?—A. I had not spent five minutes on the whole business.

Q. If the law, independent of the statute, permitted the bringing of a Government suit, did you think it made any difference whether this application was based on the particular act or the act in general?—A. I think it made just this difference. If the right existed at common law that was a right; there was no duty imposed by it. But these gentlemen said, in substance, that there was a statute passed by the last Congress making it the duty of the Attorney-General, and directing him to bring these suits, and I thought there was quite a distinction. I had no doubt at all that the right existed independent of the statute.

Q. But taking the application just as it was, although it referred to a statute that had passed, yet if it was true that the law as it stood independent of the act, the special act of Congress, authorized the bringing of the suit, could not one have been brought on the application?—A. One could be, but it was not imperative that it should be. That is the difference.

Q. The common law left it (that was the difference) discretionary, and the act that he referred to made it imperative, you claim?—A. Yes, sir.

Q. What papers, if you remember, came with that letter of the Attorney-General and the application of Mr. Van Benthuyssen?—A. I think I am perfectly safe in saying that no papers came. Those were the only ones, the two letters fastened together. They bear marks now of having been fastened together. It was a letter somewhat formal.

Q. Do you remember the case of Sargent & Warren?—A. Very well.

Q. When did that come in?—A. I could not have told you when except that I heard your interrogatories to Mr. Muldrow. It was probably about the time you suggest, in July or the last of June.

Q. We have your opinion in that case?—A. Yes, sir.

Q. I see that came in on the 23d of July and was acted on by the 30th of July?—A. Very likely. The counsel came right along with it and pressed it, and I had two or three hearings with them.

Q. So that you had these two cases under consideration at the same time?—A. I should not have known that but it seems so. The one I gave attention to because the counsel were there present, and the other I simply postponed until I could get time to attend to it.

Q. And you had not taken any action on this one of the two, that is Mr. Van Benthuyssen's, and had considered to a final conclusion and disposition the other?—A. I presume that is so.

Q. They both involved, I see, the question of the right and propriety of the Government to bring a suit to vacate a patent on the alleged ground of fraud?—A. I have not thought of the Sargent-Warren case for months, but my recollection is there was quite a different question involved. My recollection is that while there was no doubt whatever in my mind and in the opinion expressed about the right to bring the suit, I did have grave doubt about the propriety of bringing suit in that case. It was not claimed in that case, if I remember rightly, that nobody was entitled to the patent. It was admitted somebody was, and these gentlemen

wanted us to settle the question of who was, and I thought that was not a good thing to do.

Q. It was a patent issued to two jointly, they having sworn that they were the joint inventors, and the fraud alleged was in that false allegation?—A. That is my recollection, although I have not thought of it for months.

Q. And in the case of Mr. Van Benthuisen, where fraud was alleged, the claim was that the patent should have been issued to Mr. Gray, when he was the original inventor, and not to Mr. Bell?—A. I did not quite understand that so.

Q. As the application reads?—A. I understand that the complaint always was in this case that nobody was entitled to the patent at all; that the monopoly ought not to exist at all, whereas in the Sargent-Warren case it was simply an inquiry of who should have it.

Q. Have you looked at Mr. Van Benthuisen's application?

The WITNESS. Which one do you mean; this letter?

Mr. RANNEY. The first one.

A. Oh, I have read it several times. I have not read it lately.

Q. I do not care to enter into any discussion of the law, but only to show that you had two kindred subjects under consideration at the same time.—A. That is undoubtedly so.

Q. And the one you decided on before the 30th of July, you decided adversely upon it?—A. I reported adversely upon it. I reported against the bringing of the suit.

Q. I understand that your decision was not final; that it was only a recommendation. Did you have any knowledge of the second application coming through a district attorney to the Attorney-General's office on the 2d of September?—A. I cannot tell you about the date. The first knowledge I had about it, or the first suspicion I had about it, was when it was referred to me in the regular way from the Secretary of the Interior.

Q. It was not referred to you before the first Government suit which was ordered, which was brought at Memphis?—A. Oh, I do not know anything about that, except what the newspapers said. I know nothing about it at all.

Q. The application that was acted upon by the Acting Attorney-General never came into your office at all?—A. The suit brought at Memphis never came into my office at all.

Q. Did any one confer with you about it?—A. Never.

Q. Did Mr. Von Briesen come and confer with you about it?—A. If he did, I have no recollection about it.

Q. Did Mr. Van Benthuisen?—A. No, sir; I do not think he ever did.

Q. Did Casey Young?—A. No, sir; I think not.

Q. Was Casey Young in the habit of visiting your office?—A. He used to drop in occasionally. I think I am safe in saying that I never saw Casey Young until after the institution of the proceedings in which I sat with the Secretary of the Interior.

Q. Who was the party to whom you alluded as being introduced possibly by Casey Young?—A. Mr. Van Benthuisen. Some of those folks introduced me to these men. He was in probably several times, and my recollection is that, during that time, I was introduced to Mr. Van Benthuisen.

Q. When was that, if you remember?—A. If you could tell me when that hearing was begun, I could tell you about when, probably.

Q. If it was after the proceedings before the Secretary of the Interior, I do not care anything about it.—A. I should say this: I met those gentlemen every day and sat all through that hearing and sometime during the progress of it, and probably early in the hearing, somebody introduced me to Mr. Van Benthuisen.

Q. Is there any other correspondence of which you kept copies in relation to the Von Briesen application?—A. Not that I am aware of; nothing else in the world, that I know of.

Q. Let me look at the letter once more.—A. It is not very legible writing; it is written with a pen; it was written on Sunday. [The witness exhibited the letter-book containing the letter in question to Mr. Ranney.]

Q. It was written on Sunday and not copied on a type-writer?—A. No, sir; I wrote it, my brother was with me, and I had him copy it. This is the copy; I sent the original.

Q. He was there on Sunday?—A. Yes, sir; he was with me.

Q. Was it done at the office?—A. Yes, sir; it was done at the office. I got there and found a lot of letters and things that I wanted to clear up.

Q. Have you the reply to it?—A. I got no reply. On the 31st Mr. Von Briesen called—

Mr. RANNEY. Have you a copy—I do not want to take the liberty of looking through your books—but have you a copy of the letter written by you in the Sargent-Warren matter in there?

The WITNESS. I presume so.

Mr. RANNEY. It must have been about the 28th?

The WITNESS. To whom was it addressed; can you tell me that?

Mr. RANNEY. It would be addressed to the Secretary of the Interior.

The WITNESS. I will take great pleasure in furnishing you that. I do not think I have it now.

The CHAIRMAN. We have a copy of it in evidence.

The WITNESS. I do not call to mind what there was about it; I simply remember there was such a case.

Mr. RANNEY. Just look on the 28th or 30th of July and see if there is any such case referred to.

The WITNESS (after making a search). Here is the letter you refer to.

Mr. RANNEY. I only want to verify it.

(The witness read the letter in question, with Mr. Ranney, from his letter-book.)

By Mr. MILLARD:

Q. Did Mr. Von Briesen come alone when he came to take up the letter?—A. Of course my recollection is somewhat indistinct, but I should say that he did; I have no recollection of anybody being with him; I may be wrong about it, but I have no recollection.

Q. I see that in your letter of July 25, 1885, you called the attention of Mr. Von Breisen to the statute cited in his letter?—A. Yes, sir.

Q. Up to this time did you know of any authority for bringing such a suit except as provided by statute?

The WITNESS. Did I know of any authority?

Mr. MILLARD. Yes.

A. I had had that question before me once or twice. I had recommended the bringing of one suit, I think, in Boston, I had no doubt about the authority, but I had no knowledge of a statute, and did not think there was any. But from the fact that Mr. Van Benthuyzen's letter opened with the statement that there was such a statute, I thought I would end the whole controversy by asking his counsel to cite it.

Mr. RANNEY. The Boston suit was reported afterwards.

Q. Do I understand that you had reported in favor of bringing such a suit prior to this time?—A. My impression is that I had, but I won't be certain. Mr. Ranney says the Boston suit was reported afterwards; perhaps that is so. It was certainly reported before the proceedings were brought asking the institution of the suit against the Bell Company; I think some time previous to the time that was received.

Q. But prior to the withdrawal of that letter?—A. No, sir; after the withdrawal of that letter, if Mr. Ranney is right, and I have no doubt that he is.

Mr. RANNEY. I only know from what Mr. Clay, of the Department of Justice, says.

The WITNESS. I presume you are right about it.

Q. Did you have any communication with the Attorney-General before the withdrawal of the letter?—A. No, sir; not a word except what Mr. Von Briesen told me.

Q. And of course the withdrawal of this letter forestalled any report or opinion?—A. Yes, sir. I think, to be exact about it, Mr. Von Briesen had said that he had seen Mr. Garland, and he was willing, or had given him permission, to withdraw the whole matter.

Mr. MULDROW. Certain requests were made of me for copies of letters. I wish the committee would give me a memorandum of what they desire.

The CHAIRMAN. Mr. Ranney can indicate them to you.

Mr. RANNEY. The testimony of the Commissioner of Patents will probably relieve you of the necessity of seeing whether you had any letter from him on the subject of Mr. Van Benthuyzen. Probably there is none, because he says that he had not acted on it.

Mr. MULDROW. I will have search made.

Mr. RANNEY. I do not think of anything else; what I wanted to get was that letter dated July 30, where the date was subsequently changed to August 3.

Hon. BENJAMIN LE FEVRE then came before the committee and was duly sworn.

By Mr. RANNEY:

Question. You are a member of this House. Of how many Congresses have you been a member?—Answer. I have been a member since the Forty-sixth Congress.

Q. Dr. Rogers, in the course of his testimony, has spoken of having sent or offered to you by letter, or otherwise, a certain amount of stock in one of these Pan-Electric companies, or some of them. I called you in so that you might state yourself the facts. He says that you did not keep them, but returned them. If you will state the facts and produce the correspondence, if you have any, we will be obliged to you.—

A. I received probably three or four communications from Dr. Rogers, inviting me to be present at meetings at his house on Four-and-a-half street, in regard to his inventions. I did not answer them, nor did I attend the meetings. Later on I received the

stock; I don't remember the amount now, but \$10,000 or \$20,000 worth of stock. When I received that I dictated a letter in reply and inclosed the stock and returned it to him. I never have met Dr. Rogers; have had no communication with him since then. I dictated a short letter stating that I could not accept the stock, and returned the stock to him. That is all I know about it.

Q. Have you preserved the letter?—A. I have; but it would be difficult to get. All my letters of that period have been sent to my home, boxed up, and it would be some trouble to get them. I have the letters, and the gentleman who did my work then, and to whom I dictated the letter, is here, and he would probably remember it more distinctly than I would. I simply returned the stock.

Q. My inquiry was in regard to the letter from Dr. Rogers to you—the letter which you received.—A. I received three or four letters from Dr. Rogers, and they are filed away with other letters at my home in Ohio. I sent home last year all my letters, up to, I think, last fall.

Q. The letter which enclosed the stock—can you tell us what that was?—A. No, sir; I could not tell you; I don't remember. I just took the stock and returned it with a short letter. I remember very little connected with it.

Q. Was it a proposition to make you a present of the stock, or did he want you to buy it?—A. The proposition was to give me the stock if I would become interested in the development of their company.

Q. What company?—A. All his inventions. I don't remember which, but I think it was postal telegraph stock. I don't remember distinctly about it; I paid but little attention to it at the time. I simply took the stock, the amount, and dictated a short letter—the letter was very short—and returned the stock to Dr. Rogers.

Q. Did he say anything about wanting your influence?—A. I think there was something said about that. He referred to the importance of having influential men connected with it, and mentioned the names of a number of men in connection with it. I remember that he mentioned in his communication a number of prominent gentlemen that were to be interested in it.

Q. Who?—A. I recall John G. Thompson as one of the names, and Father Rochfort, I believe. He referred to those two persons specially in his communication, as those whom I knew personally, and a number of others.

Q. Did he refer to any members of Congress?—A. I do not think he did; possibly he did; I didn't pay much attention to it.

Q. How much was the stock in amount, according to your best recollection?—A. I think it was \$10,000 or \$25,000. I don't remember just now with regard to it, but I think my clerk would know about it.

Q. Is your clerk here?—A. He is in the city here.

Q. Would it be too much trouble for you to get that letter?—A. I will see if I can get it.

Q. Have you a copy of your reply?—A. I have not; I did not keep a copy.

Q. You reinclosed the stock?—A. Yes, sir; simply reinclosed the stock. It was a short letter.

Q. Are you sure it was not Pan-Electric stock?—A. I will not be sure about it. I paid but little attention to it; I simply returned it.

Q. Do you know anything about the attempt to get young Rogers appointed electrician of the House?—A. Not a thing; I never heard anything about it. I never met Dr. Rogers or his son. I have stated now all the connection I had with the matter. I do not know anything about it and never heard of it.

Q. Can you recall or fix more definitely the date when this stock was sent to you?—A. I could not. I was very busy and the invitations to be present at the meetings at his office I did not reply to. Those I just put aside, and I never did attend any of their meetings. I think I was invited three or four times to attend. But when that stock came, I instantly took it and inclosed it with a short letter and returned it.

Q. The meeting that you were invited to attend was a meeting with whom?—A. I could not recall. He said persons interested in his inventions, in several of his inventions, and he inclosed circulars at the time.

Q. Don't you remember that Casey Young was among them?—A. Yes, sir; I think Casey Young was one of them.

Q. And Senator Harris?—A. Yes, sir; I think I also recall Senator Harris.

Q. And Mr. Garland?—A. Yes, sir; Mr. Garland and General Atkins and Father Rochfort.

Q. And General Johnston?—A. I don't remember General Johnston.

Q. The meetings to which you were invited were with those gentlemen?—A. I think so; I paid so little attention to it that I know very little about it at all.

Q. Was it after that time that you were invited to attend the meeting of these gentlemen that this stock came?—A. Yes, sir.

Q. How long after?—A. I could not recollect, but some three or four months or two or three months; I could not recollect exactly.

Q. Did your clerk see the stock?—A. Yes, sir.

Q. Is he here in the Capitol?—A. No, sir; he is in the city, though.

Q. He wrote your reply?—A. Yes, sir; I dictated the reply to him.

Q. Have you a copy of that?—A. No, sir.

The CHAIRMAN. He said he had not.

Q. What is the name of your clerk?—A. Mr. Charles Eisenstein.

Q. For whom is he now acting?—A. He is still with me.

Q. Can you send him in here now?—A. I could not to-day; I can another day.

CHARLES A. DANA then came before the committee and was duly sworn.

By the CHAIRMAN:

Question. What is your relation to the New York Sun?—Answer. I am the editor of the New York Sun.

Q. Has the Sun taken part in the discussion of the matters out of which this investigation has grown—the matters relating to the Pan-Electric Telephone Company?—A. Perhaps the best way to answer that question would be to produce a letter which I have here, which I received the first part of November from Mr. E. N. Hill, along with a long account of the affairs of the Pan-Electric Company, identical substantially—I think verbally also—with the publication in the New York World some time later. If the committee please, I will read Mr. Hill's letter:

WASHINGTON, D. C., November 9, 1885.

Hon. C. A. DANA:

SIR: Inclosed I send you a full history of the Pan-Electric Telephone Company, which I wrote some time ago, not for publication at the time. I furnished the Tribune correspondent with the original information, upon which it has acted. Every allegation in this article except the one that Mr. Garland attended the meeting at 1327 G street is upon my own knowledge (that is italicised), and not upon hearsay. If you think this is news, or worth publishing, send me a check for what you think it is worth. If not, you can give it to the office cat.

Respectfully,

E. N. HILL.

P. S.—I shall not offer it to any other paper.

By Mr. RANNEY:

Q. What is the date of that?—A. November 9, 1885.

By the CHAIRMAN:

Q. Did you make reply to that?—A. I did not myself; I directed a reply to be sent to Mr. Hill that we did not wish to publish it, or words to that effect; that Mr. Dana had concluded not to publish it.

Q. Had you published any of the matter relating to the Pan-Electric Company before that?—A. I am not certain. I may have made some extract from the publication in the Tribune, but I rather think not. I made some comment on it, but of a very mild and gentle nature. The reason why I declined to publish Mr. Hill's communication was not that it did not seem to be news; it was quite interesting and a good deal in it was fresh; a good deal in it might require confirmation, but that might possibly have been procured by investigation. But I was not willing to take any lead in attacking the Administration or any member of it, and that was the reason why Mr. Hill's communication was not used.

Q. Was any information furnished or offered to you afterwards by Mr. Hill?—A. Never.

Q. Or any other person?—A. No.

Q. Has the Sun published news in regard to this matter?—A. When the World some time later—I do not now remember when, but I should say in December, perhaps—perhaps a month after this, printed Mr. Hill's statement, and a day or two afterwards, or shortly afterwards, printed some letters that Dr. Rogers furnished—Dr. Rogers's letters corroborating Mr. Hill's statement—I copied a portion, not the whole.

Q. As I understand you, then, the Sun has gathered none of this information itself; has procured none of the original news.—A. None.

Q. You say you declined Mr. Hill's offer because you did not wish to take the lead in an attack upon the Administration?—A. That reason was not given to Mr. Hill. No reason was given to him.

Q. But you say that was the reason?—A. Yes, sir; that was the reason.

Q. Did you regard Mr. Hill's letter as an attack upon the Administration?—A. Most decidedly. I regarded it as a scandal most injurious, if true, to the Administration.

Q. And has the Sun since that time taken part in the discussion of the matter from

that standpoint?—A. Always; and I have endeavored to influence public opinion and to influence the action of the Administration against any prosecution of the original Pan-Electric scheme of making the United States Executive a party to a patent suit.

Q. I will come to that.—A. For the same purpose.

Q. Did you subsequently change your mind in regard to attacking this Administration or any member of it?—A. I found that it was necessary to criticise the Administration, not to attack it in the sense of publishing any scandalous report.

Q. You discriminate between the publishing of reports or information and editorial comments?—A. I discriminate very strongly between sending out and publishing allegations and facts of a scandalous nature, of an injurious character, which are yet to be verified and established, which may possibly not be true, and commenting upon facts which are notorious, public, and unquestioned.

Q. You say that you have endeavored to influence the Administration against the prosecution of the Government suit, as I understand you, in behalf of the Pan-Electric Company, or for the benefit of the Pan-Electric Company?—A. Not particularly, but against the Government becoming a party to any private patent suit; it seems to me fatal blindness and inexpressible folly.

Q. For the Government to allow its name to be used to promote a private suit?—A. For the President of the United States to engage as a party in a private controversy.

Q. That would be a controversy between parties?—A. It was a controversy between individuals.

Q. Your view then has been, I presume, that it would be improper for the Government to become a party to litigation looking to the revocation of a patent alleged to have been obtained by fraud?—A. Where the question is one sure to be decided in the ordinary action of the courts, without the Government being a party, I see no reason for the President to be involved in it, and still less when the proceeding originates with a lot of dead beats who ought not to be tolerated in any respectable political combination.

Q. To whom do you refer as "a lot of dead beats"?—A. I refer to the originators of the Pan-Electric scheme.

Q. Do you refer to the Attorney-General of the United States?—A. No, sir.

Q. Do you refer to Senator Harris?—A. No, sir.

Q. Perhaps you refer to the Rogerses; they were the originators.—A. They are poets.

Q. I understand your view to be, then, that the use of the name of the Government in suits of that kind is not necessary; that the relief sought might be obtained in a suit between parties?—A. It is sure to be obtained in a suit between parties.

Q. Do you know of any case in which it has been held that a patent might be revoked, on the ground of its having been obtained by fraud, in a suit between parties?—A. I do not see any practical difference between the revocation of Professor Bell's patent, for instance, on the ground that he procured it by fraud, and a decision of the Supreme Court that the rightful patentee should be Mr. Drawbaugh, Professor Gray, or anybody else, and that Bell had no right to it.

Q. Can you conceive of that question being raised without involving a claim under an adverse patent, or under any other patent? Suppose it were alleged that the Bell patent had been obtained by fraud, and that no other patents had been granted, might not the question be raised there as to the Bell patent having been obtained by fraud?—A. I do not know; would it be necessary then for the Government to be a party to it?

Q. Not necessarily; but you spoke of it as a controversy between claimants for patents.—A. Here in this case there was a controversy between Pan-Electric speculators and poets and the Bell Company, and the Pan-Electric speculators had been beaten, I understand it, in all of their side issues, and they finally got the United States—

Q. Why do you distinguish between the two companies, styling one the Pan-Electric speculators and the Bell people the Bell Company? You speak of the one as Pan-Electric speculators and the other as the Bell Company.—A. The Bell Company was an organized company having rights that had been recognized by a great many of the courts of the United States, while the Pan-Electric people were attempting to get recognition and were selling stock and giving it away in various manners for that purpose.

Q. Have you any knowledge that the Bell Company was once in like condition?—A. I don't know anything about the Bell Company.

Q. And that the Bell Company had a beginning very like the Pan-Electric Company?—A. I do not. I don't know anything about its history.

Mr. MILLARD. You do not mean by that, beginning similarly, do you?

The CHAIRMAN. Yes, very much alike, as I understand the evidence before this committee. [To the witness.] So I understand that your course and the course of the Sun has been controlled by your views upon the legal aspect of the question?—A. Mainly upon the political question, Mr. Chairman.

Q. And the political question?—A. Yes, sir; and the political question.

Q. Law and politics then have prompted the course of the Sun in the attacks made, if they were attacks, upon the persons who were concerned in the Pan-Electric enterprise; is that it?—A. Well, that is a general statement.

Q. Has the Sun published some discussion from a legal standpoint as to the right to use the Government's name to bring a suit of that character?—A. I cannot say, I should not think, that it had published any elaborate discussion. I have repeatedly myself expressed the opinion that without a special statute the Government could not do it. The President could not do it.

Q. Has not the question been discussed in articles of some length in the Sun?—A. Not that I recollect. I have written them myself, and I do not remember any article of any length discussing that question. My own opinion is quite strong about it, but it is not worth much, because I am not a lawyer.

Q. Have any articles been published in the Sun at the instance of the Bell Telephone Company?—A. No, sir.

Q. Or any officer of it?—A. No, sir.

Q. Or any individuals?—A. Not that I am aware of at all.

Q. In the interests of the Bell Company?—A. No articles have been published at anybody's instance. I have published them without any solicitation from any quarter.

Q. And without suggestion from any one?—A. Without suggestion from any quarter.

Q. It is hardly necessary to ask you, then, whether anything has been paid for their publication.—A. Nothing has been paid. Nobody has ever suggested the thing as practicable.

Q. Has the Sun paid anything for the republication of any of its articles in any of the other newspapers?—A. I don't know whether any have been published. It has not paid anything; it does not need to, for our articles are republished a great deal without that.

The CHAIRMAN. Your articles are sometimes very interesting.

Mr. RANNEY. And generally so on this subject.

The CHAIRMAN. Yes; it is very lively reading. [To the witness.] Have you had any conferences with the lawyers of the Bell Company upon this legal question?—A. I have had conferences with Mr. Dickerson as to the scientific question. Mr. Dickerson and I are very old friends, and have been intimate these many, many years, and I am in the habit of going to him when I have any scientific question of an interesting nature.

Q. Have you discussed the question with Mr. Dickerson?

The WITNESS. Which question do you refer to now, Mr. Chairman?

The CHAIRMAN. The question as to the suit being brought in the name of the Government for the revocation of the patent.

A. Oh, yes; I have had quite a dispute with him on the subject.

Q. A dispute?—A. Yes, sir; a dispute.

Q. Your views seem to be very much alike so far as you have gone.—A. They are more alike now than they were. After the hearing before the Secretary of the Interior I went to see Mr. Dickerson and asked him about it, and he said that a Government suit would certainly be brought, and we had a very lively dispute on that question. I said it was not possible that a President endowed with good sense and a consciousness of uprightness would allow such a suit to be brought.

Q. I suppose Mr. Dickerson did not disagree with you as to that?—A. He disagreed with me. He said the suit was certainly going to be brought.

Q. But you said to him that you did not think a President endowed with good sense, and so on, would allow a suit to be brought. Did he disagree with you in that statement?—A. We did not go into that. He said the suit was going to be brought, and I told him it would not be brought, and was improper.

Q. (By Mr. RANNEY.) Perhaps he stated why. State all that he said.—A. No; he did not say.

By the CHAIRMAN:

Q. So that the dispute was not a serious one?—A. It was not a quarrel, but there was a good deal of difference in opinion.

Q. Not as to what ought to be done, but as to what was likely to be done?—A. As to what would be done.

Q. Mr. Dickerson is a lawyer in New York, is he?—A. Yes, sir.

Q. Do you know of more than one Mr. Dickerson who is a lawyer in New York?—A. I know of two, the father and son; they are partners.

Q. This must be the same gentleman, then, referred to by Mr. Reid, of the Tribune, who seems to have had several consultations with him upon the same subject. Do

you know of any other lawyer by that name?—A. I do not know; I presume it is the same. The son is an able young man, but the father is a very eminent and distinguished man.

Q. We will identify him as suggested. Is he in the employ of the Bell Telephone Company?—A. I presume he is. Indeed, I know that he argued their case at New Orleans.

Q. Do you know of his having any consultations or conferences with the editors of any other New York papers?—A. No, sir.

Q. Have you any stock in the Bell Company yourself?—A. No, sir; I have not.

Q. Are there any stockholders in the Sun?—A. Yes, sir; there are stockholders in the Sun. I see one of the most valued of them before me now [referring to Mr. U. H. Painter]. He may have stock in the Bell Company. He has not as much stock in the Sun as he wishes he had. The stockholders of the Sun have nothing whatever to do regarding the conduct of the paper.

Q. Do you know if any of them holds stock in the Bell Telephone Company?—A. I do not think there is one who holds any; and if they held a great deal, it would not make any difference.

Q. Do you know of any one of them who has stock in the Western Union Telegraph Company?—A. No; I do not.

Q. Has the Sun any stock in the Western Union Telegraph Company?—A. Not a cent. The Sun is a customer of the Western Union, and fights them in order to get the bills down.

Q. It is not peculiar in that respect?—A. Not particularly.

Q. Have you had offers of articles or information respecting the Pan-Electric Company from anybody besides Mr. Hill?—A. No, I do not think we have heard from that side since Mr. Hill wrote.

Q. Had you been acquainted with Mr. Hill before that?—A. I think I had seen Mr. Hill once or twice. He came into my office and I bought one or two things of him. He was a great anti-monopoly man, a virtuous man, and brought me articles against the land-grant railroads and things of that sort. I had seen him once or twice, and I should say I bought one or two things from him in the course of the last five or six years.

Q. Are you acquainted with Mr. Storrow, of the Bell Company?—A. I was introduced to Mr. Storrow the other evening in the lobby of a theater as we were all going out; I never saw him before and have not since.

Q. That was only the other evening, you say?—A. I think within a week past; last week.

Q. Have you an acquaintance with Mr. Forbes, president of the Bell Telephone Company?—A. No, sir; I never saw him to know him.

Q. Do you know Mr. Hubbard?—A. No, sir.

Q. Do you know Professor Bell?—A. No, sir.

Q. Have you had any communication with any person connected with the Bell Company besides Mr. Dickerson, to your knowledge, in relation to this matter?—A. No, sir; and all those communications I have sought.

Q. Where did the conferences or conversations take place?—A. The last one took place on the Third avenue elevated railroad going up town.

Q. Were any of them at your office?—A. Yes, sir; I think Mr. Dickerson has been once in my office, and I have been once or twice in his office. Our offices are pretty near together.

Q. How near is your office to the Tribune office?—A. The two buildings join; they are adjoining.

Q. And Mr. Dickerson is in that immediate neighborhood?—A. Mr. Dickerson is one block distant.

Q. Is the World in the same neighborhood?—A. The World is a little further off, but in the same general neighborhood. It is a pretty good neighborhood.

Q. From what the Sun says of the World and the Tribune, the Sun must make it so.—A. And the Times is there, too.

Q. Your strictures upon the gentlemen who are said to be associated with the Pan-Electric Company have been somewhat severe, have they not?—A. I presume so.

Q. I see in the Sun of the 22nd of March, an article entitled "A Haunted Telephone;" have you any recollection of that?—A. Yes, sir; that is a story; that is a work of the imagination intended to illustrate a principle; but yet a work of the imagination.

Q. Was it intended to illustrate the Pan-Electric enterprise?—A. To illustrate rather the general situation. You will find it very good reading.

Mr. RANNEY. You had better put it into the record.

The WITNESS. I did not write it.

Mr. MILLARD. Who did write it?

The WITNESS. It was written by one of the young men in the office, a very brilliant young man.

The CHAIRMAN. I should judge so. I observe in the Sun of April 8th an article headed "A New Cabinet Member." Have you any recollection of that article?

The WITNESS (after examining the paper). Yes; I remember that.

Q. Neither of these articles is a discussion of the legal aspect of the question?—A. No, sir; they are rather views of the political and moral aspect of it.

The CHAIRMAN. I lay them before the committee. I do not care about them going into the record. [To the witness.] You say they were not written by you?

A. Those two were not written by me. I wish they were.

Q. I understand you to say that you wish you had written those?—A. Yes, I wish I had the faculty to write such things.

Q. Do you regard them as very severe attacks upon the parties referred to?—A. Quite severe; yes, sir.

Q. Do you think they were justifiable?—A. Entirely so.

Q. I have no objection, so far as I am concerned, to your stating to the committee your view of this Pan-Electric enterprise, if you care to.—A. I do not know that there is anything that I particularly wish to add. I will answer with pleasure any questions. I think it is generally a kind of swindle, to which the Executive of the United States is made ancillary.

Q. Do I understand you then that the articles furnished by you are intended as criticisms and attacks upon the Administration?—A. Not upon the Administration as a whole. There are certain parts of the Administration that seem to me ought to be excinded. The Administration as a whole I desire to support in every available and practical manner.

Q. Including the President?—A. Including the President. I support him where he is right.

Q. You support everybody where they are right, I presume. In other words, you do not oppose people who are right?—A. That may be. Still I should support a Democratic President where he was right a great deal more earnestly than I should a Republican President where he was right.

Q. I am glad to hear you say it. Had you not found some reason for disapproving the course of the Administration before the discussion of the Pan-Electric matters in the Sun?—A. I had never been able to approve Mr. Cleveland's civil service practices, but there was nothing about that of a scandalous or destructive nature. It was bad politics, it seemed to me, and bad patriotism, but it was sincere, earnest, and well meant. But the Pan-Electric scandal is of a different nature.

Q. I will ask you whether your course upon the Pan-Electric scandal is not induced or influenced to some extent by your disapproval of the Administration in other respects?—A. I should think not. No man, you know, can answer entirely and say that he is perfectly free from influences of that sort. No Presbyterian can say that he is perfectly fair towards an Episcopalian, but yet he means to be.

By Mr. RANNEY:

Q. I understand you to say that you have charge of the editorial department of the Sun?—A. Yes, sir; entire control of it.

Q. And the stockholders have no control of that?—A. The duty of the stockholders is to receive their dividends.

Q. And for you to earn them?—A. Yes, sir; for me to earn them.

Q. You have been asked in regard to Mr. Dickerson and yourself disputing or differing as to the prospect of the Government ordering a suit after the hearing before the Secretary of the Interior; that you thought they never could or would, and he thought it would be done. Do you mean to say that he made that remark based upon an opinion that it should be done under the law?—A. No, sir; based on the facts that had appeared and his general opinion as to the probabilities of the case. He still held that it could not legally be done; that such a prosecution could not be brought without a special statute.

Q. I will not ask you in detail what he based his speculation on if he told you?—A. I do not remember; I should not be able to state it.

Mr. RANNEY. I have nothing more to ask.

By Mr. OATES:

Q. Will you inform the committee wherein and in what respects you consider the organization or association known as the Pan-Electric Association and the Pan-Electric Telephone Company as scandalous?—A. They are not necessarily scandalous. I have never been able to imbibe much respect for the poets who originated the operation. The scandal consists, in my judgment, in using the Attorney-General of the United States, making him a stockholder and then using the Department of Justice to promote the purposes of this private speculation. That I think is scandalous.

Q. Are you aware of the fact that the Attorney-General became a member of these associations or companies long before he was Attorney-General?—A. He became a member of them, as I understand, while he was a Senator of the United States, and

instead of imitating the example of General Le Fevre and Mr. Beach, who sent back this gratuity, he took it, and that I think is not a proper proceeding.

Q. Are you aware of the fact that that which they received was stock in a different company and incorporation from that which the Attorney-General is interested in?—

A. Nominally. I understand that the stock which they declined was issued in the same interest, and was the same essentially, although it was different. The Postal Telegraph Company was a branch of the same general concern, was it not?

The CHAIRMAN. No; it preceded the Pan-Electric Telephone Company.

Mr. RANNEY. They had made a combination.

The CHAIRMAN. The Postal Telegraph Company?

Mr. RANNEY. Yes.

The CHAIRMAN. The Postal Telegraph Company was another association.

The WITNESS. It is a matter of discussion whether a public officer should be interested in an establishment which may be affected by his public action.

Q. Were you aware of the fact that the Attorney-General when approached by the representatives of other telephone companies to direct the bringing of a suit declined to do so.

The WITNESS. Do you mean by the Van Benthuyzen Company?

Mr. OATES. Yes.

A. I am perfectly aware of that fact; yes, sir.

Q. And also by a representative of the Globe Telephone Company, and he declined to have anything to do with it.—A. I understand that is so; yes, sir.

Q. Do you not know that under the law the Solicitor-General acts as Attorney-General in the absence of that officer?—A. I think I am perfectly aware of that; yes, sir.

Q. Not as Deputy Attorney-General?—A. But as the head of the Department? Yes, sir; I think a scrupulous man would not have been away to let such a thing be done.

Q. Suppose he had no intimation that such a thing was to be done?—A. Well, he ought to have known there was a mighty smart set of fellows around.

Q. Suppose he had been present in his office, could he have prevented the Solicitor-General from ordering the suit or acting in the matter where the law invests that officer with authority to act wherever the Attorney-General is under any disability?—

A. The Attorney-General should not have allowed it.

Q. How could he have prevented it?—A. He should have resigned rather than have anything to do with it.

Q. That is a pretty high standard, is it not?—A. It is not too high a standard for an officer of the American Government.

Q. According to that standard, then, if a judge of a court was interested, as he might lawfully be, as a stockholder in a well-regulated institution, chartered and authorized by law and of good repute, if one should bring a suit in the court over which he presided, I suppose he should resign?—A. Oh no, no. That is not a parallel case at all, in my judgment.

Q. I fail to observe the difference. Will you point it out?—A. I think it hardly worth while for us to engage in a discussion of these fine points of legal morals.

Q. I am seeking to obtain for the committee the points that you make against the gentlemen concerned in these companies.—A. The case seems to me entirely similar to the old Credit Mobilier case, where members of Congress took stock in an establishment on which they were going to vote, and whose interests their votes were to promote.

Q. Can you point out any instance in which either one of these parties ever originated or promoted any bill or any kind of legislation to forward their interests in either one of these corporations in which they were connected?—A. I do not know that they did. I do not know whether they did or not.

Q. Then, if there was nothing in that view of it with reference to legislating, nor with reference to practicing any well-known fraud upon the Government, how would it be immoral for them if they entered into the developing of inventions and enterprises with a view of making them useful to the public and popular with the public and remunerative to themselves? How could that be wrong, even though they were officers of the Government?—A. It seems to me there is no parallel between the case you put and the case the committee is considering.

Q. You stated awhile ago your surprise that the President should not have had more sense than to permit a suit to be brought in the name of the Government to annul a patent. You, I believe, did not think very highly of that gentleman's ability before his election, did you?—A. I thought very highly of his ability in some respects, but I thought him a very bad Democrat. I did my best to defeat his election because he was a bad Democrat—and came pretty near doing it, too; mighty near doing it. It was a very tight squeak, wasn't it? A plurality of a thousand in the State of New York! And Burchard did that. But for Burchard the Democratic party would have been a great deal better off to-day, in my judgment.

Q. Did you not get your idea of the distribution of stock which seemed to have been given for the purpose of affecting the results, from the conduct of the Messrs. Rogers, or Dr. Rogers, rather than either of those other gentlemen?

The WITNESS. The poet?

Mr. OATES. Yes.

A. The facts did not seem to be disputed that this stock was distributed around. Rogers furnished the evidence of it principally.

Q. Are you not aware of the fact that none of the gentlemen connected ever gave away any stock or sold any stock except the Rogerses?—A. They all got dividends.

Q. They got dividends from what source?—A. Dividends from the sale of stock and local rights and the organization of local companies, as I understand.

Q. Are you aware of the fact that the Bell Company also sold local rights and retained an interest in the local companies—in their stock?—A. Oh, I don't know, but I presume that is so.

Q. All over the United States?—A. I don't know anything about the Bell Company except that it charges an extravagant price for its telephones, and the telephones don't work very well always.

Q. Do you know which of the stockholders and organizers of the Pan-Electric Company, and the Pan-Electric Telephone Company were officers of the Government of the United States or connected with it in an official capacity at that time of the organization?—A. I don't remember distinctly except that Senator Garland, I believe, was one, and I think Senator Harris was one, and there were also some members of the other House of Congress. I think Mr. Casey Young was a retiring member of Congress. I am not sure whether General Johnston was or not. I don't remember about that. Mr. Atkins perhaps was also a member, although I do not pretend to know that.

Q. Have you read the evidence that has been taken before this committee?—A. No, sir; I have read only the brief reports that have appeared occasionally in the New York papers. I understand there are three thousand pages of evidence. I have not had an opportunity to read it all.

The CHAIRMAN. You do us injustice. The fact is bad enough.

Mr. RANNEY. There are some eight or nine hundred pages, and we are likely to get the others.

The WITNESS. The prospect is fair.

Mr. OATES. It depends on how long the committee lasts.

Mr. RANNEY. We will probably get the remainder before we are through calling on the editors. They are making valuable contributions to the committee, and we are very glad to have them.

By Mr. MILLARD:

Q. Have you any personal acquaintance with Attorney-General Garland?—A. I never saw him.

Q. So that your attacks, or rather criticisms, on the Administration do not arise from any personal hostility?—A. Not the slightest. I have always had a very high opinion of Mr. Garland as a Senator, and I understand he is a very distinguished and eminent lawyer, but I have never seen him or spoken to him or had any communication with him.

Q. How about the other parties connected with the Pan-Electric scheme? Are you acquainted with Senator Harris?—A. I have never seen him to know him; I may have seen him, but I do not know him.

Q. Do you know Colonel Young?—A. Colonel Young was pointed out to me to-day in this room; I never had seen him before, to my knowledge.

Q. If I get your opinion correctly you think that no one occupying official position under the Government should be connected with the Pan-Electric Company?—A. Not if the Government is going to be brought in as an ancillary prosecutor on behalf of the Pan-Electric Company. I do not see any objection to an officer of the Government owning stock in a bank or a railroad.

Q. But you think the Government should not be used for any private purpose?—A. I think it should not be used for any private purpose.

By Mr. OATES:

Q. I wish to put one or two questions just there. Are you aware of the difference in effect between a judgment of court against a patent in a suit ordered by the Government and a judgment in a controversy between two individuals?

The WITNESS. The effect as regards the patent?

Mr. OATES. Yes.

A. I understand that if the judgment is adverse to the patent in a case of fraud, the patent is annulled. If, for instance, I am a claimant and Mr. Ranney is a patentee, and I got judgment that Mr. Ranney's patent is not sound, and that I am entitled to the patent, his patent is destroyed by that judgment.

Q. In a suit between individuals?—A. In a suit between individuals. What is his patent worth after the Supreme Court has decided the invention is not his, but mine? The distinction is a very nice one, but I don't see that it amounts to anything, practically, at all.

Mr. RANNEY. You seem to be a sound lawyer.

The WITNESS. Thank you, sir.

The CHAIRMAN. You are not in entire accord with the Judiciary Committee of the House.

The WITNESS. Perhaps I am not.

Mr. OATES, And Mr. Ranney is a member of that committee.

Mr. RANNEY. I beg leave to differ about that. Lawyers differ with each other. I did not give that opinion and I do not stand by it.

Q. Do you not know that wherever the Interior Department, on reference to it for advice by the Department of Justice, on allegations that a patent was obtained improperly or fraudulently, believed from the evidence before it that such was the case, and that it was used as a great monopoly and was wrong, and as so reported to the Department of Justice, that it has been the practice of the Department of Justice to order suit to be brought in the name of the Government for the annulment of such patent?—A. I do not think the question whether or not it is a great monopoly is a question of the slightest importance. The question is: Is the patent good? If a monopoly is built upon it, that is nothing. It is incidental. You have a monopoly in your horse, and the patentee has a monopoly in his patent. If the patent is void it should be declared to be void. I do not understand that there has been any such practice of the Government, or that any number of suits are reported which the Government has brought to annul patents.

By the CHAIRMAN:

Q. Are you aware that since 1871 ten such suits have been ordered by the Department of Justice?—A. No, sir.

The CHAIRMAN. That is in evidence before this committee.

Mr. MILLARD. I object to that comment.

Mr. RANNEY. I object. If the chairman is going to put in his statement the rest of us may want to put in our statements, too.

Mr. MILLARD. There has been no such suit as this, Mr. Chairman, and you will not claim that there has been a suit under just such circumstances.

The CHAIRMAN. No; not the same parties nor companies of the same name; but suits ordered by the Government in the name of the Government for the purpose of avoiding patents alleged to have been obtained by fraud.

Mr. RANNEY. I beg you will leave that question for our determination hereafter. If you insist upon going on record on the subject the rest of the committee may have to do the same thing.

Mr. OATES. I suggest that that is a matter for executive session.

The CHAIRMAN. I do not recognize the propriety of the comment. I ask this witness, who has been allowed to give his opinion, and who bases his opinion upon the assumption that this power does not exist, if he knows that ten such suits have been ordered.

The WITNESS. I gave my opinion with great modesty, saying I was not a lawyer.

The CHAIRMAN. With becoming modesty.

Mr. MILLARD. He was asked his opinion.

The CHAIRMAN. Yes; and I called his attention to a fact which might possibly modify that opinion, by asking him if he knew that ten such suits had been ordered since 1871.

The WITNESS. I did not know it.

Q. Assuming that this right and power do exist in the Government to bring a suit against the holder of a patent on the allegation that the patent was obtained fraudulently—whether true or false is not material—and Mr. Garland had become Attorney-General before any such application was made, and that the application was afterwards made while he was Attorney-General, do I understand it to be your view that he should have resigned on account of that application?—A. If it was impossible for him to prevent such a suit being brought in the name of the Department of which he was the head, he should have done what any Cabinet minister should do who is required to allow something to be done by his Department and in his name that he regards as entirely improper.

Q. If the law had made provision for just such a case by devolving the duties of the Attorney-General upon another officer in cases in which the Attorney-General was interested, do you still think he should have resigned rather than allow that other officer to discharge the duty the law imposed upon him?—A. I think in the Pan-Electric case he should not have allowed the prosecution to be commenced, and should not have gone away for the purpose of having it commenced.

Q. I do not understand you to answer my question.—A. I think he should have re-

signed sooner than allow the Pan-Electric prosecution to be commenced by the Department of Justice.

Mr. OATES. Just there permit me to ask a question.

By Mr. OATES:

Q. You assume that he went away for a purpose. What would be your position if you were to hear Mr. Garland testify most emphatically and positively that he did not do any such thing?—A. I should believe what he said.

The CHAIRMAN. I do not think you answered my last question.

The WITNESS. Will you kindly repeat it?

The CHAIRMAN. The reporter will read it.

The reporter read as follows:

“Q. If the law had made provision for just such a case by devolving the duties of the Attorney-General upon another officer in cases in which the Attorney-General was interested, do you still think he should have resigned rather than allow that other officer to discharge the duty the law imposed upon him.”

A. Oh, on such a statement as that, of course, there was no need of his resigning, because in that case nothing was secret or hidden or suspicious. That was a case that the law had clearly provided for, as in the case of a judge who owns bank stock. It would not be necessary for him to resign, of course.

By the CHAIRMAN:

Q. Is not that this case precisely?—A. I do not understand that it is.

The CHAIRMAN. I will venture to say, at the risk of encountering objection, that all the evidence in this case, so far as I am aware of it, is to the effect that the Attorney-General refused from the beginning to have any connection whatever with the application for a suit in the name of the Government, and that he left the city—

Mr. MILLARD. If this is to be taken down in the minutes, I object.

The CHAIRMAN. Wait until I get through before you make your objection.

Mr. MILLARD. I do not think your statement should go into the minutes.

The CHAIRMAN. Everything has gone into the record. If my statement is wrong it will appear by the record to be wrong. I suggest to the gentlemen that now and hereafter the objection should come after the question.

Mr. MILLARD. I object to your views of the evidence going into the record.

The CHAIRMAN. I stated that—

Mr. MILLARD. I insist that such a statement should not go into the record.

The CHAIRMAN. I have a right to put a hypothetical case.

Mr. RANNEY. If you put a hypothetical case, nobody will object to it.

The CHAIRMAN. I am stating it as my recollection of the testimony in the case. If there is anything to the contrary I do not now recall it, although there may be, as we have had a great deal of testimony. It has been testified to, at all events, that the Attorney-General refused to have anything to do with the bringing of the Government suit, or to allow any person to talk to him about it. It has been testified by the Attorney-General, and by the Solicitor-General, that suit was ordered by the Solicitor-General without any previous conversation whatever with the Attorney-General; that the application came to the Solicitor-General after the Attorney-General's departure, and that the suit was ordered by the Solicitor-General upon his own motion, because of the Attorney-General's absence.

Q. If these things be true, do you regard the Attorney-General as culpable in permitting the suit to be brought?—A. I think the Attorney-General should have protected his Department.

Q. Without knowledge of any application that was to be made?—A. He knew the application had been made to him.

Mr. RANNEY. He said he expected another application.

The WITNESS. He should have protected his Department.

Q. You think he should?—A. He should have protected it.

Q. And he should have prevented the application being allowed even under the circumstances I have mentioned?—A. He should have prevented its being allowed at all.

Q. Even if similar applications had been allowed in ten other cases within the last fifteen years?—A. I do not know about the ten cases.

Q. I say assuming that to be true.

Mr. RANNEY. You do not mean to say such a suit was ever ordered where the Attorney-General was one of the chief parties in interest?

The CHAIRMAN. I am sorry the gentlemen are so nervous about this matter. I am only stating what has been proved here, without pretending to say whether it is true or false.

Mr. MILLARD. I object to the premises on which you base your question. I claim the evidence does not substantiate anything of the sort.

Mr. RANNEY. I see no special nervousness.

The CHAIRMAN. There has been a great deal of it.

Mr. HANBACK. I admire the coolness of the chairman. It is refreshing.

Mr. MILLARD. My objection is not to your examining the witness, but to your assuming facts that do not appear upon the record.

The CHAIRMAN. What fact have I assumed that does not appear?

Mr. MILLARD. You have assumed certain facts which the committee may be called upon to find after they have heard the whole case. It seems to be an improper time for such an assumption.

The CHAIRMAN. I think you will find some difficulty in making good your declaration that I have assumed any fact in this examination that does not fully appear by the record. I do not say whether it is true or false, and I do not say what may be the conclusion upon an examination of the whole testimony. I only say that such testimony has been given, and I make that the basis of an inquiry.

Mr. MOFFATT. I understood you spoke of quite a number of similar suits. I do not suppose you mean that any suit has been ordered without proper reference to the Interior Department.

The CHAIRMAN. I do not say similar suits, but suits in the name of the Government.

Mr. OATES. It does not make any difference whether the hypothesis be true or false.

The CHAIRMAN. The question and the hypothesis must go together.

Mr. MILLARD. He claims that the facts he stated to the witness are established by the record.

Mr. OATES. It makes no difference whether the evidence is true or not. That is a question to be decided hereafter. The chairman is simply stating a hypothetical case.

Mr. MILLARD. The chairman states that the facts are established by previous examination.

The CHAIRMAN. Is not that the fact assumed in every hypothetical case?

Mr. MILLARD. A hypothetical question is proper providing you do not assume false premises, or make a false statement of facts. If you do, it is not proper.

The CHAIRMAN. Every hypothetical case is based upon the assumption on the part of the examiner that the facts have appeared as he states them. Whether they have so appeared or not is not material.

Mr. RANNEY. The only objection I have to your question is that you are accompanying it with a statement of your own convictions and belief, as a matter of statement. Perhaps you are not aware of it.

The CHAIRMAN. I am not aware of it, and I did not intend to state my own conclusions, but only that these things had appeared in evidence. I do not recall at this time any evidence to the contrary. I would not have gone so far as I did if there had been objection. I put an ordinary case.

Mr. RANNEY. I do not object to a hypothetical question if you do not accompany it by your own assertion.

The CHAIRMAN. I do not say what the fact is, only that there has been sufficient evidence given of that kind to warrant the hypothetical case.

Mr. HALE. I have not been present during the examination. I would like to inquire whether the witness has been called on or allowed to give his opinion about the propriety of this suit?

Mr. RANNEY. Oh, yes; the chairman has done that already.

Mr. MILLARD. And Mr. Oates, too.

The CHAIRMAN. The gentleman from Massachusetts is entirely incorrect. The chairman has done nothing of the kind.

Mr. MILLARD. Perhaps it was so long ago the chairman has forgotten it.

The CHAIRMAN. I have a reasonably good memory.

Mr. RANNEY. The chairman has put questions that calls for opinions, and they have been expressed on questions of law, morals, &c.

The CHAIRMAN. I believe that is all.

By Mr. MILLARD:

Q. I will ask you a question suggested by the chairman's question. It is this: If Mr. Garland had found upon his return that advantage had been taken of his absence to get such a suit brought, should he not have required the discontinuance of that suit, or should he not have gone out of the Department?—A. That is my opinion.

Q. He still had it in his power to control his own Department?—A. And he should have smashed it.

Q. He should have smashed it or gone out?—A. Yes, sir.

By the CHAIRMAN:

Q. Do you know the suit was discontinued immediately upon his return?—A. It was discontinued, as I understand, by direction of the President.

The CHAIRMAN. Yes; after consultation with Mr. Garland, and hearing Mr. Garland's statement,

By Mr. RANNEY:

Q. I suppose you have not read the evidence so as to know what facts there are in the case, independently of the testimony of any one particular witness?—A. No, sir.

Q. Which tend to show whether Mr. Garland was cognizant of what was to be done?—A. No, sir; I have not had an opportunity.

Q. Nor what the parties themselves who did it understood?—A. No, sir.

Mr. RANNEY. I do not mean to give any opinion I have on the subject one way or the other until we get through with the case.

The WITNESS. Is there anything further?

The CHAIRMAN. No, sir.

Thereupon, at 2.50 p. m., the committee adjourned until to-morrow, May 5, 1886, at 12 m.

WASHINGTON, D. C., *Wednesday, May 5, 1886.*

The committee met at 12.40 p. m.

GEORGE JONES came before the committee and was duly sworn.

By the CHAIRMAN (Mr. Boyle):

Question. Are you connected with the New York Times?—Answer. Yes, sir.

Q. What is your relation to it?—A. As an owner and a partaker in the business of the office.

Q. Do you control its editorial management?—A. I can hardly say that I do; I have a voice in it.

Q. Who is the editor?—A. There are a great many editors.

Q. I believe you distinguish one over another?—A. Is it necessary that you should go into the interior of the office and ask those questions?

Q. Is there any objection to answering?—A. I do not know that there is, only I should like to know where the limit is that you propose to fix.

The CHAIRMAN. Whenever a question is asked which you think is improper you can so state to the committee, and the committee will then consider it.

The WITNESS. I do not suppose that the interior management of the office is a matter that has anything to do with this inquiry.

The CHAIRMAN. We will see if we can get what we want in another way. I do not feel disposed to press the question unnecessarily.

Q. Has the Times participated in the discussion of the matters growing out of the organization of the Pan-Electric Telephone Company?—A. I believe it has; yes, sir.

Q. Can you state which side of the question it has taken, generally?—A. I think the course taken by the Times has been that an inquiry into the manner in which the patent was issued, and its validity, considering its immense value and the fact that probably it is the most valuable and productive monopoly there is on the face of the earth, that a proper examination of the manner in which this franchise was given is entirely correct; and that if it is a perfectly legitimate patent there certainly can be no objection to having it examined into.

Q. You speak of the Bell patent?—A. I speak of the Bell patent.

Q. And the inquiry you speak of is what particular inquiry?—A. The manner in which it was rushed through the Patent Office, which somebody characterized as "like a streak of greased lightning," and leaving old suitors there for patents with their mouths wide open to see this thing go through with a rush.

Q. Do you speak of the investigation by means of a suit in the name of the Government?—A. Yes, sir.

Q. Has the Times received any suggestions from the Bell company or any persons connected with it; in other words, has there been any attempt to influence the course of the Times by the Bell company or by any persons connected with it?—A. Not to my knowledge directly, except in one instance.

Q. State what instance it was.—A. I received a letter from John M. Forbes, of Boston, an old friend of mine, whom I have known a great many years, telling me that his son was a large owner—

Mr. MILLARD. I object.

Q. Have you that letter?—A. I have not, and it does not exist. The letter was such that I tore it up without answering it.

Q. You may state the contents of it.—A. The letter asked me to address a letter to the President of the United States, asking his intervention in favor of the patents. I considered it an improper thing to do, and I did not answer the letter. I could not find the letter when I came away, although I looked for it. I presume it was thrown away.

Q. Was there anything in the letter looking to the influencing of the Times as a public journal?—A. No, sir.

Q. Have you had any suggestion from any other person connected with the Bell

company in that direction?—A. Not to my personal knowledge, although I believe there has been.

Q. Can you give us any information which would enable us to ascertain whether such efforts have been made with any other persons connected with the Times?—

A. While I was absent—I was away for some weeks—I understood a lawyer by the name of Dickinson called there——

Mr. RANNEY. That is not competent.

The CHAIRMAN. I am merely trying to get a lead, to see if we cannot find some one who does know about it.

A. (Continuing) And that matter was offered——

Mr. MILLARD. If the witness has no personal knowledge of the transaction I object to his testimony.

The WITNESS. I have not, and so stated; but the chairman asked me to go on and state what I was told, and I am doing so.

The CHAIRMAN. It was not with a view of proving the fact, but of getting some person who can prove the fact.

Mr. RANNEY. He can name anybody who told him.

Q. Who told you Mr. Dickerson called?—A. It was told to me by several people in the office; I can't tell who, now.

Q. Can't you name one of them so that he may be subpoenaed?—A. I think a gentleman named Miller, connected with the office, told me that.

Q. What is his full name?—A. Charles R. Miller.

Q. What is his position in the Times establishment?—A. He is one of the editors, sir.

Q. You say it was Mr. Dickerson?—A. It was Mr. Dickinson.

Q. Where does he reside?—A. In New York, I believe. I do not know the gentleman.

Q. What is his profession?—A. Patent lawyer, I am told. I don't know him at all.

Q. Do you know whether he is the attorney or counsel for the Bell company?

The WITNESS. Do you mean to ask if I know that of my own knowledge?

The CHAIRMAN. Have you heard that he is?

A. I have heard so.

Q. Have you any other information as to an effort having been made to control or to influence the Times by any person associated or connected with the Bell company?—A. I do not know of any other.

Q. Has any person connected with the Pan-Electric company or any other telephone company endeavored to control or influence the Times as to this controversy?—

A. I do not know that they have, except, I believe, we had some advertisements in the paper.

Q. Do you recall what advertisements?—A. That I could not tell you. I have not looked it up. I am not very certain about it. Will you allow me to ask you a question?

The CHAIRMAN. Yes, sir.

The WITNESS. Does Mr. Van Benthuyzen in any way represent the Pan-Electric company?

The CHAIRMAN. No, sir; he is understood to be the president of the National Improved Telephone Company.

Mr. RANNEY. With a written agreement of association or combination.

The WITNESS. Then I will change my answer. I do not think they ever have. Mr. Van Benthuyzen had some advertisements in the paper.

Q. When was that?—A. That was while I was absent. It was some time in March—no; it was earlier than that.

Q. What kind of advertisement was it?—A. I have not read it. I could not tell you, really.

Q. Do you know of any one else connected with the Pan-Electric company or the National Improved or the Globe Telephone Company having undertaken to influence the course of the Times?—A. I do not know of any. I do not know that anybody has done so.

The CHAIRMAN. I used the word "else". Perhaps I ought not to have done so.

Q. An article appeared in the Times of January 1 which I will show to you. [Exhibits paper to witness.] Was the arrangement for the publication of that article made with you?—A. No, sir.

Q. Did you know of its being made at the time?—A. I knew that there was a general paper to be made up which was to be called "New York City's Growth and the Commercial Development of the American Metropolis," and that ninety-six different kinds of business had articles in it, all of which are marked with three stars which the printers would recognize as indicating advertisements.

Q. Are there three stars at the end of that article?—A. Yes, sir.

Q. You say that indicates it was an advertisement?—A. Yes, sir; I will show you that other papers use it in the same way. It is a known mark. [Exhibiting copy of New York World to chairman.] Those little advertisements at the bottom all have stars.

Q. Do you know how much was paid for the insertion of that article?—A. I know that it is stated at \$1,200. It was so much a column; three hundred lines to a column, and a dollar a line.

Q. It has appeared that two thousand copies of the paper containing this article were furnished to the Bell company?—A. They probably purchased two thousand copies. All the parties purchased more or less copies containing their business notices.

Q. Would the copies be paid for in addition to the \$1,200?—A. Certainly.

Q. Have any articles on the legal aspect of this controversy, as to the bringing of the Government suit, been contributed to the Times?

The WITNESS. By outside parties?

The CHAIRMAN. Yes.

A. Not to my knowledge; no, sir.

Q. You say there has been none?—A. Not to my knowledge.

Q. Has any money been paid to the Times besides what was paid for advertising?—A. No, sir; I might say, by the way, that we paid out for information, telegraphing, and reporting twice or three times the amount we got for that advertisement.

Q. How was that paid, and to whom?—A. That was for getting general information by telegraph, &c.

Q. Were any articles paid for?—A. No; we sent reporters and got telegrams, &c. I received a letter this morning stating the amount that was paid out, and I can tell you. [Refers to letter.] This letter speaks of Mr. Van Benthuyzen and the National Improved Company. The New York Times has paid out not less than \$2,500, probably, in telegrams and payments to reporters and correspondents while getting and presenting the facts against the company in the interests of the people.

Mr. RANNEY. In the interests of whom?

The WITNESS. In the interests of the people.

Mr. RANNEY. You dropped your voice and I did not hear the last word.

Q. Do you know of any money or other consideration having been paid to any other of the New York papers for publications in regard to this controversy affecting the Bell patents?

The WITNESS. From personal knowledge?

The CHAIRMAN. Yes.

A. No, sir.

Q. Can you give us any information which would enable us to learn if any such money has been paid?—A. I can only say that after the visit of Mr. Dickinson there was a large number of articles occupying large space in three or four newspapers, and containing almost the same arguments, dressed up in a different form; and that led up to the suspicion that there was some influence. You can judge as well as I can what influence it was that induced those publications.

Q. The Times is said to have stated on various occasions that other of the New York papers had been or were controlled in the interest of the Bell company. Have you any knowledge of that fact?—A. Only as I stated to you, the evidence of the great interest taken by these papers simultaneously and containing very much the same line of argument. It seemed as if the subject had become interesting to three or four newspapers at the same time. This, I say, led up to a suspicion that there was a motive. There might not have been.

Q. The Times has spoken of certain of the New York papers, including the Sun, as allies of the Bell company. Can you state what was meant by that?—A. I think I covered that in what I stated.

Q. In its issue of the 3rd of February there was this very short article:

"The Pan-Electric scandal, involving certain public men at Washington, is a small matter in comparison with the Bell Telephone scandal, involving certain newspaper editors in the city of New York."

Have you any information other than you have already stated?—A. I have not any more than I have stated to you—the suspicion brought out by the fact that there was a crusade made simultaneously, like the advance of a Chinese army, beating all the gongs and blowing all the whistles.

Q. What papers do you speak of as having come out simultaneously?

The WITNESS. Is it necessary for me to name them?

The CHAIRMAN. If you prefer not to do so, I do not think——

Mr. RANNEY. I think he ought to mention them.

The WITNESS. I have no objection, if you say so.

The CHAIRMAN. Very well.

The WITNESS. The Sun, the Tribune, the World, and the Evening Post. I know that after that period, after the general explosion was over, the very elaborate articles, arguments, &c., the publications were confined to very small space.

Q. After what period was that?—A. After the idea was mooted that they might have had some personal interest.

Q. Do you know anything about the date at which Mr. Dickerson visited your office?—A. No, sir; I was absent at the time, I think.

Q. Have you any stock or interest in any of the companies supposed to have conflicting interests with the Bell company?—A. I have no interest in any telegraph company.

Q. Or any telephone company?—A. Or any telephone company.

Q. You say you have no interest in any telegraph company?—A. No, sir.

Q. Do you know of any person connected with the Times having any such interest?—A. No; I do not.

The CHAIRMAN. I believe that is all.

By Mr. RANNEY:

Q. You spoke of Mr. Forbes who wrote you a letter?—A. Yes, sir.

Q. What Forbes was it?—A. John M.

Q. The old gentleman?—A. Yes, sir.

Q. A man you have known how long?—A. Oh, I could hardly tell how long I have known him; a great many years. It is the Mr. Forbes who was on the national committee last year.

Q. Not the young Mr. Forbes who is the president of the Bell Telephone Company?—A. No; he is the son.

Q. Mr. Forbes, sr., wrote you a letter, did he?—A. Yes, sir.

Q. You know he was not an officer in the Bell Telephone Company?—A. I did not know anything about it.

Q. He did not write you as such, did he?—A. He wrote me his son had large interests.

Q. Could you give us the language of that letter?—A. He said, as near as I can remember, that he should consider it a very friendly act if I would write to Mr. Cleveland to take action to stop this suit, or something like that. I was surprised to get such a letter from him, and I did not reply to it.

By the CHAIRMAN:

Q. Can you recall the date of that letter?—A. I cannot.

Q. Had the Times spoken out on this matter before that?—A. I think it was earlier than that.

By Mr. RANNEY:

Q. Can you not fix the date approximately?—A. No; I cannot. I think it was before the 1st of January.

Q. That is very indefinite.—A. I am sorry I cannot fix it much more definitely. It was some time during the fall of the year, perhaps.

Q. Do you know whether it was before or after the first suit brought by the Government in Memphis was dismissed?—A. No; I do not.

Q. Can you not state a little more definitely the language of that letter, and as to what he asked you to do?—A. He asked me, as a friend, to write to the President. What I gathered from it was that I should—

Q. I would like the language, not what you gathered from it.—A. I could not give you the language. He would consider it a friendly act if I would do so.

Q. Do you mean he made any improper proposition to you?—A. Not at all. It was on the ground of our old acquaintance and friendship.

Q. You did not understand Mr. Forbes to ask you to do anything improper, did you?—A. I thought it was an improper thing for me to write to the President, at least in that way.

Q. Or on the subject at all?—A. Or on the subject at all. I believe he has no more to do with it than the Emperor of Russia.

Q. Were you aware that the Pan-Electric people and Mr. Van Benthuyzen were writing and telegraphing him abundantly at the same time?

The WITNESS. Writing to whom?

Mr. RANNEY. To the President.

A. Oh, I did not know anything about it at all.

Q. Had you not seen published telegrams and articles of Mr. Van Benthuyzen's, written to the President of the United States on the subject?—A. No, sir.

Q. You were not aware of the fact?—A. I hadn't enough interest to follow out in detail all that there was in the newspapers.

Q. Have you looked at your paper to see what articles were published on that subject?

The WITNESS. About that time?

Mr. RANNEY. Yes, sir.

The WITNESS. Editorial articles?

Mr. RANNEY. Yes, sir.

A. I generally had read them; yes, sir.

Q. Do you know Mr. Van Benthuyzen?—A. I do not.

Q. You do not know him at all?—A. No, sir.

Q. Do you know Mr. C. P. Huntington, of Mississippi?

The WITNESS. Of Mississippi?

Mr. RANNEY. I believe he hails from there. He was the vice-president of the National Improved Company.

A. I do not. I thought you meant C. P. Huntington, president of the Chesapeake and Ohio Railroad Company. I know him; I do not know the other man.

Q. There are two men of the same name. You do not know this man?—A. I do not know him at all.

Q. Have you not published in your paper articles written by him?—A. Not to my knowledge.

Q. Or telegrams?—A. No, sir.

Q. Or from Van Benthuyzen?—A. There were some advertisements that were sent on to me to day.

Q. Have you looked to see how much he has paid for the advertisements?—A. He has not paid us a dollar.

Q. Did you do his advertising for nothing?—A. No, sir.

Q. Then what do you mean by his not having paid you?—A. Because he would not respond to the bills. (Laughter.) He beat us on the execution.

By Mr. MILLARD:

Q. How much was the bill?—A. I do not know.

Mr. RANNEY. Let us see the bill.

The WITNESS. You shall have it.

Mr. MILLARD. I have no doubt but that it was a just bill.

The WITNESS. Beating on execution is a bad beat.

Mr. RANNEY. Let us have all the bills.

The WITNESS (handing paper to Mr. Ranney). It is all on that paper.

By Mr. RANNEY:

Q. Is this an itemized bill?—A. That is the basis on which the bill was made. That is the clerk's estimate of what it would come to. I imagine Mr. Van Benthuyzen has the bill.

Q. Where is the itemized bill you sent him?—A. I suppose he has that. There is the order and the calculation of what the amount is.

Q. How long had the advertisement been inserted?—A. I don't think it was inserted more than once. It is stated on that paper, I think.

Mr. RANNEY. I haven't looked sufficiently to ascertain that.

The WITNESS. I can tell you if you will allow me to look at it.

Q. I see an article purporting to be signed by W. Van Benthuyzen, and dated New Orleans, February 1. Is that this year?—A. Yes, sir; I suppose so.

Mr. RANNEY (reading). "In the World of January 28 the following statement appeared in the special dispatches from Washington, D. C."—

The CHAIRMAN. Do you want this to go into the record?

Mr. RANNEY. Perhaps not; I will see.

"Dr. Rogers was the originator of the National Improved Telephone Company, from which he and his son had made a modest fortune.

"There is not one word of truth in this statement. This man Rogers has never been connected with the National Improved Telephone Company in any manner, shape, or form, nor is he known to the originators of the National Improved Company. That company was formed here, and in the course of business bought, together with a large number of other patents, a few invented by J. Harris Rogers, which he had sold. Subsequently Rogers made a slight alteration, and obtained a patent for a transmitter for what he calls an improvement on his previous devices, which no longer belong to him, for which, I am informed, the parties who had bought the previous patents refused to pay him \$5. As soon as the National Improved Telephone Company became the owner of these patents and saw that the Pan-Electric Company was using the so-called improvement from Rogers, we notified that company that we would not permit them to use this transmitter and the receiver they were using, as both infringed patents owned by this company, and the leading members of the Pan-Electric Company now realize that this is a fact, and that they cannot use the devices without our consent. As a matter of fact, we never used any of the Rogers patents. We don't consider them of any value compared with others, but we do not intend that others shall use our property without our consent.

"All the fuss being made about the Pan-Electric Company is no doubt paid for by the Bell Company, as the Pan-Electric is a company without a telephone patent that they can use, and this fuss has nothing to do with the right of the whole people to institute a suit to annul that which is believed to have been obtained fraudulently or in the face of previous inventions by others. Your attention is also called to the fact that in the Tribune of January 30 it is stated that I am a member of the Pan-Electric Company, and had said that with others I had secured the passage of a bill authorizing the

Attorney-General to institute suit under certain circumstances. The writer of this knew that he lied when he wrote it."

That is characteristic.

"I never had an interest in the Pan-Electric, and never knew of the bill referred to until informed of it, and I afterwards found that no such bill had been adopted, and I never had made any such statement.

"W. VAN BENTHUYSEN."

Q. Did your suspicion that other papers were getting pay for what they published have its origin in this statement of Mr. Van Benthuyesen?—A. No, sir; for I never read it, and did not know of its contents until you read it now.

Q. You published it, did you not?—A. Yes, sir.

Q. And sent in your bill for it?—A. Yes, sir. I do not read all the advertisements that are put in the paper. It would be a tedious business.

Q. You did not put three stars at the bottom of it, I see?—A. It was in the advertising column.

Q. It is headed "Special notices"?—A. Yes, sir.

Q. And was published as a special notice?—A. Yes, sir.

Q. I see the manuscript is the same as the print. Is that the only thing you ever put into your paper?—A. I cannot say that.

Q. The only thing coming from Mr. Van Benthuyesen or the National Improved Company?—A. I cannot say. I don't know anything about it.

Q. Have you looked to see whether there was not a series of articles in that line coming from other sources?—A. I don't know of any.

Q. You have not looked to see, have you?—A. No.

Q. The bill you sent him for this was, as I see by the paper, \$58.75?—A. And returned *nulla bona*—no good.

Mr. RANNEY. It was returned protested?

Mr. MILLARD. *Nulla bona*.

The WITNESS. Or words to that effect.

Q. Did you insert that advertisement more than once?—A. It says there we did not. It is marked and you can see what it does say.

Q. I don't see any mark here as to the number of insertions in the printed paper; possibly it may be in the manuscript. You can find that easier than I can.—A. (Referring to paper). "Special notices; 5th page; once; inserted February 2."

Q. Of this year?—A. Of this year. Here is the number of lines and the computation of what it comes to per line.

Q. I suppose Mr. Van Benthuyesen's statement that the Bell company was to pay for it did not influence your mind any or create any suspicion?—A. I did not know that he made such a statement. As I told you, I never read it and did not know its contents until I heard it read here.

Q. Did you read the other newspapers on the subject that you have alluded to?—A. Yes, sir; some of them.

Q. The articles that came out simultaneously that you spoke of?—A. I did not read them carefully. I saw them.

Q. What were those articles; can you describe them?—A. Defending the Bell patent, I suppose; I didn't read them carefully.

Q. Do you mean the history of the Pan-Electric company, with the Roger's letters?—A. Yes, sir; I didn't read them carefully.

Q. Are those the articles you referred to as having been published in the other papers?—A. Yes, sir.

Q. Which gave you the impression that they were publishing them in the interest and for the pay of the Bell company?—A. I did not say that.

Q. Were those the articles that awakened your suspicions, and from which you drew that inference?—A. Yes, sir; and the editorial utterances as well. They were in the same line.

Q. Connected with those articles?—A. Yes, sir.

Q. I only want to identify them. Did you ever publish in your paper any of the letters or correspondence purporting to come from the Messrs. Rogers?—A. Not that I know of.

Q. Did you ever yourself publish any of what purported to be a history of the Pan-Electric scheme?—A. Not that I know of. I wish to say that the whole subject possessed no interest for me, and it was very voluminous, and I did not read what I felt no interest in.

Q. Did you ever take any pains to ascertain the truth of that story or history as published in the World, the Tribune, the Sun, and the Post, and of what was stated in the correspondence given out by Dr. Rogers or obtained from him?

The WITNESS. Did I ever take any interest in it?

Mr. RANNEY. Yes.

A. I did not.

Q. Did you ever take any interest in it far enough to take pains to ascertain about it?—A. No; not a particle of interest.

Q. Did you ever take enough pains to have the matter investigated?—A. No, sir.

Q. Did you have a reporter in Washington?—A. Yes, sir; several.

Q. Did you instruct him in any way to look into the matter to see if it could be verified?—A. I do not instruct reporters; that is done by the editor.

Q. So far as you know, was the reporter or anybody ever authorized or requested to investigate the facts purported to be disclosed by that history and correspondence published in the other papers?—A. I have made no inquiry about it.

Q. You were not aware, probably, that those papers which published the history and correspondence took extra pains to verify them before they published them, were you?—A. I was not aware of it; no, sir.

Q. You did not seek to ascertain whether they published them because they deemed them to be interesting matters of news to the public? [Witness shakes his head.] The reporter has no mark for the shake of the head. Please say yes or no.—A. I don't know of anything of the kind.

Q. So that you published none of those yourself?—A. If you call me the paper, I did. If you don't call me the paper, I did not. I don't suppose I am either one or the other.

Q. I mean by you the paper you represent, of course.—A. I cannot say I represent it entirely. I represent part of it.

Q. Did the New York Times to your knowledge publish any of them?

The WITNESS. Any of those articles?

Mr. RANNEY. Yes.

A. Not to my knowledge.

Q. Or any of that correspondence?—A. I think not. I do not know. It may have.

Q. Do you not know that your paper preserved a studied solemn silence on the subject?—A. No; I do not know it preserved anything of the kind.

Q. And you had not the curiosity, or your paper did not care enough about it, to ascertain whether it was true or not?—A. I did not make any attempt to investigate it whatever.

Q. Had you any reason to doubt the authenticity of the letters of the various Pan-Electric people coming from Dr. Rogers?—A. I don't know that I ever entertained the question whether I doubted or did not doubt it. I told you the thing possessed no interest for me whatever. I did not read it.

Q. Did you ever read them sufficiently to see whether they were interesting reading?—A. I did not.

Q. Or whether they indicated anything wrong on the part of the parties engaged in the matter?—A. I did not read them.

Q. Did you have any one do it with a view of seeing whether they should go into the paper?—A. Ah, that is another thing. You say "Did you have any one?" It is the business of the special people in a newspaper to go over all such matter, and I try to get men who will do that carefully, honestly, and faithfully.

Q. Was there any one that you know of that ever for your paper examined and scrutinized that history and that correspondence to see whether there was anything in it worth giving to the public?—A. Undoubtedly there was.

Q. Who was it?—A. I cannot tell you. There are perhaps a hundred men who are at work at night on the paper for the coming morrow. If you ask me what men did this work or what men did that work, it is utterly impossible for me to reply.

Q. Certain it is that whoever did it did not find enough of interest in it to have the matter go into the New York Times?—A. No, sir. I trust that to them.

Q. The New York Times has from the beginning discouraged this investigation and taken very little notice of it, has it not?—A. I don't know. I suppose we have given as much space to the matter as we considered it was worth.

Q. That was not my question. We do not ask you to estimate its value.—A. I did not mean to estimate its value, but what we considered as interesting to our people. I suppose they gave all they thought was necessary. I did not mean to make an impertinent remark. You will excuse me.

Q. Has your paper taken any notice of it, or published anything about it, or given any evidence to the public?—A. I read Mr. Dana's evidence this morning in the Times.

Q. Mr. Dana's?—A. Yes, sir; you had him here yesterday.

Q. Is that the first you have read?—A. No; I think I read something in relation to Mr. Pulitzer's evidence.

Q. Anything else?—A. I don't especially remember that we published anything else interesting.

Q. Your interest in the investigation has seemingly been confined to the newspapers?—A. Yes, sir; very naturally.

Q. Have you had a reporter that has reported for your newspaper any of the other

evidence that has been given in this investigation?—A. I suppose we have. I have taken it for granted that they have attended the sessions of this committee.

Q. Are you aware whether they have or not?—A. I have not asked the question.

Q. Is it or not true, so far as you have seen in your paper, and have had the direction of it, that you have spoken slightly of this investigation from the outset?—

A. I doubt whether there has been anything of the sort. I said at first that I thought we had given all the space the thing was worth.

Q. I suppose from your remark you did not deem it worth anything, or likely to disclose anything, or that it had disclosed anything?—A. I beg you to make a distinction between what I think and what the people who provide for the paper think. That is a wide difference.

Q. When I say you, you are to understand me as meaning your paper.—A. I cannot answer questions addressed to me in that sense, because I am not the New York Times.

Q. Have you not taken interest enough in the editorial columns of the Times to see what course the Times has pursued in relation to this investigation?—A. Yes, sir.

Q. Then will you please tell us how much they have noticed it and how much they have ever published about it?—A. I have seen that they favor the examination into the validity of the Bell telephone, and I cannot see how anybody can object to it.

Q. Be kind enough to repeat that.—A. I have seen that they favor an examination and legal investigation of the manner in which the Bell Telephone Company received its patent, and its being a legal instrument.

Q. Who favors it?—A. The paper. I see that by the editorial articles.

Q. In other words, it has been uniformly against the Bell Telephone Company, and in favor of the Pan-Electric people, has it not?—A. Not at all. To support an investigation where there is a doubt about the legality of a thing is not to be against it, as I understand it.

Q. If there has been anything in the columns of the New York Times saying or intimating that there might be anything in this transaction now under investigation damaging to the Pan-Electric people, I would thank you to tell us where to find it. A. I will leave you to find it; there is the paper.

Q. Do you know of anything?—A. I should not be able to answer that question until I had gone through an investigation that I prefer to leave to you to make. You have a file of the Times here in Washington that you can look at.

Q. Are you aware of anything?—A. I cannot reply to that question directly. There is the evidence in itself, and I invite you to look.

Q. Have you not seen so that you are aware whether that is so or not?—A. Do you want me to express an opinion that we have been unfavorable to this patent?

Q. I only want your understanding of the general nature and character of the matter.—A. I reply to that by saying we have favored this examination.

By Mr. MILLARD:

Q. You mean an examination of the patent, not this investigation?—A. Of the patent and its legality.

Mr. MILLARD. He is asking about this investigation.

By Mr. RANNEY:

Q. You have favored the Government suit?—A. We have favored the Government suit.

Q. Has not the Times dealt in some very severe strictures and criticisms on the Bell telephone patent?—A. Very possibly.

Q. Have you dealt in anything else in that paper; have you ever put anything into that paper that you know of that either intimates or implies that there is or might be found to be anything damaging to the Pan-Electric people, or to the officers of the Government who had any connection with it?—A. I will have to invite you to make that examination from the files of the paper. I told you that I have been away from home a portion of the time. I have not seen the paper at all times.

Q. They say doctors do not take their own medicines. Is it true that editors do not read their own papers?—A. To a certain extent I think it is true.

Q. Are you aware of anything of that kind in the Times from the beginning down to now?—A. If there has been anything favorable—

Q. Are you aware that there has been anything said or intimated unfavorable to the people engaged in the Pan-Electric scheme, or the officers of the Government whose names have been connected with the matter?—A. I am quite well aware that we published a letter from General Johnston in reply to an invitation to take some of the Pan-Electric stock, in which he said it was a swindle, and he should be considered a swindler if he did it. What do you think of that?

Q. Let me understand that.—A. He said he declined.

Q. You published a letter from General Johnston?—A. From General Johnston.

Q. It was one of the letters that you found in the columns of the other papers, was it not?—A. That might be considered as unfavorable, might it not?

Q. You published that?—A. We published that.

Q. Did you publish any other letters?—A. I believe we did; yes.

Q. What ones?—A. I couldn't name them. I think there were several.

Q. Have you ever published in your paper that you know of or have ever seen anything indicating that there was or that there might possibly be discovered to be anything unfavorable to the Pan-Electric people or to the officers of the Government connected with the Government suit?—A. I think when we published statements that it is a swindle and all that sort of thing, it might be considered unfavorable.

Q. Have you published an article saying the Pan-Electric company was a swindle?—A. We published this letter of General Johnston's.

Q. Was that all?

The WITNESS. Was that all!

Mr. RANNEY. That was not a comment of yours.

The WITNESS. Not ours.

Q. Did you understand that letter to say that the Pan-Electric company was a swindle, or that they had not been swindlers in the management of it?—A. I understood General Johnston's language in the letter.

Q. To be what; that the Pan-Electric scheme was a swindle?—A. He so stated; that he would consider himself a swindler if he accepted any of the stock without payment.

Q. He did?—A. You know what it is as well as I do.

Q. Is that your recollection of it?—A. I think it is.

Q. Do you recollect that he refused to accept any stock in it?—A. The letter will tell. You say you have it. Suppose you have it read.

Q. If that was your idea of it—A. If you are going to test my memory in that way, what is the use, when you have the document here? I shall insist on reading the document.

Q. I am only trying to ascertain whether you had in mind the same letter I had.—A. Oh, very well.

Q. Where did you get the letter that was published?—A. I do not know. It came in the regular course of other news.

Q. From where?—A. I do not know.

Q. Was it one you took out of the other newspapers?—A. From your questions you seem to suppose one man edits a whole newspaper and knows everything that goes into it from the advertisements to the editorials. If you will consult your own good judgment, you will see it is an impossibility, and yet you ask me to do that very thing.

Q. I am only endeavoring to ascertain how far you do know what you publish?—A. I suppose you will get my knowledge in a very short time. It is not extensive.

Q. You know of nothing else published in the line of my previous inquiry?—A. No; I do not. I will give you everything I have got with the greatest pleasure and without any reservation, or without any attempt to damage anybody else.

Q. Certainly. I do not question it at all. All I want is to understand you. All you know that has ever been published in the damaging line is a letter of Gen. Johnston's, which, according to your recollection, held that anybody that took a gift of the Pan-Electric stock was a swindler?—A. I said in addition I thought there were a number of other statements.

Q. Had your paper, to your personal knowledge, ever had offered to it any articles for publication on behalf of the Bell Telephone Company except the article published on January 1st?—A. Not to my knowledge; I did not know that was offered until I saw it in print.

Q. Do you know who solicited and got that?—A. An advertising agent.

Q. Have you any means of determining what was paid to your paper for the other advertisements relating to other industries contained in the same paper?—A. They were paid for at exactly the same rate per line.

Q. You have a fixed rate, then?—A. Yes, sir.

Q. And the article furnished by the Bell Telephone Company was paid for at that fixed rate?—A. At the same rate the other ninety-five articles were paid for, covering pianofortes, sewing-machines, and every conceivable industry.

Q. Have you ever personally written any article for the Times on this subject?—A. No, sir.

Q. Who attends to the editorial work?—A. There are a great many people, as I said before; a great many.

Q. Did I ask you how much you charged Mr. Van Benthuisen?—A. The rate on special notices I think is fifty cents a line.

Q. I see it is minuted in pencil something like \$60?—A. Yes, sir.

Mr. RANNEY. I desire that statement to go into the record. It is a statement that affects Mr. Van Benthuisen's testimony.

Mr. EDEN. As we are not investigating Mr. Van Benthuisen, I don't think the paper is material.

The WITNESS. That is a voucher, I wish to say, of our having performed that work, and if we should sue him it would be valuable.

Mr. RANNEY. It is an article signed personally by Mr. Van Benthuisen.

Mr. EDEN. We are not investigating him.

Mr. RANNEY. He has been a witness in the case and his credibility is involved.

Mr. EDEN. You did not ask him about it. You ought to ask him about it, if you want to put it in and see what he has to say about it, according to all the rules of evidence.

The WITNESS. I wish to say that that is a voucher for his indebtedness to us.

Mr. RANNEY. It is a statement of his under his own hand, and is competent evidence, under the rule, to affect his testimony.

Mr. MILLARD. There is another ground of competency—the combination between these two companies.

Mr. EDEN. It has nothing to do with this investigation. It is simply a private matter between him and the editor of the Times.

Mr. RANNEY. Suppose Mr. Van Benthuisen had been a witness in court, and had been examined on one side or the other and had sworn to certain things, and you should then find a statement of his in his own handwriting and over his own signature that contradicted him?

The CHAIRMAN. You would be required to call his attention to it if you wanted to contradict him.

Mr. EDEN. You must call his attention to it and let him give his version of it before you can contradict him.

Mr. RANNEY. That is not a rule of evidence in all cases. In some States it is and in others it is not. That only applies where a man has stated a thing verbally. I say it should go in, and I want a vote of the committee upon it.

The WITNESS. I have no objection to your retaining it.

Mr. EDEN. I don't think it is of sufficient importance to have a vote on it.

Mr. RANNEY. I do not care to discuss it. I think it is competent evidence, and I ask that it go into the record. If it is objected to, I want a vote of the committee.

Mr. EDEN. It is wholly immaterial.

Mr. HANBACK. I suppose that declaration might run against the thousand names of stockholders in the Bell Telephone Company.

Mr. OATES. I think we ought to let it go in as the shortest way. It may possibly be worth something.

The CHAIRMAN. Is there any objection.

Mr. EDEN. I do not insist on my objection. It is an immaterial matter.

Mr. RANNEY. There is something very material there.

By Mr. OATES:

Q. I show you the letter from Gen. Johnston to Dr. J. W. Rogers, dated December 23, 1883. Please state if that is the letter to which you have referred.—A. That is it.

Q. Since looking at that letter, do you desire to make any further statement?—A. No. I only remembered it in general terms. It is worded a little different from what I expected to find it as relating to Mr. Harris. That is the only difference.

Q. Do you find instead of his saying that a person who would accept without paying for it some of this stock would be a swindler, that he says if they put their stock on the market and it did not prove to be valuable they would be regarded as swindlers?—A. Yes, sir.

Q. You compared the attack (I suppose I may so term it) of several newspapers contemporaneously upon the Pan-Electric company to the advance of a Chinese army?—A. Yes, sir.

Q. And you say that the similarity of the matter in them and the simultaneousness of the attack, together with other matters coming to your attention, impressed you with the idea that there was some improper motive behind it that impelled it. Was that what you intended to say?—A. I did not say that. I said it probably impressed the person who wrote that paragraph—who it was I don't know—and that was probably the cause of his writing it in that shape. I argued that the reason was as I supposed.

Q. There were several paragraphs in the Times. The general course of the paper was indicated, I believe, only by one article, read by the chairman?—A. Yes, sir.

Q. Was that course in those editorials brought forth in the Times before or after the date at which you were informed Mr. Dickerson visited the office and proposed some sort of business?—A. I think it was after that.

Q. Was that visit a circumstance connected with the matter?—A. Yes, sir; and the fact that the matter, as I am told, that he offered to us, and we declined, appeared in the other papers.

Q. Did the receipt of the letter by you from the father of the president of the Bell company have anything to do, also, with bringing about that conclusion?—A. No, sir; not at all.

By Mr. RANNEY:

Q. The chairman has handed me an article purporting to come from the Times of February 3, 1886, headed "The telephone conspiracy." It reads:

"The impropriety of Attorney-General Garland's and Senator Harris's course in accepting gifts of telephone stock is in no wise lessened by the fact that the newspaper outcry about the Pan-Electric scandal is promoted and for the most part paid for by the Bell Telephone Company. * * * But it will be well for the people of the United States to understand the precise limits of the 'Pan-Electric scandal,' and to be on their guard against the efforts of the Bell Telephone Company and its newspaper organs to use this miserable Pan-Electric business to undo what has been done by the Government in the proceedings to test the validity of its patents."

Q. Do you know anything about that?—A. No, sir. What is the date of it?

Q. February 3, 1886.—A. I was away from home at that time.

Q. That is intimating a little more than a suspicion. That is making a direct charge; is it not?—A. Well—

Q. Do you know who wrote that?—A. I do not.

Q. Under date of February 4 is the following:

"We trust that the Evening Post will promptly express its pleasure at finding that here is 'something in the state of the law, or in the practice of the courts, which has made Mr. Lamar's action imperative;' and we are sure that the Sun, if it really feels for Mr. Jay Gould the deep respect it professes, will cease to impugn the motives of the Secretary of the Interior in prescribing a remedy to which that gifted"—

The remainder of the sentence is omitted. Do you know anything about that?—A. No, sir.

Q. I read on further:

"We will cite but a single precedent for the course taken by Secretary Lamar, but it is a case so closely parallel to the Bell telephone case that the force of the analogy will be at once admitted, and the Sun at least will bow in unquestioning assent to its authority, for it is a case in which Mr. Jay Gould, through the Western Union Telegraph Company, besought the Government of the United States to intervene for his protection against a greedy fellow who was fattening upon the proceeds of a fraudulently-obtained patent."

Do you know anything about that?—A. No, sir; I do not.

Q. Again, under date of February 6:

"The adherents and advocates of the Bell telephone monopoly are making a great ado about what may be done by means of the private suits now pending, which involve to a greater or less degree the right to use the telephone. Full justice, they say, can be done to all concerned in these private suits, and there is no use of a suit being brought by the Attorney-General in the name of the people. The attitude of these Bell agents is precisely the same as was that of the Gould-Field-Sage clique in the elevated railway litigation in this city and State."

Do you know anything about that?

The WITNESS. Is that about the same period of time?

Mr. RANNEY. Yes.

A. No, sir.

Q. Another part of it:

"At this trial material witnesses and papers"—

The CHAIRMAN. If he was not there, he cannot state.

Mr. RANNEY. I will put this general question to you, with all respect:

Q. Do not those articles fairly indicate the spirit and tone of the articles which have appeared in the New York Times?—A. I do not know that I am called upon to judge of the articles. Perhaps you might say I was a partial judge. I would prefer to let somebody else pass upon it.

Q. I ask without regard to the truthfulness or correctness of them, but simply to show the general tone.—A. I do not think you should ask me to pass judgment on them, because you might say I was unduly prejudiced.

Q. I do not ask whether in your judgment they were true or not, but whether they do not indicate fairly the tone and spirit of your comments.—A. I do not think I am called upon to answer.

By Mr. OATES:

Q. Can you name who it was connected with the Times to whom Mr. Dickerson at the time of his visit made any proposition or communication?—A. I did not inquire. He called at the editorial room, I believe, and saw several of the editors. There were a dozen of them there.

Q. Did you learn that from one of the editors?—A. I learned of it after I came back from my vacation.

Q. From one of the editors?—A. That this matter had been brought there. I don't remember who told me. They told me it was brought there and refused.

Q. Can you name the person?—A. I cannot name the person.

By the CHAIRMAN:

Q. Can you name any person in the office to whom it would be likely to be presented?—A. There are certain nights, Mr. Chairman, when one man is on and in charge, and on other nights another man is in charge. How could I? It is impossible, unless you take a scoop-net and drag them all down here.

By Mr. MILLARD:

Q. Who is responsible for what goes in the paper in your absence?—A. Well, the responsibility is very much divided. It is not any one man. The news columns are in charge of one man, and the editorial page in charge of one man, perhaps, to-night, and another man, perhaps, to-morrow night.

Q. Can you not cover the entire ground by mentioning two or three persons?—A. I don't think you have a right to go into the interior of my office.

Q. The question is suggested by the articles read by Mr. Ranney that seem to have gone into your paper in your absence.—A. They go in every time I am absent. Something or other always gets in. We are like the woman at church; we are talking all the while.

Q. You know we are required to investigate the newspapers, and I want to ascertain the name of some responsible man.—A. When you assume to get hold of one man that knows everything about the newspaper and all that goes in, you are barking up a very high tree. It is not a possibility; you can see that as well as I can. I could not answer, nor could any other man.

Q. Would you rather not give us the names of the men?—A. I do not think you have a right to go into the interior of the office.

Mr. MILLARD. I think under the resolution we are directed to do so, but I will not insist upon the question.

The WITNESS. I don't think you have a right to do it. That is private business. I have told you everything I know in regard to the matter.

Q. Can you give me the name of any party who had charge of that particular part of the paper at the time these articles went in?—A. I do not propose to give you any of those names, and I could not do it definitely if I wanted to.

Q. Who of the Pan-Electric directors are you personally acquainted with?—A. I do not know that I know a soul.

Q. Have you not had an interview with Casey Young this morning?—A. Yes, sir. I did not know him from Adam. I had an interview with him. He came and said a few words to me.

Q. Before you were sworn?—A. Yes. Do you want to know what he said?

Mr. MILLARD. No.

The CHAIRMAN. I think the witness had better state what he said.

Mr. EDEN. He had better state.

The WITNESS. He suggested that he was supposed to be a continuous witness during the entire progress of this matter.

Mr. MILLARD. Speak a little louder.

The WITNESS. He wanted to furnish me information, and I didn't propose to take information second hand from anybody.

Q. He proposed to furnish you information?—A. Yes, sir.

Q. Do I understand you to say he told you that?—A. Yes, sir.

Q. Did he call you out of the room for the purpose of telling you that?—A. I don't know what his purpose was. That was what he said.

Q. Did he call you to one side?—A. Yes.

Q. And then make that statement to you?—A. Yes.

Q. What else did he say?—A. That is all there was about it. I told him I had nothing to do with that sort of thing. I cut it very short.

Q. Did he tell you who he was?—A. No. He was pointed out to me.

Q. Were you here last Thursday?—A. No, sir; this is my first appearance.

Q. I will ask you substantially the question that was asked you by the chairman, and I will call your attention to the particular articles that he read to you. I will ask you whether it is not a fact that the Times, as a newspaper, has been hostile or opposed to this investigation?—A. I submit that the Times is able to speak for itself. You have it, and you can form your own judgment. That would be fairer probably than to ask for mine, for I might not be considered an impartial witness in that case. Is not that common sense?

Mr. MILLARD. I had an idea that you were about all there was of the New York Times. I gave you credit for that.

The WITNESS. It is a great mistake.

Q. What position has the Times taken with reference to Gen. Garland owning a million and a half of Pan-Electric stock at the time of the commencement of the suit?—A. It has condemned it throughout.

Q. Upon what grounds?—A. Those articles were written by other people; I cannot tell you. I suppose they thought they had good grounds.

Q. Do you think there is any impropriety in his holding stock and this suit being commenced by direction of his Department?—A. I am a layman. I am not a lawyer; and I do not know that I am prepared to state.

Mr. EDEN. I think it is improper to ask his opinion about the conduct of Gen. Garland.

Mr. MILLARD. You were not here yesterday?

Mr. RANNEY. What do you think of the line of inquiry yesterday?

Mr. MILLARD. I ask because the question has been asked of every other New York editor. I want to be entirely courteous.

The WITNESS. Certainly I will answer every question you ask me that I think you have a right to ask. Indeed, I have answered some questions that I think you hadn't any right to ask.

Q. Do you remember the fact that this exposure was made substantially as now proved, although not to such an extent, as early as last September, and that it appeared in most of the New York papers?—A. I do not remember it.

Q. Were you not in New York last September?—A. I believe I was; yes, sir; but, as I told you, this subject possessed very little attraction to me.

Q. Do you not remember that as early as September last these facts, this scandal, and this Pan-Electric scheme appeared in nearly all the leading journals of the country, particularly the leading papers in New York City, with the exception of your own, as early as September?—A. I don't remember; it is a subject I took no interest in whatever, as I told you.

Q. That leads to another question. You say you have taken no interest in this matter. Don't you think this is a matter that the people should know about and that the facts should go to the people if the facts are as substantially conceded?

Mr. OATES. I object.

The CHAIRMAN. Don't answer that question for the present.

Mr. MILLARD. Don't you think it is a legitimate matter for the people?—A. I do not think it is right to put me in judgment in that way.

Q. Is it not a fact that while this matter did appear in the other papers it did not appear in the New York Times?—A. I do not know that is a fact; if you state it as a fact, I would ask if you had examined the papers.

Mr. MILLARD. I do not know.

The WITNESS. I do not, and so we are in the same category.

By Mr. HANBACK:

Q. You say the matter was presented to some one of the employes of the Times by Mr. Dickerson and refused?—A. Yes, sir.

Q. What matter was that?—A. As I understood it, it was matter that appeared afterwards in the other papers.

Mr. RANNEY. He cannot testify to that, because he only knows it by hearsay.

The WITNESS. You refused to let me—

Mr. RANNEY. Unless you tell who the man was, I don't think you should state your information.

Mr. HANBACK. I understood him to say he made up his judgment from that.

Mr. RANNEY. Oh, no.

Mr. OATES. That was one of the circumstances.

The WITNESS. I did not say I made up my judgment from that.

Mr. RANNEY. He has no personal knowledge, as I understand, about Mr. Dickerson?

The WITNESS. All the things together caused a suspicion.

Q. I understood you to say you read the article?—A. I did not, and if I had been there I should not.

Q. It appeared simultaneously, you say, in the other papers?—A. Yes, sir; I saw the headings and saw they had great similarity, but I was not condemned to read them, and therefore I did not.

Q. Do you not know of your own knowledge, then, that they were similar?—A. I saw the general tone of them by reading a few paragraphs. I did not read them all.

By Mr. MILLARD:

Q. A single question further. In the Times, under date of February 10, is the following:

"The public may rest assured that in spite of the outcry kept up by certain newspapers in the pay of the Bell Telephone Company, the Government suit will be brought to trial."

Do you know whether the Times or any one connected with the Times had any information upon that subject?—A. No; I do not. That appeared in the Times when I was absent. I probably would not have known if I had been at home. If you are going to investigate quarrels between newspapers, you will have a pretty busy time.

By Mr. RANNEY:

Q. Before you go I want to know if you have any lawyer connected with the office of the Times?—A. We have two or three lawyers that try libel suits for us, but they are not in the office.

Q. They are numerous, I suppose.—A. Yes, sir.

Q. Are Messrs. Briesen & Steele among them?—A. No, sir.

Q. What lawyer furnished the legal argument that was published in the Times as to the history of the litigations of the Bell Telephone Company?—A. I do not know.

Q. It must have been some one from the outside.—A. Yes. You may have discovered one thing: That I have not universal knowledge.

Mr. RANNEY. Some witnesses are not so willing as you are to acknowledge their limitations.

The WITNESS. I am quite willing.

Q. I would like to know, if you can tell us, who the lawyer was who furnished the argument on the legal aspect of this case?—A. I do not know, sir.

Q. You have no lawyer employed regularly?—A. Yes, we have; but they don't do editorial work. We employ them in the courts.

Q. Are those libel lawyers the ones that wrote these articles?—A. I don't know anything about it; it might be so and it might not. Speaking of libel suits, I would like to tell you that in thirty-five years we have never had an anti-judgment but once, and that we reversed.

Mr. RANNEY. The New York courts are very uncertain?

The WITNESS. Yes.

Mr. RANNEY. In libel suits at least.

The witness then left the stand.

Mr. RANNEY. I see you have printed a list of the stockholders in the Bell company.

The CHAIRMAN. Yes; at the organization of the American Bell company, and at the present time; the two lists submitted by Mr. Driver.

Mr. RANNEY. You put them in without Mr. Driver's attention being called to any particular names.

The CHAIRMAN. Mr. Driver's attention was called to a number of names.

Mr. RANNEY. My attention was called at the time to the name of Mary Ella Ranney, who has one share. You ought to have asked him about that.

The CHAIRMAN. That is a small matter.

Mr. RANNEY. I asked him and he said it was somebody that lived in Framingham. It ought to appear that it was a lady who lived at Framingham; no relation or acquaintance of mine or my family.

The CHAIRMAN. I have a letter from Mr. Driver, the treasurer of the Bell company, furnishing certain information which he was requested to give when he was on the stand. I will submit it as a part of his testimony.

Mr. RANNEY. I don't see any objection to putting it in.

The letter and inclosure is as follows:

Hon. C. E. BOYLE,

*Chairman of a committee of the House of Representatives
appointed to investigate certain telephone subjects,
House of Representatives, Washington, D. C.:*

DEAR SIR: In the examination of Mr. Forbes, president of this company, on the 27th instant, you asked that a statement of the capital of licensed companies should be forwarded to you. I have the honor to inclose herewith the statement of the capital of companies in the United States licensed to do a telephone business under the patents owned or controlled by this company.

Yours, very truly,

WM. R. DRIVER,
Treasurer.

"Companies incorporated under the laws of various States, doing a telephone business under license from the American Bell Telephone Company, and in which said American Bell Telephone Company is interested as a stockholder, have issued stock representing capital of \$42,502,320.

"Companies incorporated under the laws of various States, doing a telephone business under license from the American Bell Telephone Company, but in which said American Bell Telephone Company is not interested as a stockholder, have issued stock representing capital of \$11,906,390.

"In addition to licenses granted to companies, the American Bell Telephone Company has licensed individuals in many cases to do a telephone business under its patent, but said company has no interest in the business done by them, except as such licensor, and is not informed as to the amount of capital employed by them in this business.

"Companies incorporated under the laws of various States, and licensed by the American Bell Telephone Company to manufacture instruments and apparatus under its patents, \$1,150,000.

"WM. R. DRIVER,
"Treasurer.

"BOSTON, MASS., April 30, 1886."

S. N. CLARK then came before the committee and was duly sworn.

By the CHAIRMAN:

Question. Are you the representative of the New York Tribune in Washington?—
Answer. I am one of its representatives, yes, sir.

Q. Were you last summer and before that time?—A. Yes, sir.

Q. Are you the correspondent of the Tribune who has furnished the matter relating to the Pan-Electric company and the other matters growing out of it to that paper?—A. I have written a great deal about it.

Q. Do you recall the date of the first publication in the Tribune upon the subject?—A. I do not, exactly; I tried this morning to ascertain. The first dispatch I wrote was some two years ago.

Q. Have you that dispatch?—A. I have not. I tried this morning to find it. I looked over the files of the paper, but did not find it. It was at the time there was some trouble about the appointment of an electrician to the House.

Q. The time it was attempted to have J. Harris Rogers appointed?—A. I didn't know so much about who they wanted appointed, but I knew who they wanted to dismiss.

Q. You say you have not been able to find that?—A. I looked over the files for a couple of hours this morning, but I didn't strike it. It was just a short dispatch stating something about the Pan-Electric company, and was not material, I suppose, to this investigation. The only material fact in it was that the application or resolution had been referred to the Committee on Public Buildings and Grounds, of which Casey Young was a member.

Q. Do you recall any subsequent publications?—A. Oh, yes, sir.

Q. The first I have here is that of the 24th of September last.—A. I think that was the very next dispatch that I wrote on that subject. I brought together some material two years ago, which I did not have occasion to use.

Q. Did you write the dispatch of the 24th of September?—A. I did.

Q. Where did you get the information given in that dispatch?—A. I derived that information from several sources. I got some of it from an advertisement which had been standing in one of the Washington newspapers for some time, and which you will find in the scrap-book you have there. Some of it I had in hand two years, I think.

Q. Did you get any of it from a Mr. E. N. Hill?—A. Not at that time. I got none of the information for that original publication from Mr. Hill.

Q. Were you present when General Sypher was examined before this committee?—
I was not.

Q. I will say to you that General Sypher spoke of an article having been prepared by Hill or by Hill and himself jointly—I don't remember just now what he says about it—which was published in the Tribune, and my recollection is that he identified the article of the 24th of September as the one which had been so prepared?—A. That is very probable; he might have thought it was, because the facts were the same. Nevertheless Mr. Sypher was mistaken.

Q. Did not Mr. Hill furnish an article?—A. Mr. Hill furnished several articles, or brought in several pieces of manuscript, none of which I ever used. I think, Mr. Chairman, that I have in my pocket the first thing that Hill brought me. I keep most of those things. Here is a manuscript written in pencil, and I know it to be in Mr. Hill's handwriting, about this Pan-Electric matter (producing a manuscript).

Q. What is the date of that?—A. There is no date on it, and I have not indorsed it, as I usually do matters of that sort.

Q. Did you have that before writing the article of the 24th of September?—A. No, sir; it came in, I think, within a day or two afterwards. Subsequently he brought me an article written with a type-writer, which I have not been able to lay my hands on, and which I recognized when it was subsequently published.

Q. Did you make Mr. Hill's article, which you have produced here, the basis of an article for the Tribune?—A. No, sir; I did not. Mr. Hill gave me some information which I did use, as, for example, he told me how much stock each one of these gentlemen held.

Q. Did you know that fact before?—A. I had a pretty good reason to know. I ought to say right here that I got some of my information about that company and its stockholders from a couple of patent attorneys in this city, but as they have relations with the Patent Office I would not like to disclose their names.

Q. We should like to have you give us their names if they furnished information that went into your paper. I would like to have their names.—A. Well, as they have relations with the Patent Office, and it might prejudice them in their business, and as the information was given to me in confidence, I do not think that I ought to give their names.

Q. Do you know whether they were in the employ of the Bell company?—A. I know decidedly that they were not.

Q. Or in the employ of any other telephone company?—A. I do not think they were attorneys for any telephone company at all. Their business is in an entirely different line.

Q. Can you state what information you obtained from them?—A. It was some time ago, but this is the information I obtained: That Mr. Garland's share in the Pan-Electric Telephone Company was not less than a million dollars. I have not read my dispatch of the 24th of September since it was written, I think. I do not know whether I stated any specific amount in that dispatch, but I built it up from the information I obtained from these attorneys, and I think one of the gentlemen I speak of gave me the amounts that he thought one or two other gentlemen held.

Q. Was not the information which Mr. Hill gave you as to the amount of stock?—A. Subsequently he gave me definite information about the amount held by each stockholder, and subsequently I obtained the articles of incorporation of the company, which showed how much each one received.

Q. I see that you state in this article that Mr. Garland subscribed for not less than \$500,000?—A. Yes, sir; and there is where my caution came in. It was stated to me at a million. I want to say, Mr. Chairman, if it is at all important about Mr. Hill, that within a day or two after the first publication he came into my office and talked about it.

Q. Will you let us have the article that he furnished you?—A. This article; certainly. That I presume was furnished to me within three or four days from the time of the publication of the article of September 24. The type-written article was furnished at a later date, and I have not that.

Q. Did you use the information given you by Mr. Hill?—A. I have not looked at that manuscript; it is possible I may have used some of the facts stated in that. I found that manuscript in my desk this morning, and thought you might like to look at it. I have not looked at it for months. I obtained some valuable information from Mr. Hill.

Q. Was this the first article that you received from Mr. Hill?—A. Yes, sir; I think it was the first thing submitted in writing. I think I had some conversation with him a day or two after the first article was published.

Q. You say this was furnished within a day or two after the first article was published?—A. I will not be positive about the time; I know the sequence of it.

Q. Had you any conversation with him before the first article appeared?—A. Not about this matter. Mr. Hill brought matter before that containing an attack on Mr. Garland, but it was of a different nature entirely, and had no relation to that.

Q. An attack on Mr. Garland?—A. It might be so construed. He furnished me several things of that description.

Q. Did you use them?—A. I used one of them, but the paper did not print it. I used it to the extent of sending it to the paper.

Q. You say Mr. Hill did not furnish the material for this article of the 24th of September. From whom did you learn that Mr. Garland had subscribed for \$500,000 worth of stock?—A. I did not learn that specifically from any one. As I said before, I learned several things from a couple of patent attorneys here. I knew two years ago that Mr. Garland was interested in this company. I knew it at the time that an effort was being made, as I supposed, to dismiss the electrician of the House. I learned that Mr. Garland's share was not less than a million dollars, or something of that sort—a million dollars was mentioned by these attorneys—and I think Senator Harris's name was mentioned by them, too. If you will read that dispatch I can start you up on it.

Q. I will give a part. I am not going to read all, but only quote from it as I go along. You state here that the Pan-Electric company "has been engaged in protracted and unsuccessful legal contests with the Bell company."—A. Exactly.

Q. From whom did you learn that?—A. I learned that from the newspapers.

Q. What contests were they?—A. There was the contest in Baltimore; that was the first thing that drew my attention really to this matter.

Q. Did you learn that fact or get any information in regard to it from the two patent attorneys?—A. No, sir; I got that from the Baltimore newspapers.

Q. You state in this article that "an extraordinary course has recently been adopted, under the authority of the Attorney-General himself, in his official capacity, to break down the Bell company."—A. Exactly.

Q. From whom did you learn that?—A. From the Baltimore Sun, or one of the Baltimore newspapers which contained the proceedings before Judge Bond, in Baltimore, on the 15th of September. The district attorney was represented as appear-

ing, and as appearing by direction of the Attorney-General. That, I may say, was what attracted my attention to this thing last September.

Q. You also say that the Bell company "is now suing the Pan-Electric Telephone Company in some of the Southern courts."—A. Exactly.

Q. Where was that?—A. In Tennessee, as I understood.

Q. How did you get that information?—A. I think that came in the same way, from the Baltimore newspapers, or else from some inquiries I made as soon as I saw this thing in the Baltimore Sun.

Q. If it was the result of inquiries, from whom did you make the inquiries?—A. I think I got that from the patent lawyers here. I certainly went to what I considered to be every available source of information.

Q. You also say this: "Just before the time arrives when the injunction is to be moved for against the Pan-Electric company and the other companies that are its licensees, the Government suit is begun, in which all the old claims against the Bell patent that have been overruled in the litigated cases are again set up on the part of the United States, and a United States district attorney actually appears in court when the injunction motion against the Pan company comes on for a hearing, and urges the court that it ought not to issue the injunction while the Government suit is pending." Where did you get that?—A. The fact of the business is, telephone litigation to every intelligent reader of the newspapers has been one of the foremost subjects for the past few years.

Q. Where did you get the particular facts stated here in regard to the course pursued in attempting to bring the Government suit in Memphis, and the attempt to use it for the purpose of forestalling the injunction which was about to be issued in Baltimore?—A. I think that came from what I learned in the Baltimore newspapers.

Q. Didn't you get that from some patent lawyer?—A. I do not think I did get it from any patent lawyer. It might have come out in some of the inquiries that I made. I will say that I went to two or three of the best patent attorneys in Washington, men of long practice and high standing.

Q. You state that the Government suit was brought directly under the authority of the Attorney-General himself. Where did you get that information?—A. That is the inference I drew from what took place in Baltimore, where the district attorney, according to the newspapers, appeared, to ask for a stay of proceedings because this Government suit had been brought.

Q. Did you not know at that time that the suit had been actually ordered by the Solicitor-General?—A. I did not. I did not know when that suit was ordered. I knew that it had been ordered and that it had been begun on a certain date, I think, but I did not know by whom, nor by whom it was actually ordered.

Q. I will call your attention to this: "Although no mention is made of the fact that he [that is, the Attorney-General] is a very heavy stockholder in the chief company sought to be enjoined, it is openly stated that he has authorized the Government suit, and that fact is itself used as an additional argument to persuade the court not to proceed against the defendant companies." Is that correct?—A. That is correct.

Q. Is it a fact that the Attorney-General himself authorized the Government suit, and that that fact was used as an argument to persuade the court not to proceed against the defendant companies?—A. According to the Baltimore newspapers, it was.

Q. Have you that Baltimore newspaper?—A. I have not. I think if you will look at the Baltimore Sun of about that date you will find everything there, and it may have been in the Baltimore American, too. But I am in the habit of reading the Sun more than the American, and so I refer to that specifically.

Q. You seem to have been able, about that time, to give nearly all the names of parties who were interested.—A. I knew that two years ago.

Q. I mean last September.—A. Yes, sir; and I knew that two years ago.

Q. Did you know the names of all of them?—A. I think nearly all.

Q. Then you did not obtain that information from Mr. Hill?—A. Why, the information was contained in a Sunday newspaper published here, which I read every Sunday. The advertisement, if you will turn to the proper page, will show you the names of the stockholders and the officers of the company. It also contains Mr. Garland's opinion. There is set out in that advertisement the names of the officers and directors of three companies.

Q. You were able to state at that time that soon after the incorporation of the Pan-Electric company, it "began to sell territory in which the exclusive right to use its telephones was given and the licensees or purchasing companies were guaranteed against loss by legal interference." Where did you get that information?—A. I don't recollect exactly where I got that information. I got it from somebody who was interested in this Washington Telephone Company, or who had been interested in it; I cannot tell you.

Q. You were able to state the terms almost of the contract?

Mr. RANNEY. What contract?

The CHAIRMAN. The contract in regard to the sale of territory.

The WITNESS. I think I said in there that they sold territory in four or five different States.

The CHAIRMAN. I was going on to state that. You give here the substance of the contract. Can you state where you got that?—A. I think I obtained it from some one who had been an investor in this Washington Telephone Company, but I could not tell you.

Q. You say, "One was organized in Saint Louis, one in Memphis, one in New Orleans, one in Dallas, Tex., all of which paid considerable sums in cash besides giving the parent company a percentage of stock and a royalty for all telephones used." Those are more facts out of those several contracts. Can you tell where you got that?—A. I cannot state where I got any particular information on that subject. It is my impression that I had seen in the Memphis Avalanche an advertisement which threw some light on the subject. [To Col. Casey Young.] Didn't the advertisement in the Avalanche contain some information in regard to that?

Colonel YOUNG. No, I think not.

The WITNESS. I cannot state more definitely.

Q. You proceed to state that "Two companies were also formed in Baltimore and Washington, with Bradley T. Johnson at their head to control the States of Maryland and Virginia and the District of Columbia." Where did you get that?—A. That was my information. I say I do not recollect now from whom I received it. It was from some business man in Washington.

Q. It seems, as it has turned out now, that you had it pretty accurately.—A. Well, I try to get things pretty accurately, with a possibility of libel suits ahead.

Q. You say, "A company was formed in Pennsylvania, in the establishment of which Congressman Klotz was prominent."—A. Exactly, and you will find from that advertisement—I will find it for you.

Q. What paper was that advertisement in, the Republic?—A. Yes, sir; the Sunday Republic, a paper published in this city. I had been in the habit of seeing it, I suppose, every Sunday for a year or so. The advertisement in the Avalanche, I think, was somewhat more in detail. I think that threw some light on those local companies in Texas.

Q. I see that you not only knew all about the Pan-Electric company, but you also understood about the National Improved Telephone Company. You say that it was formed in New Orleans upon some of Rogers's patents. Where did you get that?—A. I think I got that from some members of the Washington Telephone Company. When I speak of the Washington Telephone Company, I may confound it with a local telephone company here called the Long Telephone Company. It was from some members of one or the other companies.

Q. Here is something that you did not get from the advertisement: "The proceeding of the Bell company against that company—(that is the National Improved Telephone Company)—for an injunction was brought to a hearing before Judge McKennon, at Pittsburgh. Ex-Congressman Casey Young, who is an able lawyer, and Colonel George Gantt, of Memphis, after a meeting of the directors of the Pan Telephone Company, went by their authority to Pittsburgh to watch the progress of that case and to aid in the fight against the Bell company." Where did you get that?—A. That is all inference only. I knew that they had gone there, because I saw it in the Pittsburgh papers.

Q. It was pretty good guessing.—A. If you had been in the newspaper business while, you would find out how to guess pretty well.

Q. What did you know about George Gantt?—A. Well, sir, I will tell you what I knew.

Q. I don't want you to go into his history, but how you happened to know about him, and that he had gone there by direction of the Pan-Electric company.—A. This is not strictly testimony; but it was very hot weather here last summer, and I was one of the Can't-get-away Club. There were several eminent gentlemen stopping at the Ebbitt House, right near my office, and I didn't suppose they were here for fun, and I saw Colonel Gantt's name on the register and knew that he was there with Casey Young, whom I have known for a number of years. That is all I knew about it, except that I might have asked one of the bell-boys or one of the clerks at the hotel what they were here for, and was told they were here on some telephone business; but that is an indistinct recollection, and I would not testify to it. In some way or other I obtained it.

Q. You say there were several men here. Was Colonel Gantt one of them?—A. Yes, sir; Colonel Gantt was one of them.

Q. Who else?—A. Mr. Huntington was here.

Q. And Mr. Van Benthuyzen?—A. That I do not recall.

Q. You say Mr. Huntington was here?—A. Yes, sir; I thought Mr. Huntington was the National Improved Telephone man; that was my impression at the time; I confounded him at that time with the more celebrated C. P. Huntington.

Q. How did the fact of their being here give you any knowledge as to Col. Young and Col. Gantt having been in Pittsburgh and having gone there by certain authority?—A. I said that that was purely an inference; I knew by the Pittsburgh papers that Colonel Young was in Pittsburgh; I do not know to this day that Col. Gantt went to Pittsburgh.

Q. I think he did not, if I recollect right. You stated these matters as facts simply from seeing Col. Gantt and Col. Young and perhaps others here at the Ebbitt House; they were not here until the last of July or the first of August some time.—A. I say it was extremely not weather when they were here.

Q. And after the Pittsburgh suit?—A. Yes, sir; after the Pittsburgh suit.

Q. Is that all the information which you had on which you based this statement that they appeared there by the authority of the Pan-Electric Telephone Company?—A. I do not say that that is all the information I had.

Q. If you have any other, let us have it.—A. I cannot recollect; it has been a good while ago.

Q. You state also: "The ground taken by the opponents of the Bell company in all these contests was that the principle patented by Bell was known and used in this country and Germany long before his patent was issued."—A. Exactly.

Q. How did you know that; how did you happen to know that?—A. I do not like to give the man's name, because, as I say, he is a patent attorney here. He is not engaged in any telephone business.

Q. What I am after is this: How does it come that you happened to know all the facts in regard to this litigation, not only in Baltimore, but in Tennessee and in Pittsburgh, about the formation of these companies, and about the appearance of lawyers in Pittsburgh who were not in any way connected with the Pittsburgh suit? How does it come that you knew all that?

Mr. HANBACK. Because it is his business.

The CHAIRMAN. It is his business to answer.

The WITNESS. You are speaking of the German inventions. So far as I know about it, I told you that I obtained the information from a patent attorney here, a man of high standing, whose specialty is entirely different. I know that he never had a telephone case in his life. He is connected, I think, entirely with fire-arms. I do not propose to give his name.

Q. I understood that you declined to give his name. You also say, "If this could be established the Bell patent would fall; but their minor patents, which were claimed as subsequent improvements, might still stand." How did you know that?

The WITNESS. Isn't that true?

The CHAIRMAN. Yes; but are you a lawyer.

A. No, sir; I am not.

Q. How comes it that you could tell with such nicety just the matter involved in these suits, and what would be the effect of finding one way or the other?—A. It doesn't seem to me that it requires a lawyer to make that inference. I certainly made it, and I made it out of my own head.

Q. You say now that you made this statement as to the matters involved in these suits, and the effect of the judgment upon them, out of your own head?—A. No, sir; I say I made that part out of my own head. Perhaps it would be a little fairer if you would read the whole article together.

Q. I am going over it. "The defendant brought in a book of affidavits to support its side of the case." How did you learn that?—A. In the newspapers.

Q. "Judge McKennon announced to the defendant the usual rule in such cases, that he would hear any new defense which had not been passed upon in the final decisions in other courts; that, as he had himself heard the old defenses, he was satisfied that they were ineffectual. The judge found that the defendant had no new defenses, and so enjoined it." Did you get that from a newspaper, too?—A. That was all in the Pittsburgh papers, and I think in the New York papers, too. I think it was in every newspaper that published Associated Press dispatches.

Q. You proceed to state that "the promoters of the Pan-Electric Telephone Company were not dismayed. All of their resources had not yet been exhausted." And then you say that "A shrewd course was adopted. Henry McCorry, of Casey Young's own city, was appointed United States district attorney for the western district of Tennessee. Mr. Young, Bradley T. Johnson, and other members of both the Pan-Electric Telephone Company and the National Improved Telephone Company had long consultations, the last one, it is understood, having been held recently in this city. On September 6, ex-Congressman Young left Washington for Memphis, immediately after a three days' conference, and on September 10 United States district attorney McCorry brought suit in the United States district court at that place in the name of the

United States as plaintiff against the American Bell Telephone Company and Mr. Bell for the cancellation of their patents." How did you get all that information?

The WITNESS. About the bringing of the suit?

The CHAIRMAN. About all these matters I have read; about the conference and about the application of Mr. McCorry. How did you learn that Mr. McCorry had made application?

The WITNESS. Had made application for a suit?

The CHAIRMAN. Yes.

A. That was all stated in the newspapers over and over again. I did not know when the application was made. I made it my business to find out that Mr. McCorry was a newly-appointed district attorney; I wanted to use that fact. I found out that his predecessor had been suspended; that his term had not expired.

Q. You say that you got all the facts contained in that last paragraph read by me from the newspapers?—A. No, sir; I do not say that.

Q. Where did you get them?—A. I got the fact of Mr. McCorry's appointment from the Department of Justice.

Q. Where did you get the other facts?

Mr. RANNEY. The other man had been suspended, you say?

The WITNESS. Yes; the district attorney, Mr. Poston, had been suspended.

Q. Then you say that Col. Young and General Bradley T. Johnson and others connected with these companies had a long consultation?—A. That was at the Ebbitt House.

Q. "The last one, it is understood, having been held recently in this city."—A. That is a mistake. All that I know about were held in this city. There must have been something left out there in the dispatch.

Q. And you were able to state the very day the district attorney brought the suit at Memphis?—A. Certainly.

Q. How did you get it on the 24th of September?—A. I think it was a dispatch that I saw in the New York Times; I will not be certain about that. I will not be certain whether I got it from a Baltimore or a New York paper.

Q. You say, "This suit, as it was subsequently stated by District Attorney Stirling, was brought by the express authorization of the Attorney-General."—A. That is what I understood.

Q. How did you understand that?—A. I understood that from the reports of the proceedings before Judge Bond in the Baltimore newspapers.

Q. "Indeed, it would not be proper or regular for such a suit to be instituted except by his authority."—A. That is my inference.

Q. On the question, then, assumed to be before us, you assumed that it might be instituted by his authority?

The WITNESS. Do you want my opinion on that?

The CHAIRMAN. I do.

A. Yes, sir; I did; but I am not a lawyer.

Mr. RANNEY. It might be instituted, but whether it is by any rightful authority is a question. Men have the power sometimes without the right.

Q. You say, "The grounds on which it is asked in this suit by the Government that the Bell patents be set aside are substantially the same which the Bell company has successfully met in its contests with the other telephone corporations, and which are, therefore, no longer available to them. But if the Government suit could be carried through it would enable them to have all these questions tried over again, and if the suit should be successful, the Pan-Electric Telephone Company and all its satellites would reap the full benefit therefrom, and the probable consequence would be to make the chief stockholders of the Pan company very rich men."—A. Yes, sir.

The CHAIRMAN. I will put this entire article in the record, if there is no objection.

Mr. RANNEY. I have none. It is well written.

The CHAIRMAN. It is remarkably well written.

Mr. RANNEY. Put it in, and we will all study it.

Mr. HANBACK. It might be termed a prophetic article, looking at the future.

The WITNESS. There may be some bad grammar in it, but I stand by that article as a whole. It doesn't make any difference where I got my information.

The CHAIRMAN. It might make a difference where you got it in the view we take of it here.

Mr. RANNEY. Who do you mean by "we"?

The CHAIRMAN. I speak for myself now. I certainly do not speak for other members of the committee, especially for those who question my remark.

The article in question is as follows :

MR. GARLAND A SPECULATOR—THE ATTORNEY-GENERAL'S TELEPHONE STOCK—USING THE UNITED STATES COURTS TO ADVANCE THE VALUE OF HIS SHARES.

[By telegraph to the Tribune.]

WASHINGTON, *September 24.*—The Pan-Electric Telephone Company is one of the strongest and most powerful opponents of the American Bell Telephone Company. Its power and strength lie not alone in the capital which it can command, but in the commanding influence of its officers and promoters. One of the chief of these is A. H. Garland, Attorney-General of the United States. He subscribed for not less than \$500,000 of its \$5,000,000 capital stock. He has also been the company's attorney and "legal adviser" since its organization. This telephone company has been engaged in protracted and unsuccessful legal contests with the Bell company; so have a number of other companies which have been more or less leagued together against this, their common adversary. An extraordinary course has recently been adopted, under the authority of the Attorney-General himself, in his official capacity, to break down the Bell company. This is the commencement of a suit by the United States Government to set aside the Bell patents.

The Bell company has gone through contest after contest against the infringers of its patents, and has been successful in every case. It is now suing the Pan-Electric Telephone Company in some of the Southern courts. Just before the time arrives when the injunction is to be moved for against the Pan-Electric Company and the other companies that are its licensees, the Government suit is begun, in which all the old claims against the Bell patent that have been overruled in the litigated cases are again set up on the part of the United States, and a United States district attorney actually appears in court when the injunction motion against the Pan company comes on for a hearing, and urges the court that it ought not to issue the injunction while the Government suit is pending. The part that the Attorney-General has played in this extraordinary proceeding is not concealed in court. Although no mention is made of the fact that he is a very heavy stockholder in the chief company sought to be enjoined, it is openly stated that he has authorized the Government suit, and that fact is itself used as an additional argument to persuade the court not to proceed against the defendant companies.

The comments made upon the Attorney-General's course of action as the facts are gradually coming to light would interest not only him, but all the supporters of the administration responsible for his official conduct. The facts may be briefly told. The other chief promoters and officers of the Pan-Electric Telephone Company, with Attorney-General Garland, were General Joseph E. Johnston, president, now United States Commissioner of Railroads; Isham G. Harris, of Tennessee, vice-president of the company and United States Senator; Casey Young, secretary and treasurer, formerly member of Congress for the Memphis district; J. D. C. Atkins, a director, now United States Commissioner of Indian Affairs; R. F. Looney, a director, and a member of the Democratic National Committee for Tennessee; and J. Harris Rogers, a director. All of the above have not held as large an amount of stock as the Attorney-General, but the amount held by each of the persons named was large.

The new company was thus provided not only with an abundant amount of capital, but also with plenty of Democratic influence, from the Attorney-General down. It was incorporated in the State of Tennessee. J. Harris Rogers was formerly electrician of the House of Representatives when it was under the control of the Democrats, and it was upon patents obtained by him at that time that the Pan Telephone Company was organized. Soon after its incorporation the company began to sell territory, in which the exclusive right to use its telephones was given, and the licensees or purchasing companies were guaranteed against loss by legal interference. One was organized in St. Louis, one in Memphis, one in New Orleans, one in Dallas, Texas; all of which paid considerable sums in cash, besides giving the parent company a percentage of stock and a royalty for all telephones used.

Two companies were also formed in Baltimore and Washington, with Bradley T. Johnson at their head, to control the States of Maryland and Virginia and the District of Columbia. A company was formed in Pennsylvania, in the establishment of which Congressman Klotz was prominent. Work was begun near Philadelphia, but the company was sued jointly with the Pan-Electric Telephone Company, and the result was an injunction.

The National Improved Telephone Company was formed in New Orleans upon some of Rogers's patents. The proceeding of the Bell company against that company for an injunction was brought to a hearing before Judge McKennon at Pittsburgh. Ex-Congressman Casey Young, who is an able lawyer, and Col. George Gantt, of Memphis, after a meeting of the directors of the Pan Telephone Company, went by their author-

ity to Pittsburgh to watch the progress of that case and to aid in the fight against the Bell company. The ground taken by the opponents of the Bell company in all these contests was that the principle patented by Bell was known and used in this country and Germany long before his patent was issued. If this could be established, the Bell patent would fall; but their minor patents, which were claimed as subsequent improvements, might still stand. The result in this case was the same as in all the other many injunction suits brought by the Bell company. The defendant brought in a book of affidavits to support its side of the case. Judge McKennon announced to the defendant the usual rule in such cases, that he would hear any new defense which had not been passed upon in the final decisions in other courts; that, as he had himself heard the old defenses, he was satisfied that they were ineffectual. The judge found that the defendant had no new defenses, and so enjoined it.

But the promoters of the Pan-Electric Telephone Company were not dismayed. All of their resources had not yet been exhausted. Several of their officers were highly influential in Democratic politics and with the administration. One of their principal stockholders was the Attorney-General. The powers of the Government itself might be employed against the Bell company. A shrewd course was adopted.

Henry McCorry, of Casey Young's own city, was appointed United States district attorney for the western district of Tennessee. Mr. Young, Bradley T. Johnson, and other members of both the Pan-Electric Telephone Company and the National Improved Telephone Company had long consultations, the last one, it is understood, having been held recently in this city. On September 6, ex-Congressman Young left Washington for Memphis, immediately after a three days' conference, and on September 10, United States District Attorney McCorry brought suit in the United States district court at that place in the name of the United States, as plaintiff, against the American Bell Telephone Company and Mr. Bell for the cancellation of their patents. This suit, as it was subsequently stated by District Attorney Sterling, was brought by the express authorization of the Attorney-General. Indeed, it would not be proper or regular for such a suit to be instituted except by his authority. The grounds on which it is asked in this suit by the Government that the Bell patents be set aside are substantially the same which the Bell company has successfully met in its contests with the other telephone corporations, and which are, therefore, no longer available to them. But if the Government suit could be carried through, it would enable them to have all these questions tried over again, and if the suit should be successful, the Pan-Electric Telephone Company and all its satellites would reap the full benefit therefrom, and the probable consequence would be to make the chief stockholders of the Pan company very rich men.

Another way in which the power of the Government, used in this manner, may have been expected to be turned to the more immediate advantage of the corporation in which the Attorney-General is so largely interested, will be surmised from the most recent court proceedings. As soon as the Washington and Baltimore companies referred to above were formed, the Bell company filed its bill in Baltimore, and moved for an injunction there. In this suit the Pan-Electric Telephone Company was the chief defendant, along with the Washington Telephone Company, the Washington Telephone Company of Maryland, and various individuals. A delay was granted to the defendants until last Tuesday, when the motion came on to be heard before Judges Bond and Morris. Before the complainant's counsel had an opportunity to be heard, however, General Bradley T. Johnson, as counsel for the defendants, objected to the hearing on the ground that Attorney-General Garland, in his official capacity, had caused a bill to be filed in the United States court at Memphis in the name of the United States against the Bell company of Boston, setting up all the numerous defenses to the Bell patent which have been passed upon in the various suits tried during several years, and asking the Tennessee judge to retry these defenses and decree the patent to be void. He was followed by District Attorney Sterling, who appeared for the United States under orders, as it was understood, from his superior at Washington, and who protested against any action by the court to protect the patent from infringement until the United States had retried the various defenses which had been passed upon heretofore. In the course of his remarks to the court, the district attorney said:

"My brother thinks it strange that the Attorney-General of the United States who, he admits, has authorized it, should spend the money of the United States on a bill which he says contains so many allegations which were disposed of in other cases, but such is the fact; and it is also the law that nobody but the United States can set afloat a proceeding, the object of which is practically to attack the validity and existence of a patent. * * * It does strike me that when this proceeding is filed to set aside the patent, unless something is shown to the court, it must be treated as the act of the United States, and as long as that is pending in that way to declare the patent void, the court ought not to exercise its discretion against a bona fide business and grant a preliminary injunction."

The judges, however, did not seem impressed by this view, and ordered the motion for hearing on November 2, restraining the defendants in the mean time from increasing their business or putting out any more telephones.

The WITNESS. I only want to say this further word about it—if you are through with my examination on that article.

The CHAIRMAN. I am not through yet. Speaking of the Baltimore suit, you say:

"A delay was granted to the defendants (that is, the Pan-Electric Telephone Company and the Washington Company) until last Tuesday, when the motion came on to be heard before Judges Bond and Morris. Before the complainant's counsel had an opportunity to be heard, however, General Bradley T. Johnson, as counsel for the defendants, objected to the hearing, on the ground that Attorney-General Garland, in his official capacity, had caused a bill to be filed in the United States court at Memphis, in the name of the United States, against the Bell company of Boston, setting up all the numerous defenses to the Bell patent which have been passed upon in the various suits tried during several years, and asking the Tennessee judge to retry these defenses and decree the patent to be void."

Where did you get that?—A. I think that was all rehearsed in the reports of the proceedings there in Baltimore, in the Baltimore newspapers.

Q. I find that you make an exact quotation from the address of the district attorney, or it seems to be so. You say—

"In the course of his remarks to the court, the district attorney said: 'My brother thinks it strange that the Attorney-General of the United States, who, he admits, has authorized it, should spend the money of the United States on a bill which he says contains so many allegations which were disposed of in other cases, but such is the fact; and it is also the law that nobody but the United States can set afloat a proceeding, the object of which is practically to attack the validity and existence of a patent.'"

There are two or three periods here indicating that a part of the address is omitted. Then it continues:

"It does strike me that when this proceeding is filed to set aside the patent, unless something is shown to the court, it must be treated as the act of the United States, and as long as that is pending in that way, to declare the patent void, the court ought not to exercise its discretion against a bona fide business and grant a preliminary injunction."

How did you get the address of the district attorney?—A. If that is quoted there, I suppose it comes from one of the Baltimore newspapers.

Q. I think it is. It is in smaller type and is solid.—A. I don't recollect how it appears.

Q. Have you any recollection where you got the district attorney's speech with the omissions noted?—A. I don't recollect that at all.

Q. Will you look at it? Just step here.—A. (After an examination.) I presume that is taken bodily from one of the Baltimore newspapers.

Q. Do you think a newspaper would quote that in that way?—A. It would be very easy to ascertain.

Q. You do not state it as a fact; it is only a supposition of yours?—A. According to the best of my recollection I should say that. Of course, I was not inspired.

Q. Do you know Mr. E. N. Dickerson?—A. I do.

Q. Did you not meet him about that time?—A. I did not.

Q. Was he not in Washington about that very time?—A. He may have been.

Q. Did you not have an interview with him?—A. I did not. You mean Mr. E. N. Dickerson, of the Bell Telephone Company?

Q. Yes.—A. I did not.

Q. Didn't you get this information from some person for the Bell company?—A. I did not.

Q. Did not some person call upon you and ask you to send a dispatch in regard to these Baltimore proceedings?—A. No, sir.

Q. I note that a statement by Mr. Dickerson follows your dispatch. Did you observe that?—A. I remember now about it.

Q. It seems that he confirmed its substantial truth and accuracy.—A. Well, that shows good sense. No, I had not seen Mr. Dickerson. I did not know there was any such person in existence.

Q. Had you seen Mr. Storrow?—A. I did not know that there was such a person as Mr. Storrow in existence. I did not know anybody at that time connected with the Bell Telephone Company—yes, I knew a man connected with the company, but he was not here, and I did not know at that time how he was connected with the company.

Q. You decline to state who the attorneys were who gave you the information?—A. Yes, for the reason stated. I have no objection to giving their names to you privately.

The CHAIRMAN. I do not care to obtain that information privately unless it is information on which the committee can act.

The WITNESS. If they will give their consent I will give their names cheerfully. I do not wish to conceal anything in the matter; I simply do it to protect them. I will ask them, and if they are willing, nobody will be more ready than I to tell you.

The CHAIRMAN. It may be that they are connected with the Bell Telephone Company, or that they are connected with somebody who is connected with it.

The WITNESS. Nobody who gave me any information early in this thing was connected with the Bell Telephone Company. As soon as I could find out who the Bell people were, I went to them just the same as I went to Casey Young. I wanted to get all the news about these things.

Q. You have published many dispatches since?—A. I have.

Q. Have you been furnished with information for some of them by the Bell company lawyers?—A. They have not furnished me any information except in the way of printed matter; nothing that was worth publishing.

Q. You had conversations with them about it?—A. Yes, sir; I had conversations.

Q. Are you not supplied every day with the report which the Bell Telephone Company is having made of these proceedings?—A. Whenever I want it I buy it and pay for it.

Q. Not otherwise? Is there not an arrangement by which they give you a copy of their reports?—A. No, sir; I pay for what I print, or what the Tribune prints.

Q. Has the Tribune, to your knowledge, or any person connected with the Tribune, been paid anything for any of these publications?—A. Not to my knowledge.

Q. Or rewarded in any way?—A. Not to my knowledge, unless you call the furnishing of these briefs a reward. I have had that sort of reward.

Q. Did you pay Mr. Hill for any information furnished by him?—A. I don't recollect that I ever paid him a cent. I may have paid him five or ten dollars.

Q. Did you have any conversation with General Sypher in regard to this matter?—A. I never did, to my recollection. I may have done it; I don't recollect.

Q. Have you paid any other person for information for the Tribune?

The WITNESS. About this matter?

The CHAIRMAN. Yes.

A. I have incurred some expenses, but not in the way of paying for information. I mean I have incurred some expense for carriage hire and so on, but I have not paid any large sum to any person.

Q. Were you ever requested by the Bell people to publish anything in regard to this matter?—A. No, sir.

Q. All that has appeared in the Tribune, as I get it from your statement, has been entirely voluntary?—A. Exactly so. I thought I had got hold of a good thing, and I was bound to work it for all it was worth.

Mr. HANBACK. And you have not been mistaken.

The WITNESS. If you will allow me to say it, three of the gentleman interested are personal friends of mine—Mr. Garland, General Atkins, and Colonel Young—so that I could have no malicious intent.

The CHAIRMAN. Is that the way you treat your personal friends?

Mr. RANNEY. Possibly his regard for truth may rise above friendship.

The WITNESS. I have treated Mr. Garland as well as I could. I tried to hold this thing back until he returned to Washington to give him a chance.

Q. Why didn't you do so?—A. Because I was afraid that some other newspaper would get ahead of me.

Q. From your statement it would seem that you got it all from other newspapers?—

A. I got it from advertisements and other sources. People didn't seem to understand it the way I did.

Q. The articles presenting the enterprise in the view in which it has now been sought to present it, really appeared first in the Tribune, did they not? The Tribune was the first paper to take up this Pan-Electric matter and give it the character which it is now sought to give it?—A. I think so. I may have seen something in the other papers of those symptoms, which newspaper men understand pretty readily, that it was likely to come out.

Mr. RANNEY. You were the first to diagnose the disease.

Q. You have spoken of another article which Mr. Hill offered you which you have seen since. Is that the World article?—A. I think it was substantially the same article that appeared in the World.

Q. Did Mr. Hill offer that to the Tribune?—A. He brought it into my office and left it there, as he has a good deal of other matter.

Q. Why didn't you take it?—A. The fact of the business is I had used the most of it. I took from the manuscript which I showed you some of the facts, but I think I may have taken something from the others.

Q. Did you pay anything for it?—A. If anything was printed, I did.

Q. Can you remember? It is not very long ago.—A. If I had paid him a small sum, five or ten dollars, I should not be likely to remember it. If I had paid him as high a sum as \$25 I should be likely to recollect it. I have not paid as much as that.

Q. Have you not had consultations with the Bell attorneys since this investigation commenced?—A. Oh, yes, sir.

Q. Did they furnish you information?—A. Not at all. Well, they tried to furnish me information, but you see I did not think it was worth printing.

Q. Haven't you furnished it to the committee, however—had it brought out in committee?

The WITNESS. Information furnished me by the Bell company?

The CHAIRMAN. Yes.

A. Let me see. I have furnished members of the committee with information. I will try to think whether it has come from anybody connected with the Bell company. [After a pause.] I do not think so. I think the most of it has come out of my own head. I may have done that. I have covered the field so well I did not think there was any need of it. I should not have hesitated at all to furnish information. I do not think it would have been improper at all to furnish information from any source which would enable the committee to get at the facts. I suppose you want to get at the bottom of this thing.

The CHAIRMAN. Yes, we want to see which side the Tribune is on, and if there is any reason for its being on that side, we would like to know.

The WITNESS. I suppose all the Tribune is trying to get at is the facts, and that is what you are trying to get at.

The CHAIRMAN. There is so much of this article that I cannot go over it; it would be an imposition on the committee.

Mr. RANNEY. I have no objection to your putting all there is into the record, all those papers, if you desire to, so far as I am concerned.

Q. I see a dispatch of the 2nd of October, reviewing various proceedings, with this heading: "Van Benthuyzen again." You quote here something as said by a lawyer: "Another lawyer who has been following the controversy in the papers carefully, said."—A. Yes, sir.

Q. Who is he; do you care to state what lawyer it was?—A. I would not like to describe him further than this: that he has been an Assistant Attorney-General of the United States—if it is the article that I think you mean. If you will read two or three sentences I will tell you.

The CHAIRMAN. This is the article I refer to: "It seems rather strange that the authority should have been granted by the Acting Attorney-General in a suit involving interests of so great magnitude, matters so delicate, without any reference to the Department of the Interior, as in all other cases of a like nature."

The WITNESS. Yes, that is the article. I think that is a very good opinion that he gave.

Q. Will you state who it was?—A. I would not like to give his name, as he is a lawyer in practice here, without his consent. If he gives his consent I will tell you.

Q. You speak here of Judge Hammond: "I suppose Judge Hammond, before whom it is to be tried, is an upright and learned judge." Who is Judge Hammond?—A. He is United States district judge for the western district of Tennessee.

Q. I find here a long article over the signature of Mr. Dickerson dated the 3d of October. Do you know anything of the publication of that?—A. I did not until I saw it in the Tribune.

Mr. RANNEY. What is that?

The CHAIRMAN. It is Mr. Dickerson's article published in the Tribune.

The WITNESS. I put that in as a contribution to this literature.

Mr. OATES. I move that the committee adjourn until to-morrow.

The motion was agreed to, and the committee adjourned until Thursday, May 6, 1886, at 12 o'clock.

WASHINGTON, D. C., *Thursday, May 6, 1886.*

The committee was called to order at 12.42 p. m.

S. N. CLARK was recalled and further examined.

By the CHAIRMAN (Mr. Boyle):

Question. Are you able to fix the beginning of your conversations with Mr. Hill in relation to the Pan-Electric company?—Answer. I said yesterday that I thought they were after the first dispatch. I may be mistaken about that. I know this, that only a few days before that he had furnished me with some matter relating to Mr. Garland, and it is quite probable that that might have brought this matter up as a subject of conversation between us, and he may have given me some points at that time about it.

Q. What did this matter refer to that he had previously given you relating to Mr. Garland?—A. It had no relation to this Pan-Electric business. I have no objection to stating it. It was a statement that Mr. Garland had accepted a retainer a short time before, and since he had become Attorney-General, in a North Carolina railroad case. There was litigation pending between the State and a railroad on account of taxes, and the statement was that Mr. Garland had become attorney of record and accepted a retainer in that case.

Q. You say that information was furnished to you by Mr. Hill some time?—A. Yes, sir; it was furnished by Mr. Hill. I do not want to detract from any credit that Mr. Hill deserves on account of furnishing me the information.

Q. General Sypher seems to have been under the impression that he and Mr. Hill originated the inquiry.—A. Well, several other people have been under a like impression.

Q. Did you use the matter Mr. Hill gave you in regard to the North Carolina case?—A. I sent it to the Tribune.

Q. Did you pay him something for it?—A. No, sir; I did not pay him anything for it, because it was not printed. If it had been printed, I should have paid him the space rates for it.

Q. You say it was an attack upon Mr. Garland for accepting a retainer in that case?—A. I regarded it in that light; yes, sir.

Q. Now you say you think it probable that Mr. Hill did communicate with you in regard to the Pan-Electric company before the publication of that dispatch of the 24th of September?—A. I think he may have done so.

Q. And you have already stated that you used some of the information that he gave you?—A. I used some of the information received from him, certainly.

Q. Did you pay him for it?—A. I don't recollect that I ever paid Mr. Hill a cent for anything about this Pan-Electric matter. I may have paid him five or ten dollars; if I did, why he will know it. I don't recollect it. If I had paid him any large sum I should remember it, because I should have communicated with the office about it.

Q. I read to you yesterday an extract from the argument made by Mr. Sterling in the Baltimore suit. Are you able to state now where you obtained that argument or that extract from it?—A. I am not; I don't recollect. I would state, if I could recollect at all, that it came from one of the Baltimore newspapers. I think from the appearance of it that it was clipped bodily from a newspaper article.

Q. Have you a copy of the printed argument made in that Baltimore case?—A. I have not. I did have one, but I think I lent it to Mr. Ranney.

Q. The argument on both sides?—A. The proceedings in the Baltimore case.

Mr. RANNEY. I gave it, I believe, to the chairman.

The CHAIRMAN. I think I have it. I looked for it this morning after I came here, but could not find it. I have some documents at my room.

The WITNESS. When this matter came up I collected everything I could relating to the subject, and sought by every means to obtain information.

Q. Are you able to say, with some degree of certainty, whether you cut that from the Baltimore newspaper or obtained it otherwise?—A. I cannot recollect.

Q. You spoke yesterday of having had friendly relations with Mr. Garland?—A. Yes, sir.

Q. Did you ever call upon Mr. Garland in relation to this matter?—A. I did.

Q. Will you state what occurred between you, when it was, and all the circumstances?—A. I expected Mr. Garland to return to Washington on the 30th of September, and I rode out to his house in the evening of that day.

Q. What led you to expect him to return?—A. Something that I had seen in the newspapers. He had not returned, but his mother told me that he would be here next morning. I went to the Department the next morning, and he had gone to the White House. I went back to my office, and, when I called at the Department again, he was in consultation, I think, with the Solicitor-General. At any rate he was engaged, and I waited for some time, and as soon as he was accessible, I saw him. I gave him verbally as good an account as I could of what had taken place about this—of my dispatches, and of the letter written by Dr. Rogers and published in the Tribune the day before or the second day before that, and went on to explain the matter. My recollection now is not as good of what he said as it was at the time. I wrote a dispatch that day, I think it is dated October 1, which contains the substance of what he said. At his request I then called on the Solicitor-General, and he told me his story.

Q. Is the dispatch you refer to in this scrap-book?—A. Yes, sir; it is in that book.

By Mr. RANNEY:

Q. Did you submit the dispatch to him after you had written it?—A. I did not. I will say that it is on all fours with his letter to the President and his testimony before this committee. Shall I read this dispatch?

The CHAIRMAN. Not yet. I want to see it. You can read it over to refresh your own recollection.

The WITNESS (after an examination). Yes, this is the dispatch I speak of.

By the CHAIRMAN:

Q. You say he referred you to the Solicitor-General?—A. He said he would be glad if I would see the Solicitor-General.

Q. Did you see Mr. Goode?—A. I saw him immediately.

Q. You have stated, I believe, that the statement then made by the Attorney-General was on all fours with his letter to the President and his testimony before this committee?—A. Yes, sir; as I understand it.

Q. You may state what occurred between you and the Solicitor-General, going into as much detail as you see proper, giving all the facts.—A. What took place is stated in that part of the dispatch which I did not look at just now. I only read what I had given of the interview with Mr. Garland. Of course a good deal more took place between Mr. Garland and myself than that, but that was, as newspaper men say, boiled down, and those were the facts.

The CHAIRMAN. If there is no objection, I think that part of this article might go in as your statement of what occurred at these interviews.

The WITNESS. Yes, at both these interviews; I think that is substantially correct.

Mr. MOFFATT. The portion covering the interviews with Mr. Garland and Mr. Goode?

The CHAIRMAN. Yes; the interviews with Mr. Garland and Mr. Goode; he has them both in the same article, and then follows certain deductions and comments in regard to the matter.

Mr. RANNEY. If you put in any of it, put in the whole.

The CHAIRMAN. It seems to me there is a very material difference between them.

Mr. RANNEY. I think there are two purposes in it. I do not think what they said itself is competent evidence, for it is hearsay after the fact, and would not be competent. But I do not object to it on that ground. The article, however, has two bearings, as showing what they said, and also showing the temper and conduct of the witness.

The CHAIRMAN. The temper and conduct of the witness is not a question. It is not an element in this investigation so far. Nobody has attacked him.

Mr. RANNEY. I do not see, then, why you should put in his various dispatches.

The CHAIRMAN. That affects the newspaper.

Mr. MILLARD. Wouldn't it have this effect; if you put in one-half of the letter, should you not put in the balance of it?

The CHAIRMAN. If there is no objection, we can put in this witness's statement of an interview with the Attorney-General. That certainly is all that it contains.

Mr. RANNEY. Is it long?

The CHAIRMAN. Yes; I agree with the gentleman from Massachusetts that it is not strictly competent, but considering the manner in which we have been proceeding here, it might be proper to go in.

Mr. RANNEY. Suppose, then, we put in the whole of it?

The CHAIRMAN. No; I will not agree to that; I do not think that is fair to anybody. I do not think it is fair in an interview to put in the declarations of anybody—

Mr. RANNEY. If your object is to contradict the Attorney-General or Mr. Goode, it is perfectly competent to put in what they said, but not without informing them. Of course, if you have no purpose, we can get at the facts fairly on both sides. You presumably embrace both positions.

The CHAIRMAN. Undoubtedly; and the statement of Major Clark as to one of these interviews would make it pretty clear that I am not putting it in in the interest of the Attorney General or the Solicitor-General.

Mr. RANNEY. I do not presume that you are putting it in in the interest of anybody except in the discharge of your duty. We have in the committee spoken of the direct and the cross examination, and both sides of the question, but it is a part of our duty to put in any evidence which may serve to contradict or affect the credibility of any witness, and if the article has any tendency to that effect, it is very proper for it to be put in.

The CHAIRMAN. The remarks which follow the account of the interviews do not affect the credibility of the witness at all.

Mr. HALL. What is the question.

The CHAIRMAN. I asked Major Clark about two interviews that he had, one with the Attorney-General and one with the Solicitor-General, and he does not recollect them, but says they are embodied in a dispatch which he sent the day after.

Mr. RANNEY. I think the whole article should go in, but if you think otherwise, put in what you see fit.

The CHAIRMAN. It is very clear that the comments of the correspondent are not competent evidence.

Mr. RANNEY. Let me ask one question. Does that not tend to affect the paper as the other articles did? Why should not that article be competent to affect the paper in which it is published as well as the other article?

Mr. HALL. The part of the paper that was offered, was offered, as I understand it, as a substitute for the witness's memory.

Mr. EDEN. They are giving the sources of his information.

Mr. HALL. Of course, legally it would not be competent for that purpose. The witness would have to read it and speak from his memory as refreshed.

Mr. RANNEY. The chairman can put in what he sees fit, but I shall offer, and ask to have go on the record, the rest of the article, and if it is ruled out I claim to have the right to report it to the House as being incompetent evidence.

The CHAIRMAN. I do not think it is important enough for that. We will consider that when we come to it. If there is no objection, I will put in this part of the article.

Mr. RANNEY. I do enter an objection, on the ground that the whole should go in, if any.

The CHAIRMAN (to the witness). Then I will ask you to read the article, and I will examine you about it.

The WITNESS (reading): "Mr. Garland's statement. Denying all knowledge of the suit. Mr. Goode anxious"—

The CHAIRMAN. I mean read it only for your own information. You may make that as your statement, if you think proper, of the interviews.

Mr. HALL. The object, as I understand, is for you to give your testimony stating your recollection of the interviews refreshed by that article.

The WITNESS. You do not want me to read it?

The CHAIRMAN. You may give that as your statement if you see proper, but not because it is in the article.

The WITNESS (reading):

"Attorney-General Garland arrived in Washington this morning. Immediately upon his return to the Department, after a meeting of the Cabinet, he held a private conference with Solicitor General Goode on official matters. At a later hour a Tribune correspondent saw the Attorney-General and gave him a verbal account of the statements which have been published in the Tribune respecting the suit to annul the Bell Telephone patents. Mr. Garland declared that he had read neither the Rogers letter nor the Van Benthuyzen dispatch."

He continued:

"So far as my official connection with this suit was concerned the story is a short one, and was really all told in my dispatch published in the newspapers. I did not authorize the bringing of the suit, nor did I know that such a suit had been instituted until I received the dispatch asking if I had authorized it. I will say this: One hot day in the summer—probably about the end of July or the beginning of August—General Casey Young, of Memphis, came in here accompanied by Colonel Gantt, a lawyer of Memphis, Mr. Van Benthuyzen, whom I had never met before, and another gentleman whose name I do not recall. They brought a number of documents with them, and explained that they had come to make an application in behalf of the Pan-Electric company to have a suit brought by me as Attorney-General of the United States to annul the Bell patent. I replied that I could not consider such an application. One of them then asked me several questions, which I declined to answer, when Colonel Gantt or General Young spoke out and said, 'The Attorney-General is right; he cannot answer those questions.' There the conference ended and the gentlemen withdrew. They presented no written application or other papers to me, neither did they urge, as perhaps they might have done, that simply because I was an individual stockholder in the Pan-Electric company I would not be justified as Attorney-General in refusing to consider an application from other stockholders to have the Government bring a suit against the Bell company, and denying them a proper and legal remedy. That phase of the subject was not raised or discussed, and the matter was not brought to my attention again by any person until last week. Neither did I ever mention it to the Solicitor-General, who authorized the bringing of the suit in my absence, and he will tell you so. I have been a stockholder in the Pan-Electric company since it was organized, some two years ago. I acquired my stock when I was a private citizen, at least so far as any connection, present or prospective, with the Department of Justice was concerned."

That is the end of the quotation. Shall I read the rest?

The CHAIRMAN. Proceed and read the rest.

The WITNESS (reading):

"The correspondent then saw Solicitor-General Goode. He said, 'As soon as I could see the Attorney-General to-day, I mentioned the public criticism on account of the action of the Department in authorizing the bringing of the suit to set aside the Bell patents, and told him that I desired to shoulder the entire responsibility of that action and to be held accountable if any mistake had been made, for I had issued the order after a careful investigation of the subject, and wholly without

regard to the question as to who were the parties in interest. I desire to repeat that statement to you in the most comprehensive and emphatic manner possible, and to say further that Mr. Garland never mentioned the subject of the telephone litigation to me, and that I did not know when I acted in the case that he had ever been asked to begin such a suit. The facts are as follows: Mr. Garland left Washington on the evening of August 27, and I became Acting Attorney-General under the law. On August 31, four days after Mr. Garland's departure, District Attorney McCorry, of the western district of Tennessee, addressed me a letter from Jackson, Tennessee. In that letter he set forth the grounds for his belief that the Bell patent was fraudulently obtained, and applied for authority to begin proceedings to annul it.

"I received Mr. McCorry's letter on the morning of September 2. On the same morning Senator Harris and ex-Congressman Casey Young were in my office to discuss the matter. We talked it over, and I told them that I would investigate and consider it, and give my decision the next morning. I went over the case with great care, and the next morning when General Young called for my answer I informed him that I had already authorized the district attorney to begin the suit. That is all there is of it. If any mistake has been made or wrong done, I alone am responsible. I simply examined the matter to see whether the proposed proceeding would be regular, and I not only became satisfied on that score, but was convinced that it was the only manner in which the validity of the Bell patents could be tested."

The CHAIRMAN. Is that a correct statement of what occurred?

The WITNESS. Yes, that is the correct statement of what occurred.

Q. I understand that you have met some of the attorneys of the Bell company since the agitation of this matter commenced.—A. I have.

Q. Will you name them?—A. Mr. Dickerson and Mr. Storrow.

Q. Where did you meet them?—A. I met them first in the room of the Assistant Attorney-General for the Department of the Interior, during the hearings that were held there last fall.

Q. Do you know the date of those hearings, or about the date?—A. I should say that it was some time in October. I could ascertain the date by looking at my scrap-book. I sent dispatches about that hearing.

Q. Did you meet them there otherwise than as they appeared before the Secretary of the Interior in the hearing?—A. Oh, yes; I met them as a seeker for news, in the same way that I met Colonel Young there.

Q. Did you meet them subsequently?—A. Yes, sir.

Q. Where?—A. I met Mr. Dickerson in this city some time in the winter; I cannot recollect the date now; I cannot even fix the month. He was trying a case in the Supreme Court, and I met him as I was passing through the rotunda one day, and had perhaps five minutes' conversation with him.

Q. On the subject of this investigation, the matter we are investigating now?—A. The talk we had that day consisted entirely of a statement by him as to the right of the Attorney-General to spend money to carry on these proceedings without a specific appropriation by Congress. I wrote a short dispatch about that, but I think it was not printed. It was simply what Mr. Dickerson said.

Q. In that dispatch did you give it as what Mr. Dickerson had said?—A. Yes, sir; as what he had said.

Q. Did you have any other interview with him?—A. I had an interview with Mr. Dickerson since this investigation began. It was when he returned from New Orleans. He had been down there trying a suit with this National Improved company, and I met him and had perhaps an hour's conversation with him.

Q. Where?—A. I think I met him at the office of Pollok and Bailey. A friend of mine, who is connected with the Bell company, an old Army comrade, was here and took me to see him.

Q. Who are Pollok and Bailey?—A. They are patent lawyers here. They are the solicitors who got out the Bell patent. They may be still connected with the Bell company; I do not know whether they are or not.

Q. You say this interview took place at their office?—A. Yes, sir; at their office.

Q. Were they both present?—A. Mr. Pollok was present; I think he was present during the whole of the conversation.

Q. Who else was present?—A. Major Brown, the gentleman to whom I refer.

Q. Anybody else?—A. I think not.

Q. Have you any objection to stating the subject of that conversation?—A. Mr. Dickerson was telling about the New Orleans suit, and that is where I first learned about what is called the mutilation of that Interior Department record. That was a subject of conversation, one of the subjects. Mr. Dickerson read considerable of his argument before the judge down there. It was very interesting.

Q. You were sent for, you say, to come there?—A. I met Major Brown, as I do almost every day when he is in the city, and he said Mr. Dickerson was here, and I said I would be glad to see him, and we went together to see him.

Q. Has Major Brown any connection with the Bell company?—A. Yes, sir.

Q. What connection?—A. I do not know exactly, but I think he is sort of special or traveling agent. He and I were in the Army together, and whenever he is in the city he comes to see me.

Q. Had he been in New Orleans with Mr. Dickerson?—A. Oh, no, sir; he had been in town for a week, I should say.

Q. You say it was at his instance that you went to the office?—A. Not at his instance. He said Mr. Dickerson was here, and I said I should be glad to see him.

Q. Did he give you to understand that Mr. Dickerson had requested or intimated that he would like to see you?—A. No, sir; no request. The request came from me, if there was any request about it.

Q. You say Mr. Dickerson read a part of his argument?—A. Yes; he read considerable of it.

Q. Was anything said there about making a publication of any matters referred to in the Tribune?—A. No, sir.

Q. Did you have any other interview with Mr. Dickerson?—A. No; I have not seen Mr. Dickerson since. I have seen Mr. Storrow.

Q. Have you stated all the interviews that you had with Mr. Dickerson?—A. I think so; all that I recollect.

Q. You say you had met Mr. Storrow. When did you meet him?—A. I met him when he came back from New Orleans.

Q. Where?—A. At Welcker's Hotel.

Q. How was that meeting brought about?—A. I think Major Brown told me he was here, and I went to see him.

Q. The same gentleman who told you at the other time?—A. Yes, sir.

Q. Had Mr. Storrow and Mr. Dickerson come here together from New Orleans?—A. No, sir. The interview with Mr. Storrow, I think, was a month later. I think the interview with Mr. Dickerson was just about the beginning of this investigation.

Q. Did Mr. Dickerson make any suggestions to you in regard to this investigation, as to furnishing matter or aiding in any way?—A. I told him that anything he could tell me about it in any way I should be very glad to know, and I would inform members of the committee about it. It was chiefly about getting hold of men who knew about the facts.

Q. Did he give you any information?—A. No, sir; I did not get anything from him that amounted to anything.

Q. Did Mr. Storrow?—A. I had considerable talk with Mr. Storrow, which I could not repeat, because it was lawyers' talk and I did not understand it. I saw Mr. Ranney the same evening and told him Mr. Storrow was here. Mr. Ranney said that he would be glad to see him, and I saw Mr. Storrow and told him that Mr. Ranney would be glad to see him. I brought them together in that way. Mr. Storrow is a very eminent lawyer, and he was talking about the legal aspects of the case.

Q. You say you could not understand him?—A. I could not understand very much of the intricate law of which he spoke.

Q. It should not take much to understand him if he is a good lawyer.—A. But that was all that Mr. Storrow discussed.

Q. How long did your interview with Mr. Storrow last?—A. I suppose I stayed with him an hour.

Q. That was at Welcker's?—A. Yes, sir; at Welcker's Hotel.

Q. Did you leave him there?—A. I left him there.

Q. Did you see him any more?—A. I saw him, I think, twice before he went away. I walked down the street with him one evening, and I just saw him in Mr. Ranney's room. I went around there one evening late and Mr. Storrow was there. That was the interview which was brought about by me.

Q. The same evening or afterwards?—A. It was the next evening, I guess; I do not think they met that evening.

Q. Did Mr. Storrow furnish you with any information in relation to this matter?—A. No, sir; he did not—not anything that I could use. I was after news more than anything else.

Q. Did he make any suggestions as to the manner of conducting this investigation, or in regard to any matters to be brought before the committee?—A. No, sir; he did not.

Q. Havn't you been quite active during the investigation in furnishing matter to the committee?—A. Well, everything that I have furnished I have tried to print beforehand; I have tried to get it into the Tribune first. Of course I felt an interest in—

Q. In what?—A. I felt an interest in having the facts come out to substantiate what I have written. But all my work has been the work of a newspaper man.

Q. Is that in vindication or defense of your friend, Mr. Garland, or against him?

The WITNESS. I did not quite catch the question.

The CHAIRMAN. You say you have been anxious to have everything come out here, to have this investigation sustain what you have said in the Tribune. You stated

yesterday that you were a friend of Mr. Garland. Have you desired to vindicate and defend him or to attack him?

The WITNESS. Did I desire to vindicate him?

The CHAIRMAN. Yes.

A. I desire to have the truth come out. If he is perfectly innocent the truth is not going to hurt him, if we can get at the facts.

Q. What has been the tone of your comments on what you wrote about the truth, friendly or unfriendly to Mr. Garland?

The WITNESS. Do you mean personally?

The CHAIRMAN. As connected with this Pan-Electric enterprise?

A. I regard Mr. Garland in two lights: First as a friend, second as a public man and an officer of the Government. I draw a very marked distinction between the man in the two capacities.

Q. Have you treated him as a friend in your correspondence?—A. I have not had any occasion to treat him personally at all. I never have made any personal attack upon Mr. Garland.

Q. Have you not been industrious in hunting up the facts which seem to make against him?—A. I have been industrious in hunting up all the facts, all the things that I could get. I don't want any other newspaper to get ahead of the Tribune on the news. That is the mainspring of the whole business, so far as I am concerned.

Q. Have not all your comments upon the matter been of an unfriendly tone to Mr. Garland and the other gentlemen who were connected with the Pan-Electric company?—A. Well, you know a correspondent does not make many comments.

Q. Sometimes he does.—A. Of course there is a way of putting things.

Q. Well, haven't you put things in a way to make them appear in an unfriendly light towards the Attorney-General and these other gentlemen?—A. My dispatches will show for themselves, and you must judge of that.

Q. Can you state generally what has been your purpose?—A. My main purpose has been to get all the news.

Q. In putting things, what has been your design; how did you want to put them, favorably or unfavorably to the parties?—A. I wanted to put them so that people would read them.

Mr. RANNEY. The question is, whether you endeavored to put the facts as they were, or as they were not.

The CHAIRMAN. That is not the question. I would not ask him if he put the facts as they were not and told a lie.

The WITNESS. I do not know hardly how to explain it, Mr. Chairman, but I have not any personal or unfriendly feeling.

Q. A man of your experience can say whether the tone of your correspondence has been friendly or unfriendly to Mr. Garland and those associated with him?—A. Unfriendly, most decidedly, to the transactions themselves, but not unfriendly to the people concerned. I draw that distinction.

The CHAIRMAN. It is a pretty hard one to draw.

Mr. HALL. It is like the fellow who refused to kiss the Chinese woman; he had to draw the line, and he drew it there.

Q. You say you had two or three interviews with Mr. Storrow, and that one of them was at Welcker's?—A. I had one interview. I met him for a few minutes in Mr. Ranney's room, late one evening.

Q. How long were you there together?

The WITNESS. At Welcker's?

The CHAIRMAN. In Mr. Ranney's room.

A. It was very late when I went over there. I think probably I may have been there fifteen or twenty minutes, but it might have been longer.

Q. Did Mr. Storrow go with you?—A. No, sir.

Q. Did he come after you got there?—A. He was there when I went.

Q. Did he go away with you?—A. Yes, sir; we walked out down to Welcker's together. I think that is the time we walked down the street together.

Q. Did you meet him upon any other occasion?—A. I think that is the only time I saw him.

Q. That is twice, then?—A. Yes, sir; twice. I think the time I walked down street with him was the same evening.

Q. Have you had any instructions from the managers of the Tribune as to the tone your dispatches should take?—A. The only instructions I have received about this matter from the Tribune are to be very cautious and careful about my facts.

Q. You say you had no other instructions, nothing else, as to the general tone you were to give the dispatches or letters?—A. No, sir; nothing whatever. The correspondent takes his tone from the tone of the editor.

Q. That is what I thought, and I want to know whether you had any.—A. I received no specific instructions at all. That is a general rule, you know, which every newspaper man must observe.

Q. What do you gather to be the tone of the editorials of the Tribune; do you take them to be unfriendly to the Attorney-General?—A. Not to the Attorney-General, but to these transactions.

Q. I speak of the Attorney-General as connected with these transactions.—A. In his official capacity, yes.

Q. At the time of your meeting Mr. Hill and getting information from him, did he inform you where he had obtained his information?—A. I think that at some time, a time which I cannot fix, he told me that he had had some intimate relations with Colonel Young.

Q. Did he state what they were, in what capacity they were together?—A. I understood them to be intimate friends. I don't know but what they had quarters at the same place; I do not know, and cannot state about that. At any rate he was at Colonel Young's quarters a great deal.

Q. Did he say that he had been Colonel Young's clerk, or had done writing for him?—A. He said that he had done a good deal of writing for him.

Q. Did he say that he had any relation with the Pan-Electric company?—A. I think he told me that he kept the books of the company for a while. I was rather surprised, glancing at the books one day, not to see his handwriting in them.

Q. You thought then at the time you were dealing with him for news, that he had been Colonel Young's clerk and also bookkeeper, keeping the books of the Pan-Electric company?—A. He said that he had.

Q. Did you understand that it was in that way that he got his information?—A. I presumed that he had obtained some of it in that way; I knew from what he said that the relations between himself and Colonel Young had been quite intimate, or I supposed that they had; he so represented it.

Q. Did you consider it legitimate to obtain information from a man who had been the secretary of another, or the officer of a company, and publish it in the cause of just and fair dealing?

The WITNESS. I don't quite understand that question.

The CHAIRMAN. You seem to have gotten information from Mr. Hill which you knew at the time he had obtained by reason of his relations to Colonel Young as his secretary, and by his connection with the Pan-Electric company as a book-keeper. And you distinguish in your treatment of the Attorney-General between the man and the officer. I assume or suppose that you published this matter because you thought he had not behaved properly as an officer, as Attorney-General. I want to know whether you consider it legitimate and fair, even in a case such as that, to obtain information from one who had been the secretary of another, the clerk of another, or one who has been the officer of a corporation, intending to affect injuriously the principal, the employer, and the corporation, and to publish it in a newspaper?

The WITNESS. Now I understand you. I have had considerable experience in the newspaper business, and I have never found a way of getting at transactions correctly except from people who knew something about them. If I thought that the enemy of mankind had a piece of news and I could go and interview him I would do it.

Q. It is hardly necessary to make it so extreme as that.—A. I want to put it very strongly.

Q. I understand you want to get news from anybody?—A. From any source.

Q. You would get news from a man's wife and publish it, affecting him injuriously?—A. No, sir; I would not do anything of the sort.

Q. You say you would get it from the enemy of mankind, and I understood you to make that as an extreme case, as far as you could go. Do you consider it legitimate to publish anything without regard to how you came by it and the relations of the parties?—A. That is going into newspaper ethics.

The CHAIRMAN. Well, I think it is fair in this case.

Mr. RANNEY. It is not of so much consequence where you get the truth as that you get it.

Mr. HALL. It is not always the truth, either.

The WITNESS. Exercising due caution to verify the statements made, I would take a statement from any source.

Q. And publish it?—A. Yes; and publish it if it were a legitimate subject of newspaper discussion.

Q. And pay for it?—A. Yes, sir.

Q. I understand you were willing to pay Mr. Hill for anything you published?—A. Oh, yes, sir; we always pay for things we get—not always, but most always.

Q. I think I understand you; that you would buy from a person who was the clerk of another information which he had received by reason of his relations to this other person; you would buy it, pay for it, and publish it?—A. Yes; if it related to a public matter. I think I can stand on that. I perhaps ought to explain, Mr. Chairman, that that is not the common practice.

Q. I hope not. Did you think it was the proper thing towards your friend, the

Attorney-General, to do that which was not the common practice?—A. I think it was a proper practice. I think it was a proper thing to do, to try to get at the truth of this matter. I was not so solicitous about the agencies as I was about the truth itself. I never publish one line that I do not believe to be true, and that I do not take great pains to verify.

Q. You may state what purpose you had in view in pursuing this (as I gather from you) rather unusual course in gathering this information and publishing it.

The WITNESS. Do you mean what was the object?

The CHAIRMAN. Yes; what did you seek to accomplish by it?—A. In the first place, and above all things, I sought to publish the news; that has been my main purpose all the time. In the second place, as a good citizen, I thought that if there was anything wrong about this thing, it ought to come out. I thought, too—well, I don't care to say what I thought about it in that respect; you would not care to hear it. But the main purpose was to publish the news.

Q. You may state, with the consent of the committee, also, whether you found anything which, in your judgment, affected the personal integrity of the Attorney-General?

Mr. RANNEY. Do you care to put such a question as that?

The CHAIRMAN. I say with the consent of the committee.

Mr. RANNEY. We have allowed inquiries about the personal opinions of people freely, but I do not think they are competent evidence, and I simply suggest to you whether you ought to ask the opinion of the witness as to what he thinks. If you think you ought to do so, I will not object to it.

The CHAIRMAN. The opinion of this witness affects the conduct of a great newspaper—

Mr. RANNEY. I don't want to argue it; I submit it to your own discretion.

The CHAIRMAN. I say, if the committee is willing, you may answer that question. The gentlemen of the committee have heard the question, and if there is any objection they will state it.

Mr. RANNEY. Put your question again.

The CHAIRMAN. State whether, in your judgment, you have found anything in the course of this investigation or inquiry, from the beginning, which affects the personal honor, honesty, and integrity of the Attorney-General.

Mr. RANNEY. I think it is an improper question to answer or to ask.

The CHAIRMAN. The gentleman will note that I assume the responsibility so far as the asking goes, if it is improper. I make it in this case purely my own question.

Mr. RANNEY. In putting it you represent the committee. I am alone on this side of the table, and leave it to your own side of the table as to their sense of its propriety or competency.

The CHAIRMAN. The gentleman ought to see that his comments on the question and the manner in which I put it are not, it seems to me, proper.

Mr. RANNEY. It is not the manner of your putting it, but as to the propriety of the question itself.

The CHAIRMAN. I put the question in such a way that the responsibility for it will rest entirely upon myself. I do not want to involve anybody else in it.

Mr. RANNEY. You represent the committee in doing it.

The CHAIRMAN. In the matter of examination I do not represent the committee any more than does any other member of the committee. In the examination I speak only as an individual member of the committee.

Mr. OATES. Mr. Chairman, measured by the legal standard, the question would not be competent, but if it is to be determined according to the loose course which has been pursued here, almost anything is pertinent.

The CHAIRMAN. I will entertain any objection to it.

Mr. OATES. I do not think the witness ought to be required to answer it. So far as I am concerned, if he sees proper to answer it, I shall have no objection to his doing so.

The CHAIRMAN (to Mr. Eden). What do you say, governor?

Mr. EDEN. So far as am I concerned, I have opposed the introduction of opinions in all cases, but unsuccessfully. I am of the same opinion now that I have been all the time, that the opinion of the witnesses which have been given all through the investigation should not have been allowed. Of course I would not insist on the witness answering the question unless he chose to.

Mr. HALL. So far as I am concerned, I expect this witness has expressed his opinion with tolerable freedom in his journal and said about all that he cares to. But if he has anything more to add to it, I would like to hear it. I am willing to leave it entirely optional with him. I do not think the witness ought to be required to answer the question unless he is willing to. If he has anything more to add to what he has said, I would like to hear it.

Mr. HALE. I think a question as to whether he has told all that he knows about this transaction would be sufficient.

Mr. OATES. There is a question put by the chairman which is pending. The question is whether he ought to be required to answer that question or not.

Mr. HALL. Let the question be read.

The reporter read as follows:

Q. State whether, in your judgment, you have found anything in the course of this investigation or inquiry, from the beginning, which affects the personal honor, honesty and integrity of the Attorney-General?

Mr. RANNEY. The question is not whether he shall be required to answer that. We have had no intimation from the witness that he has any reluctance in answering it. The question is as to the propriety of putting it and the competency of the question. Gentlemen say we have indulged in great latitude in that respect, but I appeal to the record whether I have ever put a question of that nature to any witness since this investigation began.

Mr. HALE. I am free to say that I am opposed to the question.

The CHAIRMAN. If there is objection to the question it will not be pressed.

Mr. HALE. His answer will be based on his own judgment on these facts, and might be adverse or friendly to the Attorney-General. I presume it would be adverse.

The CHAIRMAN. The question is put in the view that the conduct of the paper that the witness represents and the conduct of the witness himself is, to some extent, a matter of investigation in the inquiry before this committee. We are not only inquiring as to the conduct of the members of the Pan-Electric Telephone Company, but we are inquiring as to the conduct of the New York Tribune.

Mr. RANNEY. As to payment of money to them, that is all.

The CHAIRMAN. If we find that the New York Tribune has pursued a certain course, we want to know its reason for pursuing it, and it is not confined in that view to the payment of money.

Mr. OATES. I think the question ought to be left to the witness to answer or not, as he pleases.

The CHAIRMAN. I understand there is objection to it, and I will not ask it. I do not say that it is within any legal rule of evidence.

Mr. RANNEY. You understand that I make no objection. I make simply a suggestion, and leave you gentlemen to determine it.

Mr. OATES. I think the witness should be allowed to answer it or not, as he pleases.

Mr. HALE. I object to an answer containing any allegations against Mr. Garland, based upon the opinion of the witness, which might be friendly or unfriendly.

Mr. OATES. You have it in the newspapers?

Mr. HALE. It may be in the newspapers, but not before this committee.

The CHAIRMAN. Mr. Hale objects to the question. I believe I have nothing more then.

By Mr. RANNEY:

Q. In one of the dispatches which were read yesterday, referring to the Baltimore suit, as I heard it, there was something said in relation to Mr. Dickerson confirming it. I understand you to say you did not get your information from Mr. Dickerson. I have not seen that dispatch. Was that what you put in, or was it gotten up somewhere else for the paper?—A. Mr. Dickerson lives in New York, and I understand that he was interviewed by one of the local reporters of the Tribune as to the truth of it.

The CHAIRMAN. I thought I stated that at the time.

The WITNESS. I do not know personally anything about it.

Q. That was not part of your dispatch?—A. It was not.

Q. So, if it was put in, it was by the paper in New York?—A. It was put in after an interview with Mr. Dickerson. "What Mr. Dickerson said," I think, is the heading. It was a local paragraph.

Q. They saw him, and he confirmed the truth. As I understand you, your course of conduct as a newspaper correspondent is to get your facts from whatever sources you can get them?—A. Yes.

Q. And, so far as you can, impartially?—A. Yes, sir.

Q. So that in this case you went to the Attorney-General himself as soon as he returned, and likewise to Mr. Goode?—A. I was very sorry that I could not hold that matter until the Attorney-General did return. I wanted him to have his say on his side.

Q. And you went to them to get their statement. I suppose they knew you were to publish it in your newspaper?—A. Yes, sir.

Q. And it was given to you carefully and deliberately, they knowing that you were going to publish it?—A. Yes, sir.

Q. You have been asked particularly about your having sought interviews with Mr. Dickerson and Mr. Storrow. I observe that you have not been asked as to whether you proceeded to get information and have interviews with anybody else on

the opposite side representing the Pan-Electric people. State how that was.—A. I interviewed everybody that I could.

Mr. EDEN. He was asked about interviews with Mr. Garland.

The CHAIRMAN. I have no objection; that is all right; if I omitted it I knew it would be asked.

Mr. EDEN. The remark is hardly justified by the facts.

Mr. RANNEY. I will be my own judge about my questions being justified, if they are competent. [To the witness.] Will you please answer the question?

A. I had interviews with Casey Young, Mr. Seixas, Col. Looney, and Dr. Rogers and his son; I guess those are all; I tried very hard to get Col. Young to make a statement of his side of the case, and he did promise to do so two or three times, but never found time to prepare it, and so I did not get it.

Q. You have been here during this investigation, I believe?—A. I have been here all the time except three or four days.

Q. When the investigation began were any pains taken by members of the committee to get from you in any wise the articles that had been published in the Tribune, and which are assumed to have given rise to the investigation, and did you furnish them to the committee?—A. When the investigation began I foresaw that those articles might be required, and so I went to work one day and cut them out and made a scrap-book. Mr. Millard asked me for the articles, and I furnished him that scrap-book as a convenient form. Subsequently, perhaps at my own suggestion that the chairman might want to see the articles if he was going to examine me upon them, I took the scrap-book to him.

Q. Have you furnished any other members of the committee anything?—A. Oh, yes.

Q. Have you furnished the chairman?—A. I furnished the chairman with a copy of Mr. Dickerson's brief in the New Orleans case. When I saw Mr. Dickerson I told him that I wanted three or four copies of that brief; that members of the committee might desire to have it. He gave them to me, and I furnished the chairman one copy of that, and I believe I furnished him with copies of one or two other briefs.

Q. I observe that some of the members of the committee have had copies of the record of the proceedings in the Interior Department, the first volume. Did you furnish those copies?—A. I did not.

Q. Do you know who did?—A. I do not.

Q. You do not know why they were not furnished with the second volume, if they were not, do you?—A. I do not.

Mr. EDEN. I got both.

Mr. HALL. I am like Lord Hale, I only got one.

Mr. RANNEY. I do not think there is anything improper about it; it was highly proper. You should have them all; I do not care where you got them.

Q. You say you got from Mr. Storrow the documents and papers in the New Orleans suit?—A. I got Mr. Dickerson's brief.

Q. Did you furnish that to the committee?—A. I furnished the chairman with a copy, and I think I furnished you a copy, and I kept one copy for myself; I had three of them; I think that I furnished the chairman with a copy of Mr. Storrow's brief.

The CHAIRMAN. You furnished me two or three; I have forgotten what.

Q. Do you know of any other member of the committee than myself desiring to see Mr. Storrow and Mr. Dickerson?—A. No; I don't know anything about that.

Mr. HALL. Desiring to see who?

Mr. RANNEY. Whether any of them wanted to see those gentlemen to get information to guide them in this investigation?

Mr. EDEN. I was not so fortunate as to be informed that Mr. Storrow was in the city.

Mr. HALL (to the stenographer). Read the question.

The STENOGRAPHER read as follows:

"Q. Do you know of any other member of the committee than myself desiring to see Mr. Storrow and Mr. Dickerson?"

A. No, sir.

Q. Did you have any conversation with any other members of the committee about any steps which it might be advantageous to take in conducting this examination?—A. Mr. Boyle, Mr. Moffatt, Mr. Millard, Mr. Hanback, and yourself have all talked with me about the investigation.

Q. Seeking to get all the information we could?—A. And Mr. Hall and Mr. Hale. We talked considerably about it one night on the street, I recollect. I don't know whether they were seekers for information or not.

Q. Did they speak about your having communicated facts that you knew to members of the committee? Do you know anybody who has been communicating facts to them, so far as you have observed? It is all proper enough; I do not imply anything wrong; it is highly proper.—A. I understand Colonel Young has been attending to that.

Q. Very properly. He has been in communication with them under your observation and to your knowledge?—A. I have seen him about the room here all the time, and I saw him take Mr. Jones out of the room yesterday morning.

Q. You considered it the duty of the committee, I suppose, to find their facts and get their information wherever they could?—A. I don't think I ought to answer that question.

Mr. HALE. I object to it.

Q. You considered it your duty to furnish information to members of the committee whenever they asked for it?—A. Whenever anybody has asked for information I have furnished it if I could, and if I hadn't it I did my best to obtain it.

Q. You have been asked considerably in detail about interviews with Mr. Dickerson and Mr. Storrow. I understand that you were seeking information about the New Orleans suits?—A. Yes, sir; and about everything connected with this case and this whole Government business. Colonel Young desires me to say that he came to me and asked me to point out Mr. Jones to him. That is true.

Q. You refer to the occasion of yesterday?—A. Yes, sir.

Q. When he wished to give him information. I want to call your attention first to your interview with Mr. Garland. I see that Mr. Garland gave you a minute account, as you have detailed it—without pretending to characterize it—of an interview which was had between him and Mr. Casey Young, Mr. Van Benthuyzen, Col. Gantt and another gentleman whom he did not remember. Did he say anything at that time about having had an interview on the next preceding day, or soon before that, with that same Mr. Van Benthuyzen and Mr. Huntington?—A. He did not.

Q. He made no mention of it?—A. No, sir. I asked him to tell me all about this case and he proceeded to do it.

Q. Did he say anything in that interview about Mr. Van Benthuyzen or any one else coming after that interview and getting his assent to the withdrawal of Mr. Van Benthuyzen's application which had been referred to the Interior Department?—A. He did not.

Q. He made no mention of that?—A. No, sir.

Q. Do you say that he said to you that he did not remember the name of the other gentleman who called?—A. Yes, sir.

Q. Then he did not say that it was Mr. Keasby, of New Jersey, or Mr. Von Breisen?—A. He did not.

Q. He mentioned nothing about Mr. C. P. Huntington?—A. I think not, unless Mr. Huntington's name was mentioned in the dispatch.

Q. I do not observe it here. Were you particular to take down accurately everything he said?—A. No, sir; I boiled that down a great deal. We had quite a long conversation. That is the substance of it; every material fact is given. The limitation, upon newspaper space are such that we cannot give everything.

Q. I see you state that Mr. Goode, in your interview with him, declined to answer certain questions?—A. That was Mr. Garland.

Q. Probably I have got the wrong one. What were those questions you desired to put to him that he declined to answer?—A. They were not questions I desired to put to him. He said that one of those gentlemen who came to see him put certain questions to him which he declined to answer.

Q. He was asked questions which he declined to answer, but those questions were not put by you?—A. Not by me, but by one of those gentlemen who came to see him.

Q. I see you say something in this dispatch about Mr. Goode telling you that Mr. Harris and Casey Young came in and that he discussed the matter with them. Do you recollect what he said on that subject?—A. The wording is better in the dispatch than I could give it now; the word "discussed" was not used; he said, "We talked it over."

Q. "We talked it over and I told them that I would investigate and consider it, and give my decision the next morning"?—A. Yes, sir.

Q. Did he say to you that all or either of those gentlemen said to him that the object was to inquire whether the letter had come and whether he would act upon it?—A. No, sir; he did not. My understanding of what took place is very different from that.

Q. I have not looked through all your dispatches here. Did you, after you had first written them, find any fact which you ascertained to be otherwise than as you had stated in the dispatches, so that you had occasion to change them?—A. There was just one occasion. I received a copy of Mr. Garland's letter to the President—that correspondence which took place, I think, on the 8th of October, or the 9th, or perhaps after that—pretty late in the evening. I read it through hastily, and wrote an introduction to it. In that I unfortunately said or omitted to say something which I corrected the next day. I regarded it as an injustice to the Attorney-General requiring correction. I said that he discussed his relations as an attorney for the Pan-Electric company without stating his relations as a stockholder. What I should have

said, and what I intended to say, was, "Without dwelling upon his relations as a stockholder." I used the word "stating" instead of "dwelling."

Q. And you corrected that?—A. I did correct that promptly.

Q. Were there any facts stated by you in these articles that you did not have reason to believe were true?—A. I took the utmost pains to verify every statement that I made.

Q. As you remarked yesterday, in answer to Mr. Boyle, the chairman, you did that knowing your responsibility for libel if you were wrong?—A. Yes, sir; a newspaper man always has that before his eyes.

Q. And that you had a caution or request from headquarters that you should be careful with your facts?—A. Yes, sir.

Q. And you took the utmost pains to be so?—A. Yes, sir.

Q. Did you get the letters from Dr. Rogers? I do not know whether you published them before they came out in the World or not?—A. I published some that the World had not published.

Q. Where did you get them? I think you have not been inquired of in relation to that?—A. I got them from Dr. Rogers and his son. There were a good many more that might have been published that would have made very good reading.

Q. If they had been published in the World before, you published them yourself likewise?—A. Such as I thought material. There were some letters omitted from the World (not obtained by the World, perhaps is the better way of stating it) that I regarded as material, and I published those, and I republished several of the letters that had already appeared in the World.

Q. Where did you get those letters?—A. I got them from Dr. Rogers and his son.

Q. On your own solicitation or were they volunteered by him?—A. On my own solicitation.

Q. Did he or his son charge anything, or ask anything, or take anything for them, any money or other consideration?—A. No, sir.

Q. Did you seek out Mr. Hill, or did he come to you?—A. Oh, Mr. Hill is frequently in the habit of coming into my office when he has anything he thinks is news.

Q. In this case I forget whether you said he came?—A. He had brought me something several days before, and was frequently in and out of my office. It was at the dull season of the year, when men don't have very much to do.

Q. Was it a case where you went to him to ferret out secrets, or where he came and communicated to you what he saw fit?—A. He came to me.

Q. I do not know whether there is any fact that you have not stated and that you desire to state or not?—A. There is one fact I would like to state that rather completes my testimony on one point. I was asked on yesterday whether I had any communication with Mr. Dickerson prior to the publication of this first dispatch. I did not have. I did not know then that there was any such person as Mr. Dickerson. But I did try to find somebody that could tell me the Bell side of the story. I always want to hear both sides. So I sent a note up to Professor Bell's house, but he had not yet returned from the country, and I did not know anybody else in Washington to whom I could apply in his behalf. I want to state that I made that effort to see Professor Bell.

Q. Is there anything else you desire to state?—A. That is all.

Q. I understand you were in the Army with Mr. Brown, the Patent Office man?—A. We were together in the Army during the war.

Q. And it was at this office where you visited him that you met Mr. Dickerson and Mr. Storrow?—A. Major Brown always comes to my office when he is in Washington; we are old comrades and friends.

Q. I want to know whether you were requested by any member of this committee to get information or to name any sources of information for use in this investigation?—A. I was; by yourself and, I think, by Mr. Millard.

Q. And it was at my express request that Mr. Storrow came, thinking I might get information from him?—A. Yes, sir.

Q. Otherwise, would he have come to see any member of the committee himself?—A. I do not think he had any such intention.

Q. He was then in town on his return from the argument of the case in New Orleans, I understand?—A. Yes, sir.

Mr. RANNEY. That is all.

By Mr. EDEN:

Q. Just a question or two. Among other things you wished to ascertain about this matter was the connection that Attorney-General Garland had with the bringing of the Government suit, I suppose?—A. Yes; that was one of the matters, and an important one.

Q. And you were anxious to get the truth about that as well as about other things?—A. Exactly.

Q. Upon his return from Arkansas you went and had an interview with him and

got a statement from him as to what he had done or had not done in reference to that matter?—A. Yes, sir.

Q. He gave you the entire transaction, did he not?—A. He did. He talked very frankly about it. He said there was very little to say in addition to what he had already said. He had sent a dispatch from Little Rock to the Times-Democrat in New Orleans.

Q. Then after your interview with him you also had an interview with Mr. Goode, the Solicitor-General, in reference to bringing the suit?—A. Yes, sir.

Q. He gave you his version of it, did he?—A. He did.

Q. After you had had those interviews with Mr. Garland and Mr. Goode, did you make any further effort to ascertain from any other source the connection that Mr. Garland had had with the bringing of the suit?—A. I have been making efforts ever since then.

Q. Did you have any reason to believe that the statement that Attorney-General Garland had given to you in reference to this matter was not correct?—A. I had this in view all the time—

Q. Of course I am not particular about the form of your answer, but please keep in view the question—that is, whether you had any reason to believe that his statement was not true?—A. No; I will not say that I had any reason to believe that his statement was not true, but I thought it was a subject for further investigation.

Q. Had you any reason to believe that the account Solicitor-General Goode gave you was not true?—A. I will make the same answer to that question. I was not satisfied.

Q. I will ask you if you did not regard the statements of Attorney-General Garland and Solicitor-General Goode, upon a matter that must have been within their personal knowledge, as entitled to as much weight as the statement of Mr. Hill?—A. I regarded them as entitled to a great deal more weight. Mr. Hill, however, did not make any statement to me, I think, on that point.

Q. From whom did you acquire any information on that subject that you regarded as being more reliable than the statement of the Attorney-General himself?—A. I do not say that I had any information that I regarded as more trustworthy. I was not satisfied in my own mind about it, and I considered it a proper subject for further inquiry.

Q. There is no question about that. You made a very thorough inquiry and were at considerable expense in order to ascertain who was connected with the Pais-Electric Telephone Company, if I understand your evidence.—A. No.

Q. Then give your version of it yourself.—A. The names of the chief stockholders and the directors I had had in my possession for some two years—

Q. Let me ask you there, before you proceed: Was there any secret about that?—A. None, whatever.

Q. It was published in the newspapers, was it not?—A. It was kept standing as an advertisement in a Washington newspaper for I don't know how long.

Q. Now, go on with your statement.—A. I did not incur any expense to ascertain that specific fact.

Q. What particular point was it that you were investigating that you were anxious to learn in reference to that enterprise?—A. I wanted to find out all about it.

Q. You knew already, and had known for two years, who the gentlemen were who composed the association?—A. Yes, sir.

Q. What reason was there for desiring to make any special investigation about it?—A. As I stated in my testimony yesterday, the thing that probably started me off on this was what I had read in one of the Baltimore papers one morning about the proceedings in court there; that it was—

Q. You stated that yesterday.—A. Yes, sir.

Mr. HALL. Let him state it again.

Mr. RANNEY. Let him finish his answer.

Mr. EDEN. Certainly.

The WITNESS. Perhaps I had finished my answer. All I wanted to say in addition to that is this: The condition of affairs two years ago was a simple one. It was then just a simple question as to whether one electrician should be turned out in the House and another one put in; and it came in my way then, as a newspaper man, to ascertain something about this Pan-Electric Telephone Company. The change that was contemplated did not take place, and therefore there was no need of any publication about it. In addition to that, the president of the Pan-Electric Telephone Company at that time was not Commissioner of Railroads; the vice-president was a Senator; the counsel was not Attorney-General of the United States; one of the directors was not Commissioner of Indian Affairs; there was no Government suit ordered, as I supposed and believed, at the instance, or in any manner with the cognizance or consent, of the Attorney-General of the United States, who, at the same time, was a stockholder and counsel of the Pan-Electric Telephone Company. Those were the reasons which prompted the investigation.

Q. Did you institute any other investigation to ascertain what members of Congress or Government officers might have stock in railroad companies or telegraph companies or any other corporations except this Pan-Electric Telephone Company?—A. No; I didn't know of any other in which the Government had brought suit.

Q. You were aware of the fact, I suppose, that some railroad companies had very important interests in Congress on which legislation was being had?—A. Yes, sir; but I did not know that the Department of Justice was bringing a suit in the interest of any of them.

Q. Did you know that there was legislation in Congress coming up on that subject with reference to the forfeiture of lands and things of that kind?—A. Oh, yes.

Q. Did you institute any investigation to ascertain whether members of Congress were interested in that?—A. If I could get the first clue to it I would; I would be very glad to pay anybody that would furnish it to me.

Q. Did you make any investigation to ascertain whether there were any Government officers or members of Congress connected with the Bell Telephone Company?—A. No, sir; the Bell Telephone Company was not in this scrape except as a defendant. Naturally I supposed that if Congress took this thing up and any Congressman was interested in the Bell Company that fact would be shown.

Q. I was simply asking about what steps you yourself had taken.—A. I did not take any steps myself, because the Bell company was not applying to the Department of Justice to have suit brought. That was the central fact of this whole situation.

By Mr. HALL:

Q. You have been asked by Judge Ranney about who has been taking any part or interest in this investigation. I understand you to say that he approached you with a view of having you assist in furnishing the names of witnesses or any information you could to further the investigation?—A. Not so much the names of witnesses as facts. Well, yes, furnishing names of witnesses, too, in the sense of pointing out from whom certain information could be obtained.

Q. Have you done so?—A. I have.

Q. Do you know anybody else who has been doing that?—A. I suppose Colonel Young has been doing it.

Q. I am talking about your knowledge with reference to Mr. Ranney.

The WITNESS. Furnishing information to Mr. Ranney?

Mr. HALL. Yes.

A. I think probably half a dozen people have done it, but I only know by hearsay.

Mr. RANNEY. Mr. Hall is in error on that subject. The first inquiry on that subject was by the chairman; mine was only an extension of his.

Mr. HALL. I suppose it is nothing improper, is it?

Mr. RANNEY. Not at all, only I do not want you to give me the credit of originating anything.

Mr. HALL. I do not know that I have done that.

Q. You say you do not know of anybody else who has been doing that?—A. Only by hearsay.

Mr. HALL. I suppose hearsay is not competent, and I do not care so much about that.

The WITNESS. I have heard so much talk here about it not being competent that I feel a little delicacy about it.

Mr. HALL. I do not want you to do anything indelicate.

Q. You have occasionally, during the progress of this inquiry, furnished a note or memorandum to him?—A. I have.

Q. When his memory failed, or anything of that kind, you prompted him?—A. Well, it don't very often fail, but whenever I thought there was any danger that the point might escape him I have prompted him; I have also prompted the chairman.

Q. I suppose you did that as a mere matter of news, in order to get the news?—A. Yes; it was in that way—to get at the news.

Q. You speak about having had an interview with me?—A. Yes, sir.

Q. Do you call that an interview?—A. Oh, no; we talked over this matter some.

Q. Now, I want to ask you if we did. I want to ask you if you are not mistaken in saying that we said anything about this matter?—A. It seems to me that we did.

Q. Do you not know that the only subject that was talked over between you and myself and Mr. Hale was relative to the habit or usage in publishing newspaper articles for pay, and that it was simply a casual conversation on that subject, on the propriety of doing it?

The WITNESS. Was not that part of this investigation?

Mr. HALL. I do not so understand it at all.

The WITNESS. I thought Mr. Pulitzer's resolution referred to it.

Mr. HALL. You may have had this thing on your brain; but do you not know, as a matter of fact, we did not talk at all with reference to this investigation?

The WITNESS. We did not talk about anything except that.

Mr. HALL. Do you not know that nothing was said about what was testified to or was to be testified to in relation to this subject?

The WITNESS. As to what should be testified?

Mr. HALL. Or had been.

The WITNESS. No; my impression is that we did.

Q. I want you to state a single word that passed between you and myself, or between you and Mr. Hale in my presence, touching what witnesses had been here, or what had been said or done here.—A. The conversation between you and Mr. Hale and myself was rather conversational about the morality of dealing in wheat options, I think.

Q. It commenced in that way, did it not, as a matter of general speculation?—A. Yes, sir. After Mr. Hale went home, you and I walked along and talked a little while on a corner on F street, and my impression is that we talked about the investigation, but not about the witnesses.

Q. Was there anything said between you and me except as to the morality of these newspapers; what they could or could not publish for information?—A. Perhaps that was all.

Q. Did I ask you to hunt up any testimony or do a single thing with reference to this investigation?—A. You did not.

Q. It was just a casual interview?—A. Yes, sir; a casual talk. Perhaps if you will refresh your memory you will see that Mr. Ranney asked me whether I talked with other members of the committee about it.

Q. I infer from your answer that you meant to imply that I had some talk with you about this subject under investigation.—A. Oh, no; I did not mean to be so understood.

Mr. RANNEY. I did not ask him because I thought there was anything improper about it. It was a very proper thing to do.

Mr. HALL. The trouble is that people outside do not entertain the same views about it that you and I do.

The WITNESS. I did not mean to be so interpreted at all.

Mr. RANNEY. I don't know how a committee could make an investigation unless they sought the facts somewhere, or the source from which the facts could be obtained.

The WITNESS. This conversation, I will say now, was merely a casual one. We happened to meet on the street one evening, and we talked some time about wheat options, newspaper morality, and so on. But I thought the talk about newspaper morality related to this investigation.

Mr. HALL. In regard to Colonel Young, I inferred from your answer that you implied that Colonel Young and myself have had interviews. You spoke about his assisting. Do you mean to imply that?

Mr. RANNEY. I did not ask it as an impropriety.

Mr. HALL. If it is of no importance I do not know why it was asked.

Mr. RANNEY. Simply to show that both sides were seeking information wherever they could get it, and seeking the sources of information.

Mr. HALE. I am free to say that I have had frequent talks with men on both sides of this controversy, and I did not think there was anything wrong about it.

Mr. RANNEY. I should not have asked the question, but the chairman put some questions so limited that I thought it might raise an imputation, and I extended it so that it might not appear that there was any imputation.

Mr. HALE. I have spoken to both sides, and think it is perfectly right.

The WITNESS. I think I have had more than one conversation with Mr. Hale about it.

Mr. HALE. Yes, casually, as we have met.

The WITNESS. I did not say anything about Colonel Young except that, seeing him here in the room, I supposed that he was taking an active interest in this case, and was furnishing information as he had opportunity to do. That is what I said.

Mr. RANNEY. I have sought information from Mr. Young and everybody else.

Q. Speaking of furnishing records, do you know who furnished me with records?—A. I do not.

Q. Do you know whether I have been furnished with a full record?—A. I do not.

Q. You have taken a very decided interest in this matter from the beginning, as a partisan, have you not?—A. As a citizen.

Q. I put the question if you have not done it as a partisan. As Judge Ranney says, there is nothing wrong about that at all; it is highly proper for you to do so, but I want the fact.—A. Yes, and if I had been a Democrat I should have taken just as strong an interest in it as a partisan.

Q. But you were not a Democrat, were you?—A. I suppose that a man's partisan feelings color a great many things.

Q. How long have you been connected with the Tribune?—A. I think about eight years.

Q. Were you ever connected with a Democratic newspaper?—A. I never was.

Q. I think you stated, in answer to a question, that a correspondent for one of these great daily papers, who resides here at the capital, has a sort of implied instruction, that is not necessary to be put in form, from the manager of the paper, about the political color of his correspondence?—A. Well, newspaper correspondents in Washington, you know, must agree with the policy of the administration of their papers.

Q. You want to make all the political capital out of any facts that may come in your way affecting what you call political the *personnel* of men in position of different politics, do you not?—A. I do not quite understand that question.

Mr. HALL. Read it, Mr. Reporter, and let me see if I have it in proper shape.

The STENOGRAPHER (reading):

“You want to make all the political capital out of any facts that may come in your way affecting what you call the political *personnel* of men in position of different politics, do you not?”

A. I should say yes, sir; though I do not know what you mean by political *personnel*.

Q. You have taken an active and zealous part as correspondent of the Tribune in getting up all these facts and in stating them just as strongly as you know how, to produce adverse political effect, have you not?—A. Well, Mr. Hall, if you knew what I had not said about this thing you wouldn't ask me that question. I have not put these things as strongly as I could. I have put them pretty strongly sometimes, but I have been extremely careful in what I have said.

Q. About what have you been careful?—A. In keeping within the limits of what I regarded to be the facts.

Q. Where there has been any doubt about the fact you have always thrown it against the officer, have you not?—A. I have tried not to be in doubt about the fact.

Q. In this article to which attention has been called, and from which you read, I will ask you if, after having stated the facts, you did not sit right down there and resolve every question of doubt adversely to the officers to whom the article relates, both Garland and Goode?—A. I have not read the comments there, but I presume they are very much such comments as a correspondent of any political paper might make.

Q. Do you suppose that if the persons involved had been officers holding under a Republican administration you would have pursued precisely the same course?—A. I am glad you asked me that question, because I have criticised Republican officials quite sharply.

Mr. HALL. I suppose you have, but that don't answer the question.

The WITNESS. Don't it?

Mr. HALL. No.

Mr. RANNEY. I don't see that the Tribune has been so severe, or any more so than the New York World and the New York Sun, which are Democratic papers.

Mr. HALL. That depends on the interest they have.

The WITNESS. You asked me whether I would have been as severe if the officers had been Republicans.

Mr. HALL. I asked you if you would have pursued precisely the same course.

The WITNESS. I presume I would.

Q. Have you any knowledge of such a course being pursued since you have been connected with the New York Tribune?

The WITNESS. By the Tribune?

Mr. HALL. Yes.

A. Well, it is not more than three years ago since I was going for Secretary Chandler in about the same fashion.

Q. You got over it pretty soon, did you not?—A. I got over it when he got straight.

Q. Did he ever get straight?—A. He did.

Mr. HALL. I am glad to find it out. It didn't take any investigating committee—

Mr. RANNEY. I am afraid the interrogator will disclose his partisan character if he don't look out.

Mr. HALL. You seem to have fears that lead you in both directions.

Q. I wish to ask you with reference to your interviews with Mr. Dickerson and Mr. Storrow. Were they before or after these publications first appeared in the Tribune; I mean the publications you got from Hill?

The WITNESS. Do you mean the first publications, in September last?

Mr. HALL. Yes.

A. It may have been ignorance, perhaps, but I will confess that I did not know at that time that there was such a person as Mr. Dickerson or Mr. Storrow. The only person I knew at that time connected with the Bell Telephone Company was Major Brown, and I only knew that in an indifferent sort of way, without taking any account of it. He was not in Washington at the time I wrote those dispatches.

Q. I understand you to say it was through Major Brown that you were brought to have an interview with those gentlemen?—A. Oh, no. It was through him I obtained the knowledge that Dickerson and Storrow were both here.

Q. Did he not say he would like to have you see them?—A. I said I would like to see them.

Q. Did Brown at that time know of these publications?

The WITNESS. Last fall?

Mr. HALL. Did he know at the time you sought through him to have these interviews?—A. These interviews took place since this investigation began.

Q. When you saw Dickerson and Storow did you have a conversation with them about the original publications that you got from Hill?—A. I did not. Nothing was said about it.

Q. I understood from you it was before that?—A. No. The first time I met Mr. Dickerson or Mr. Storow was during the hearing before the Department of the Interior.

Q. This interview was comparatively recently, when Mr. Storow was here?—A. When he was here on his return from the trial of the New Orleans suit. I should say it was within a month. If I can fix the date of the hearing before the Department of the Interior I can fix the date of my first acquaintance with Mr. Dickerson and Mr. Storow. It was some time early in November. Here is a dispatch of mine dated November 11, and that was during the period.

Q. Have you seen Mr. Storow since then?—A. I saw him within a month.

Q. When he was here?—A. When he was here.

Q. How happened you to see him then?—A. Major Brown told me he was here and I went right off to see him.

Q. Did you go to him to get some further information?—A. I went to him to see if he had any news.

Q. About this matter?—A. About this matter.

Q. Did you know he had a copy of this original Hill manuscript?—A. I did not.

Q. You never heard of that?—A. I never heard of it until it was developed here.

Mr. RANNEY. What original manuscript?

Mr. HALL. The one Hill transmitted to Sypher and Sypher transmitted to Storow.

Mr. RANNEY. It was not the original manuscript. It was a type-writer copy, according to my understanding of the evidence.

Mr. HALL. I regard them all as original.

Q. Did Mr. Storow furnish you any information that you communicated to any member of the committee?—A. I brought Mr. Storow and Mr. Ranney together.

Q. Whereabouts was that?—A. I saw Mr. Ranney and he said that he would be glad to see Mr. Storow, and I notified Mr. Storow and he went and saw Mr. Ranney.

Q. You were not the means of communicating any news?—A. I don't recollect that Mr. Storow gave me anything that I could communicate. It was all high lawyer talk that I couldn't follow at all.

Q. May be I can refresh your memory a little. Did he go on and explain to you how all the questions that would be involved in the Government suit were practically involved in the suits that were already on their way to the Supreme Court?—A. Well, he talked somewhat about that.

Q. And that practically there was no need for this present suit, for that reason?—A. That has been the argument of these Bell people from the beginning; that is what Mr. Dickerson wrote to the Tribune.

Q. I know it is; but I want to see whether that was communicated to you at that time.—A. I presume he talked to me about it.

Q. This conversation was in relation to the general merits of this controversy?—A. There was a good deal about it, and there was a good deal about the New Orleans suit which had recently been tried.

Q. Mr. Storow understood, of course, that you were the correspondent of the Tribune?—A. Oh, yes; I went to see him in that capacity.

Q. Do you know whether any other correspondents for papers saw him at or about the same time?—A. I do not.

Q. Do you know whether they did at the former time?

The WITNESS. In October or November?

Mr. HALL. Yes.

A. Oh, yes, sir.

Q. Other correspondents saw him at that time?—A. I suppose they did. I presume the Associated Press correspondent saw him daily; it was his duty to do so.

Q. At that time they got some information and you got some information from him?—A. I did not get so very much information from him.

Q. Such as you saw proper to furnish you furnished your paper, did you?—A. Yes, sir.

Q. Upon this subject?—A. Yes, sir.

By Mr. EDEN:

Q. I would like to see if I understood you rightly upon one point. The reason of your activity in searching out this matter was not merely on account of the fact that

these men belonged to a corporation, but because of the bringing of the Government suit?—A. That was one fact, and an important fact, as I said.

Q. You did not regard it as being any more wrong for a public man to have telephone stock than to have bank stock or railroad stock or any sort of stock? I suppose it was only in the use that was made of it?—A. Well, it would depend a good deal on the sort of stock it was—if you are asking my opinion about it.

Mr. RANNEY. It would depend on what kind of stock it was and how he got it.

The WITNESS. I did not mean to have my answer go to that length. The fact of the suit and the relations of these men to it I deemed important.

Q. Did you think it was any worse for a man to own stock in the Pan-Electric Telephone Company than in the Bell Telephone Company?—A. Are you asking my opinion about that? If you are, I reply most certainly in the affirmative. I say yes.

Q. Then there was something in the organization of the Pan-Electric Company in addition to the fact of the bringing of the Government suit that caused you to set on foot the investigation?—A. Yes. I looked upon it as a sort of speculation without much basis. I looked upon it in this way, if you want me to explain—.

Mr. EDEN. I am asking you particularly—

Mr. RANNEY. I think he should answer it now.

Mr. HALL. I think so, too.

The WITNESS. Suppose a national bank were organized and that the directors received deposits amounting to \$15,000 or \$20,000, and divided them up and declared the money to be a dividend. That is the sort of distinction I draw.

Q. They could not do that under the banking law, could they?—A. I was supposing the case, you know.

Q. Would you regard it as an offense for a public officer to hold bank stock?—A. No, sir.

Q. Or railroad stock?—A. Not if he obtained it honestly.

Q. Or telegraph stock?—A. Not if he obtained it honestly, and it was a real telegraph.

Q. You got your idea from your investigations that these gentlemen did not obtain this stock honestly, then?—A. No, sir; I do not say that. I think they obtained it in the most honest manner possible.

Mr. RANNEY. Are you not asking his opinion now?

Mr. EDEN. No; I am only trying to get what the reason was.

Q. You thought it was wrong for a public officer to hold stock in the Pan-Electric Telephone Company and was not wrong for him to hold stock in anything else?—A. Well, it seemed to me a good deal like a man having a deed to a quarter-section of moonshine. There is nothing intrinsically wrong about that, so far as I know, only it is a sort of stock I would not care to deal in.

Mr. EDEN. That is all.

Mr. HALL. I forgot one matter in the same direction.

By Mr HALL:

Q. I think you stated that you had these facts in your possession nearly two years?—A. Some of the facts; yes, sir.

Q. In relation to the organization of this company and who its members were?—A. Yes, sir.

Q. Did you know how the company was organized?—A. I did not know how it came to be organized at that time.

Q. When did you first hear about how it was organized?—A. I think I got my first information some time between the middle of September and the time my dispatch was published.

Q. That was before you got this paper from Hill?—A. I testified to-day that I thought possibly Hill might have had some conversation with me on this subject. I am very clear I obtained some information about the organization aside from that.

Q. Did you know anything about what now strikes you as this objectionable form of organization before you learned of the order for the suit?—A. No, sir; I did not fully understand the ramifications of this Pan-Electric association before the latter part of February.

Q. When did you first learn of the organization of the Bell Telephone Company, and how it was gotten up?—A. I never knew how it was gotten up.

Q. You never knew anything about it until you heard it detailed here the other day by the witnesses?—A. I did not happen to hear their testimony.

Q. Then you do not know to this day how it was organized?—A. I do not.

Q. How are you so ready to condemn the one and uphold the other without knowing anything about the methods of organization?—A. Well, you know a man can hardly condemn a thing he doesn't know anything about.

Q. Not unless he wants to; but you yourself drew the parallel a few moments ago between the two companies.

The WITNESS. Between the two companies?

Mr. HALL. Yes, sir; in response to a question by Mr. Hale.

A. I have not drawn any parallel between the Bell company and the Pan-Electric company.

Q. Did not he ask you whether you thought it was any more wrong to own stock in the Pan-Electric company than in the Bell company, and did not you go right on to say it depended on how they were gotten up?—A. He did not ask me anything about the Bell company.

Q. You may not have understood him.—A. He asked me about holding stock in a telegraph company, as I understood it.

Q. Do you not feel conscious of the fact that, in view of your relation to the New York Tribune, and your education and desire to get up everything that is new and sensational, and that will affect anybody that is not a Republican, that you are biased in this matter, and that you are disposed to condemn what is on one side and upheld what is on the other?

The WITNESS. That is rather a long question.

Mr. HALL (to the stenographer). Read it over to him.

The stenographer read the question.

A. You assume as a fact something that I deny.

Q. What is that?—A. That I desire to get up sensations to affect exclusively people of one party. I do not desire to get up any sensations. I wish there were no sensations.

Q. I will withdraw from that question the word "sensation." Are you not conscious of bias in your desire to give the earliest news?

The WITNESS. Of being biased?

Mr. HALL. Yes.

A. I am.

The witness then left the stand.

Mr. RANNEY. I have made a request to the chairman for the summoning of several witnesses.

Mr. HALL. They are not here to-day, I suppose?

Mr. EDEN (in the chair). I suppose you do not want to go on any longer to-day?

Mr. RANNEY. No.

Mr. HALL. I move we adjourn until 1 o'clock to-morrow.

Mr. EDEN. If there be no objection the committee will stand adjourned until to-morrow, at 1 o'clock.

Thereupon, at 2.45 p. m., the committee adjourned until to-morrow, May 7, 1886, at 1 p. m.

WASHINGTON, D. C., *Friday, May 7, 1886.*

The committee was called to order at 1.54 p. m. All the members present.

The CHAIRMAN. Does any gentleman of the committee desire to submit any evidence to-day?

Mr. OATES. Are there any witnesses present?

The CHAIRMAN. There are no witnesses present.

Mr. RANNEY. There are some important letters which I desire to put in at the proper time; some of them letters of Senator Harris; and I understand that he wishes to be present when his letters are put in.

Mr. OATES. I move that the committee go into executive session.

The motion was agreed to; and after some time spent in secret session the committee adjourned.

WASHINGTON, D. C., *Tuesday, May 11, 1886.*

The committee was called to order at 11.25 a. m.

GEORGE A. GUSTIN came before the committee and was duly sworn.

Mr. OATES (in the chair). Mr. Ranney, you may interrogate the witness.

By Mr. RANNEY:

Question. Please state your residence and occupation.—Answer. I am a resident of Washington, and a stenographer by occupation.

Q. Have you ever had any connection with this Pan-Electric company matter?—A. Yes, sir.

Q. What was your relation to it?—A. I was one of the promoters of the branch company known as the Washington Telephone Company.

Q. The branch company to which you refer is the Washington Telephone Company?—A. Yes, sir, of which General Bradley T. Johnson is president.

Q. How early did you go into that?—A. I think it was about two years ago; I am not quite sure as to dates.

Q. It was at its inception or organization?—A. At its very inception. I was the original promoter of that company.

Q. Do you own any of the stock?—A. Yes, sir.

Q. How much of it?—A. I own now, I think, about six hundred shares.

Q. Did you have anything to do with the distribution or sale of the stock?—A. Nothing whatever.

Q. You never had anything to do with the disposal of it?—A. Not a thing; no interest whatever in the disposal of any stock.

Q. You had, I believe (so I am informed), something to do with the initiation of the negotiations for the sale to the Bell company of the patent or some patents connected with the Pan-Electric company?—A. It did not amount to that hardly. A gentleman came to me and asked me—from the fact that I knew some of the members of the Bell company—whether I could make a sale of his instrument, which I think is the best one in the world. I undertook to try it, but I made a failure of it.

Q. Who came to you to get you to do it?—A. I do not remember now. It seems to me there were two or three gentlemen. One of them, I think, was a Dr. Roberts, whom I did not know at the time.

Q. Do you remember any others?—A. I cannot recall them. It was rather a matter of surprise to me, as I was not looking for it. I do not remember any others.

Q. You cannot remember any of the others?—A. No, sir; I think he was the principal one.

Q. What connection had the Pan-Electric Company with the matter?—A. None whatever, that I know of.

Q. What did you do to the end proposed?—A. The Pan-Electric Company, or some of the members of it, named a price—I never had anything to do with them in a full meeting—so that my negotiations were rather in the interest of certain parties than with the Pan-Electric Company. They told me that if I could sell these patents to the Bell Company at a price which they named, I should have a commission. But the price which they named was so entirely disproportionate—

Q. What was the price that they named?—A. Five million dollars. I however made the offer, and it was rejected.

Q. To whom did you make it?—A. To Mr. Vail.

Q. Verbally or by letter?—A. By letter.

Q. Have you a copy of the correspondence?—A. No, sir; Mr. Vail and I are old friends, and it was merely a friendly correspondence between us; I never kept copies of it.

Q. You say your being applied to was a surprise to you?—A. Rather a surprise.

Q. Perhaps you were applied to because you were a friend of Mr. Vail's?—A. Yes, sir; I suppose so.

Q. You wrote a letter to Mr. Vail and received one in reply?—A. Yes, sir.

Q. Can you fix the date of that?—A. No, sir; I could not.

Q. Fix it approximately, or as near as you can.—A. I should set it at about two years ago; I do not remember; the thing has passed out of my mind.

Q. Were you at that time a stockholder and interested in the Washington Pan-Electric Telephone Company?—A. That did not exist at that time.

Q. It was before you went into it?—A. Yes, sir.

Q. When you say, then, that the Pan-Electric people came to you, you mean people connected with the Pan-Electric Telephone Company?—A. No, sir; nobody connected with the Pan-Electric Company came to me. This gentleman, Dr. Roberts, as I recollect the circumstance, came to me and asked me to go with him and call upon some of the gentlemen connected with the Pan-Electric Company.

Q. And you did call?—A. I did.

Q. Upon whom did you call?—A. Upon Colonel Looney.

Q. Is Colonel Looney a Mississippian?—A. I am sure I do not know.

Q. Where did you find him?—A. At the National Hotel.

Q. Who else did you see about it?—A. At that time nobody.

Q. Who did you see next—in connection with this matter, I mean, of course?—A. I cannot remember; nobody but Colonel Looney. I do not think I had any conversation with anybody but Colonel Looney in regard to the sale.

Q. Did you see Dr. J. W. Rogers?—A. No, sir; not in connection with that.

Q. You knew him?—A. Yes, sir.

Q. Did you ever talk with him about it?—A. I do not think I ever did. I do not think I ever had any conversation with him or with his son in regard to the sale, except incidentally. I am quite sure that they had nothing to do with the proposal.

Q. To whom did you make the report of the result of your efforts?—A. To Colonel Looney.

Q. Did you see Senator Harris about it at all?—A. I do not think we had anything to do with Senator Harris in regard to the sale; no, sir.

Q. Or Casey Young?—A. No, sir; I think Colonel Young was against it.

Q. Against the sale?—A. Against any attempt to make a sale.

Q. How did you think so if you did not see him?—A. I learned that afterwards. I being something of an electrician, Colonel Looney offered me an interest in the company if I would undertake to get up a company for Washington, and in that way I came to have a business connection with Colonel Young, who was called as one of the directors.

Q. If it was so long after that that you had a conversation with Colonel Young, it is of no consequence. When you say that you think he was against it, from whom did you get that idea?—A. I think from the colonel's actions at the meeting when I proposed to take an interest in the affair, and we discussed the matter of the sale.

Q. With whom; Colonel Young?—A. Colonel Looney and Colonel Young, and I think possibly Dr. Rogers, were there, and if I remember rightly Colonel Young expressed himself decidedly as against any attempting of a sale.

Q. That was subsequent to the time when your attempt to sell had failed?—A. Yes, sir; I don't remember how long subsequently, though.

Q. About how long?—A. I could not give you an idea.

Q. Were you then canvassing the propriety of renewing the attempt to sell?—A. No, sir.

Q. You were merely talking it over as a past transaction, then?—A. Yes, sir.

Q. You mean Colonel Young was opposed renewing it, or opposed to your selling it when you had already tried and failed?—A. I think Colonel Young was opposed to the whole attempt of certain parties to make a sale.

Q. To making a renewed attempt?—A. No, sir; to making the original attempt. I do not think he knew anything of it at the time.

Q. Did he not know at that time that you had made the attempt and failed?—A. I do not know whether he did or not. It was a matter entirely between Colonel Looney and myself.

Q. Have you been connected with the Washington Telephone Company since?—A. I was a director in the Washington Telephone Company, and its electrician for one year; I have now no connection with it, and have not had for a year past.

Q. You still, however, hold the stock?—A. Yes, sir.

Q. Do you know the holders of stock in that company, any of them?—A. I know but very few of them, and indeed I am not sure that I know any of them, for I do not know what transfers have been made or what has been done in the company for a year past.

Q. Do you know for whom any stock was held in that company as trustee?—A. No, sir; I do not.

Q. You have no stock held in trust for anybody?—A. No, sir; all the stock that I have is my own.

Mr. RANNEY. That is all.

By Mr. OATES:

Q. The connection that you had with the effort to make that sale to the Bell company, you say, was arranged between you and Colonel Looney?—A. Yes, sir.

Q. He was the member of the Pan-Electric company who induced you to make the effort?—A. Yes, sir; that is my recollection of it.

Q. You do not know who else of the Pan-Electric company was connected with your effort or desired it, I understood you to say?—A. No, sir; my impression (and it was a very decided one at the time) was that Colonel Looney was the only one who wanted to make a sale; I think the other gentlemen were decidedly of the opinion that it was better to go to work with their telephone.

Q. The price in the proposition you submitted they regarded as too great, and they rejected it?—A. Yes, sir.

By Mr. RANNEY:

Q. Do you know whether the time at which you went there was before or after the time when Senator Harris and Dr. Rogers went to Boston in an endeavor to sell?—A. It was afterwards; Senator Harris and Dr. Rogers had been to Boston and exhibited the instrument.

Q. So that what they had done was prior to the time when you were solicited to make the attempt?—A. Yes, sir.

By Mr. MILLARD:

Q. What commission were you to have for making the sale?—A. I was to have a sliding commission, which amounted, I believe, to about 20 per cent.

Q. Twenty per cent. on five millions?—A. Twenty per cent. on any amount that I could sell it for that they were willing to receive.

Q. You were authorized to sell it for five million dollars?—A. Yes, sir.

Q. And 20 per cent. was the amount you were to have?—A. Yes, sir.

Q. How much would that be?—A. If it sold at five million dollars it would be one million dollars. When the price was named, I did not think it was feasible, and I wrote the letter as a matter of friendship.

Q. It was a pretty good offer, was it not?—A. Yes, sir.

ARTHUR V. BRIESEN then came before the committee and was duly sworn.

By Mr. OATES:

Q. Where do you reside?—A. In New York.

Q. What is your business or profession?—A. I am an attorney at law.

Q. What branch of the law, if any, do you give special attention to?—A. Mostly patent law.

Q. Did you ever have any connection, professional or otherwise, with a telephone company?—A. Yes, sir.

Q. Please state with what company and in what way?—A. In March, 1885, I was retained by the National Improved Telephone Company of New Orleans to assist them in defending a suit brought by the American Bell Telephone Company against another concern in Pittsburg, the Pittsburg concern being a branch of this New Orleans company, or at least one which was using the New Orleans instruments. As such attorney, I did what I thought proper in that case.

Q. How was that case determined?—A. I do not know. We only came to an expected argument on a motion for an injunction, and the counsel for the complainant argued that motion for two days, but Judge McKennan cut me short when I began to state my side of the case, and told me that the prior adjudications in Boston and New York would practically preclude him from re-examining matters that had been in those cases adjudicated, and his manner and words were of such a character that all the counsel in the case consulted and decided not to take up the time of the court by presenting our defense.

By Mr. EDEN:

Q. That was the Pittsburg suit?—A. Yes, sir.

By Mr. OATES:

Q. And that ended that case?—A. It did not end there. I believe it went on to further matters, but I had nothing more to do with it.

Q. Did you make an application to the Attorney-General to have a suit brought against the Bell company?—A. No, sir; I made no application, but I spoke to the Attorney-General about an application to be made.

Q. When was that?—A. That was on the 31st of July, 1885.

Q. Who was present?—A. Mr. Van Benthuyzen, my client, the president of the New Orleans company, Mr. Huntington, one of the directors I think in the same company, and I believe Colonel Casey Young and Colonel Gantt, two gentlemen whose acquaintance I had only made that day for the first time.

Q. You say you made an application or was present when one was made?—A. No, sir.

Q. Well, what transpired?—A. If I am permitted, I should like to answer that question by going back a little.

Q. Very well. We want the facts whatever they are.—A. On the 8th of July we were told by Judge McKennan that he could not give us relief, in substance, in our suit in Pittsburg, and on the same day I returned to New York. Instantly after that opinion was rendered I took the next train for New York. On the 12th of July, which was Sunday, Mr. Van Benthuyzen called upon me at my residence in New York, and we talked over this difficulty in which we found ourselves, the fact that the injunction was granted without a hearing (it being conceded that it was), and I suggested to Mr. Van Benthuyzen, I believe, that the only relief which could be had under these circumstances, if all the courts of the United States should act as Judge McKennan had acted, and every one grant an injunction as a matter of course, would be by a suit brought by the United States, in behalf of the United States, to set aside the Bell patent on the ground of fraudulent issue (or, if I may use the word, "collusion," I think I would be justified) by an officer of the Patent Office in granting it and in allowing things to be done with reference to that application which no proper officer of the Government ought to have allowed to be done. That was the purport of my conversation with Mr. Van Benthuyzen. I then left New York for a short vacation in New Hampshire; returned on the 27th of July, and then found a letter on my desk inviting me to be in Washington on the 29th, a letter from Mr. Van Benthuyzen, and also a copy of a letter which he had written to the Attorney-General on the 12th, the same day that he had been talking to me; he had afterwards written that letter. I suppose the committee know the letter I refer to.

Q. That is the letter asking for a suit to be brought under a supposed act of Congress?—A. Yes, sir; exactly. I also found on my desk a letter from the Commis-

sioner of Patents, stating that this letter of Mr. Van Benthuyssen's had been referred by the Attorney-General to the Secretary of the Interior, and by him to the Commissioner of Patents, and that the Commissioner wanted to know what law was referred to in that letter. On the 29th I was in Washington, and on the 30th I found Mr. Wilbur, the examiner who had granted this Bell patent.

By Mr. RANNEY:

Q. You found him in New York?—A. No, sir; I found him in Washington.

Q. You came to Washington?—A. Yes, sir; I arrived in Washington on the 29th. I looked up Mr. Wilbur on the 30th, and he gave us his affidavit, the one which, no doubt, this committee is acquainted with. On the next day we called at the office of the Attorney-General, and I had that affidavit in my hand when I called. The letter which Mr. Van Benthuyssen had written to the Attorney-General did not strike me as a proper means or mode of beginning such an investigation or of starting the machinery for beginning a suit in behalf of the United States. I had previously ascertained how the suit of the United States *vs.* Gunning had been started, and I thought that was a proper precedent for anything to be done in a similar case afterwards. I told the Attorney-General that I thought this letter was not a proper one; that his office could not be set in motion to relieve any citizen or to relieve the public from the pressure of this patent, if it is an unjust patent; that that could only be done upon presentation of proper affidavits to some district attorney, just as had been the case in the Gunning suit; and that if he would have no objection I would see to it that proper affidavits were presented to some district attorney, who could then recommend to the Attorney-General whatever action he saw proper; but that I would withdraw that letter. The Attorney-General told me that he would not be in a position to act in any matter concerning a telephone case, because he was a stockholder in one of the companies, and that if any application came it would be referred to some other officer, as he personally would not like to do anything in it; and as to withdrawing the letter, he coincided with me and said that that was proper. That is about the substance of our conversation. I then went to the Commissioner of Patents and told him, first, that there was no such law as Mr. Benthuyssen had said there was or thought there was, at least I knew of no such law; secondly, that I had been to the Attorney-General and told him that I would withdraw that letter, and the Attorney-General had said it was all right. The Commissioner then returned the letter to me.

By Mr. OATES:

Q. To whom did you deliver it?—A. To Mr. Van Benthuyssen.

Q. What further connection, if any, did you have with the effort at getting a Government suit brought?—A. None, whatever. On the 10th of August I received a letter—or rather I received a letter dated the 10th of August, I do not know when I got it—from Mr. Van Benthuyssen, advising me—

Mr. RANNEY. Do you say it was the 10th of August?

The WITNESS. Yes, the 10th of August, advising me—

Mr. RANNEY. I object to your stating what was in that letter unless you produce it.

Q. Have you the letter?—A. Yes, sir; I have it, but I haven't it here. It was simply discharging me from the case, that is all.

Mr. RANNEY. That is of no consequence then.

The WITNESS. It ended my connection with the case.

Mr. RANNEY. It discharged you from what case?

The WITNESS. From the telephone case.

Mr. RANNEY. You mean the Pennsylvania case?

The WITNESS. No; from the case of the New Orleans company, whose counsel I was. Between the 31st of July and the 10th of August, I believe, Mr. Van Benthuyssen had made some other arrangement with the Memphis company, and they had such a number of counsel that they did not need me any more.

Mr. RANNEY. You need not state what you understood. You mean the letter discharged you from his service?

The WITNESS. Yes, sir.

Mr. RANNEY. I would like to have you give the whole of the contents of the letter and then produce the letter itself, if you are willing?

The WITNESS. I can produce the letter.

Mr. EDEN. You might just send the letter down to us.

The WITNESS. Yes, sir; I can send it.

Mr. MILLARD. Give us your best recollection now, and then send us the letter.

The WITNESS. It simply says about this: I am advised by the officers or directors of the New Orleans National Improved Telephone Company that it is no longer able to pay your expenses—or whatever the language is, I forget—and under these circumstances I ask you not to do any further work in the matter unless we advise you to the contrary—or something like that. I can send you the letter.

Q. Have you given your recollection of the language used by the Attorney-General,

or the substance of it, when you had the interview with him?—A. I only give you the substance of it as well as I remember. I do not purport to give the exact words.

Q. You say that he said if an application came, or another application, it would have to go to some other officer; that he could have nothing to do with it?—A. I so understood him—that he would have to refer it to some other officer, as he could not personally act.

Q. For the reason that he was interested in another telephone company?—A. Yes, sir.

Mr. OATES. You can examine the witness, Mr. Ranney.

By Mr. RANNEY:

Q. I think you are a partner of Mr. Steele?—A. Yes, sir.

Q. The name of your firm is what?—A. Briesen & Steele.

Q. You have been in the habit of practicing in the department of law called the patent business more especially, have you?—A. In the Patent Office; yes, sir.

Q. You frequently are at the Patent Office?—A. Not very frequently. I am there three or four times a year.

Q. Who transacts the business at the Patent Office, you or your partner, Mr. Steele?—A. I do, mostly.

Q. When you came to Washington, you say you arrived here on the 29th of July. Will you be kind enough to state at what house you stopped?—A. I stopped at the Belvedere.

Q. You did not go to the Ebbitt House then?—A. No, sir.

Q. How soon after your arrival here did you see Mr. Van Benthuyzen?—A. I saw him the same afternoon. I arrived here about 4 o'clock, and called at the Ebbitt House the same afternoon.

Q. On the 29th?—A. Yes, sir.

Q. Did you find any one there but himself?—A. I found Mr. Van Benthuyzen and Mr. Huntington.

Q. That was the night of the 30th?—A. No.

Q. Of the 29th?—A. Yes, sir.

Q. Have you looked to fix the date?—A. Oh, I am positive about it.

Q. You arrived in the New York train which started from New York when?—A. It started from New York about 9 o'clock in the morning. It is called the limited express train, I believe.

Q. You got here about 4 or 5 o'clock?—A. Yes, sir; about 4 o'clock.

Q. How soon after your arrival did you go and see Mr. Van Benthuyzen?—A. I do not remember, but I am sure it was within two hours after I arrived. I came here especially to see him. I came here at his invitation.

Q. What day was it, then, when you went to see the Attorney-General?—A. It was the 31st.

Q. Then you were here all through the 30th?—A. Yes, sir.

Q. What were you doing during the 30th of July?—A. We were conferring at Mr. Van Benthuyzen's room a part of the time. I was in the Patent Office looking up some records part of the time, and I called on Mr. Wilbur in the afternoon and made his affidavit.

Q. What records were you looking at at the Patent Office on the 30th?—A. I was looking up some records showing the titles of certain patents of Mr. Rogers which it seemed the Pan-Electric Company claimed to own, and which Mr. Van Benthuyzen had told me his company owned. And so I went in there to see who owned them.

By Mr. OATES:

Q. Did you say that you prepared the affidavit of Mr. Wilbur?—A. Yes, sir.

By Mr. RANNEY:

Q. You went into the Patent Office and spent most of the day on Thursday the 30th?—A. No, sir; I only spent about two hours there, I should think.

Q. Do you remember who you saw there?—A. In the record-room I suppose I saw the proper officers, and I think Mr. Huntington also introduced me to a gentleman in the Department of the Interior—I forget what his office is and I forget his name—whose office was the second or third from that of the Secretary of the Interior.

Q. Did you have a conversation with him?—A. Yes, sir.

Q. In relation to what?—A. I do not exactly remember; I have no remembrance.

Q. Did you have any conversation with anybody in regard to this practice of the Department about granting Government suits or recommending them?—A. No, sir; my mind was fully fixed on that point, because I knew how the Gunning case was started—I thought I knew at least.

Q. They keep a record of these cases where they grant the application or recommend it?—A. Oh, yes, sir; in the Patent Office they do.

Q. You knew the Gunning case; did you know the case in which Mr. District Attorney Townsend recommended a Government suit?—A. No, sir.

Q. Do you know who you conversed with there?—A. I do not know the gentleman's name.

Q. Did you see the gentleman who had written your firm a letter making inquiry about the act of Congress referred to?—A. That was Mr. Montgomery, the Commissioner of Patents.

Q. Did you see him about it?—A. Yes, sir; I saw him about it.

Q. Did you have a conversation with him about it before the time when you went to withdraw the letter?—A. I am not quite clear whether I spoke to him about that on the 30th or the 31st. I know that on one of those days while I was in the Commissioner's room I told him that the law about which he had made inquiry did not, to my knowledge, exist; that is all.

Q. Did you make a reply in writing?—A. No, sir; not in writing.

Q. Didn't you know before that there was no such law?—A. Certainly; at least, before that I never knew of any such law.

Q. You keep run of the laws of Congress in regard to patents, do you not?—A. I try to.

Q. And you probably knew the fact that there was no such law at the time Mr. Van Benthuyzen drew that application?—A. Certainly; I never knew there was such a law.

Q. And you talked it over on one of the days with Mr. Montgomery?—A. I did not talk it over at all. I simply told him that there was no such law to my knowledge.

Q. I understand you to say that you do not know whether that was on the 30th or the 31st?—A. No, sir.

Q. You do not know which it was?—A. No, sir.

Q. Did you talk over the law with him at all—the law on which it rested independent of the statute?—A. No, sir.

Q. You say Mr. Huntington was at the Patent Office also on the 30th?—A. Yes, sir.

Q. And Mr. Van Benthuyzen was there too?—A. Yes sir.

Q. Do you know what they were doing at the time they they were?—A. They accompanied me into the record-room to look up these titles, and they also were with this gentleman whom Mr. Huntington introduced, whose name I have forgotten.

By Mr. OATES:

Q. Was it Mr. Muldrow, the First Assistant Secretary?—A. I do not think it was.

Q. Or Mr. Jenks?—A. I think he was the attorney of the Department of the Interior.

Q. You do not mean Mr. Montgomery?—A. No, sir; it was Mr. McCammon, I think.

By Mr. RANNEY:

Q. You talked with him on the 30th?—A. Yes, sir; I think so; I think that was the name. He has some connection with the office of the attorney of the Department of the Interior.

Q. You had a talk with him?—A. I had a long talk with him. We were simply introduced; Mr. Huntington knew him.

Q. Do you know what Mr. Van Benthuyzen and he were doing there?—A. They were simply looking over the records with me.

Q. How long a time did you stay at the Department?—A. I think about two hours.

Q. And at what time was it that you advised Mr. Van Benthuyzen that his proper course was to come through a district attorney?—A. I never knew any other course, and I think I suggested that to him on the 12th of July.

Q. Were you present when he drew that application?—A. No, sir; I was very much surprised when I saw it.

Q. If you were not in New York on the 12th when he wrote that application—
A. I was in New York on the 12th.

Q. I thought you had gone away?—A. No, sir; I told you that on the 12th, which was on Sunday, he called at my house and we talked this matter over, and he staid with me until about three o'clock in the afternoon, and then he went wherever he went, and must have written that letter afterwards.

Q. You told him then that the proper way was to make the application through a district attorney?—A. I have no positive recollection of telling him exactly that, but I do not think it likely that I did not tell him that, because in my opinion that was the only proper way.

Q. Did you know that he and Casey Young at Pittsburg had arranged the matter and made an agreement for a combination?—A. No, sir; I did not; that was kept from my knowledge.

Q. Did you ever hear of it?—A. I heard of it recently through some testimony that was published in the papers which was taken before this committee.

Q. Mr. Van Benthuyzen did not communicate to you any agreement between him and Casey Young that they had made at Pittsburg?—A. No, sir.

Q. Did he tell you anything that Colonel Young had told him about a Government suit?—A. No, sir.

Q. Or any suggestion Colonel Young had made?—A. No, sir.

Q. And he then went and drew his application, so far as you know?—A. I do not call that an application. He wrote a letter.

Q. Well, call it what you please it; was treated as an application, and it is one in fact.—A. It ought not to be.

Q. Well, no matter, we will take it as it is. You did not know at that time that he had drawn one?—A. I did not know until I came back from my vacation, on the 27th of July, and then I found a copy of it in my office.

Q. The 12th was Sunday?—A. Yes, sir.

Q. And then you came to Washington, in pursuance of a letter you had from Mr. Van Benthuyssen, written from where?—A. It was either a letter or a telegram, I think, sent from Waukesha Springs, or some such place, in Wisconsin.

Q. Had you known before that any meeting at Washington had been arranged?—A. No, sir.

Q. Have you preserved that letter or telegram on which you came to Washington?—A. That I do not know. I may have preserved it.

Q. Had you, before you came to Washington that time, had any information of what you claim to be improper conduct on the part of any examiner or man in the Patent Office?—A. Yes, sir; very decidedly.

Q. Where had you obtained that information? I do not ask you for the details of it.

The WITNESS. The details of what?

Mr. RANNEY. The details of the information. I do not care to go into that question now; we are not undertaking to examine it. But I would like to know the source of the information which you had before you came to Washington in relation to what you claim to be improper conduct in the Department, if you are at liberty to state it?—A. Oh, yes, sir. I had examined the record in the case called the Dowd case, the Western Union Telegraph case, in Boston—

Q. That was the source of your information?—A. No, sir; I am going to tell you the source.

Q. Well?—A. In that Dowd case—

Q. I don't care for the particulars of it.—A. I am going to give you simply the source of the information. In that Dowd case some reference was made to a prior application made by Bell for a patent in 1875, and that application I was quite anxious to see, and applying to the Patent Office for a copy of it, I was refused a copy on the ground that it was still a pending application. I afterwards found that the clerk of the court in Boston had such an application as an exhibit in the Dowd case, and I ordered him to send me a copy of it. In that application I found certain facts which I am willing to tell you, if you wish to know them.

Mr. RANNEY. I do not care to have them. We are not investigating the facts of it, and I do not care to go into any unnecessary details.

The WITNESS. Well, they are very important facts, and that it was which induced me to look with great care into the application of the 1876 patent, because, amongst others, the 1875 application mentioned the word "telephone" as an old device; and when I looked at the 1876 application, which I have in my office, I found that the examiner, Mr. Wilbur, had allowed the attorneys of Bell to introduce an amendment in the 1876 application which sought to draw the only—

Mr. RANNEY. You need not state your construction of it, because that would open the matter.

The WITNESS. Pardon me; I am giving you the source of my information; there was an amendment in the 1876 application introduced—

Mr. RANNEY. We have seen those amendments; they are disclosed in the paper.

The WITNESS. Introduced by the attorneys, which sought to explain the difference between the 1876 and the 1875 application, and that was not executed by the inventor himself, nor drawn out by the action of the Patent Office, but was a sort of voluntary introduction into the patent by the attorneys of Bell. This I deem and know to be gross irregularity, and the grossest neglect of duty by Mr. Wilbur.

Q. I do not care about that.—A. That was one of the sources of information; the other source was a file-wrapper showing that the examiner had notified Mr. Bell's attorneys of the existence of a caveat, which the law prohibits him from doing.

Q. Lawyers differ about that.

The WITNESS. Who differs?

Mr. RANNEY. I will not discuss the matter. Lawyers may differ, I say; it would be strange if they did not. You need not express your opinion about it.

The WITNESS. I am simply stating facts. The law distinctly says that the caveat shall be kept secret.

Q. You have not answered my question. When did you first meet Mr. Wilbur?—A. About ten or fifteen years ago.

Q. You are acquainted with him?—A. I have practiced before him. He was examiner of interferences.

Q. When did you first have any interview with him about this proceeding in the Patent Office?—A. On the 30th of July, 1885.

Q. Was that accidental or sought?—A. I sought him out.

Q. Where did you find him?—A. At his place of residence.

Q. On what day was that?—A. On the 30th of July.

Q. Was any one with you?—A. No.

Q. Were you alone when you got the affidavit?—A. No.

Q. Who was with you then?—A. I took Mr. Wilbur to the Ebbitt House and I drew the affidavit in the Ebbitt House in the presence of Mr. Van Benthuyzen and Mr. Huntington.

Q. Who else was there?—A. No one else, to my knowledge.

Q. Do you know what he was paid?—A. Yes, sir.

Q. How much?—A. He wanted a retainer of \$250, but I did not think his service was worth so much, and I told him that he ought to be satisfied, if we wanted the services, with a payment of \$50, which amount we paid him.

Q. Who paid him?—A. I did.

Q. Was Mr. Van Benthuyzen present?—A. Yes, sir.

Q. And saw it?—A. Yes, sir.

Q. Are you sure of that? Did you take a receipt?—A. Yes, sir.

Q. To whom did you give the receipt?—A. I have it.

Q. You have it now?—A. Yes, sir.

Q. Who paid the money, you or Mr. Van Benthuyzen?—A. I paid it, but I got it back.

Q. Who paid it back to you?—A. The New Orleans Company, I suppose.

Q. And Mr. Van Benthuyzen was present when you paid it to Mr. Wilbur?—A. Yes, sir.

Q. Was Mr. Huntington there?—A. Yes, sir.

Q. Did you afterwards get two duplicates of it?—A. No, sir.

Q. It seems there were two more made afterwards.—A. That was not within my knowledge.

Q. You say he wanted \$250 for it?—A. No; he wanted a retainer of \$250. He says he is an attorney-at-law, and wants a retainer before he will pass his opinion, and I thought—

Q. Can you give us that receipt which he gave you?—A. I have it in my pocket.

Q. Let me see it, please.

The witness produced the paper as called for.

The WITNESS. I will let you copy it; I want to retain the original.

The paper referred to is as follows:

WASHINGTON, D. C., July 30, 1885.

Received of A. V. Briesen, esq., fifty dollars in full for professional services in telephone matters.

\$50.

Z. F. WILBUR.

Q. In whose handwriting is that?—A. Mr. Wilbur wrote it in my presence.

Q. How strenuously did he insist on a retainer of \$250?—A. I do not know.

Q. Did Mr. Van Benthuyzen think that was too much?—A. I did not confer with him about it. Mr. Van Benthuyzen did not speak about it.

Q. Did he object to paying him \$250?—A. No.

Q. You made the objection?—A. Yes, sir.

Q. Was Colonel Young there at the time?—A. No.

Q. You left Washington what night, please?—A. I left Washington on the Saturday morning of that week.

Q. The next day after the interview with the Attorney-General?—A. Yes, sir; I think so. On the 1st of August I left on the morning train.

Q. Who was in the room when that affidavit was taken?—A. I have told you.

Q. But do you remember any others except Mr. Wilbur, yourself, and Mr. Van Benthuyzen?—A. And Mr. Huntington.

Q. I had forgotten that you had mentioned him. Was Colonel Young there or did he come into the room?—A. I have already told you that he was not there. In fact, I believe I had not seen Colonel Young before the morning of the 31st.

Q. Had you seen Colonel Young before the affidavit was taken?—A. Not to my knowledge, unless I saw him in Pittsburg without knowing him, but I do not believe we were introduced.

Q. Was Senator Harris in the room?—A. Oh, no, sir.

Q. Or did he come in after the interview?—A. No, sir.

Q. Do you know anything of what became of Mr. Wilbur that night?—A. No, sir.

Q. Was he promised any more money?—A. No, sir; but he promised to bring us some more facts in the case that would be of importance to our proposed suit.

Q. When you went away did you carry the affidavit that you took of Mr. Wilbur

with you?—A. Yes, sir. Mr. Huntington kept it that evening, on the 30th, but handed it back to me on the morning of the 31st.

Q. And when you left did you take it away with you?—A. Yes, sir.

Q. So that on the 1st of August you left for New York, taking the affidavit with you?—A. Yes, sir.

Q. You will pardon me for going into these details so much, and if I repeat a question please attribute it to my forgetfulness or my want of memory. Now, when you went to the Attorney-General, on the 31st, who went with you or who met you there?—

A. We all went together.

Q. From where did you start?—A. From the Ebbitt House.

Q. And the parties, if I remember right, were yourself, Colonel Gantt, Mr. Van Benthuyssen, and Casey Young—those were all?—A. And Mr. Huntington.

Q. Mr. Huntington went with you?—A. Yes, sir; I think those were all; I do not remember any one else.

Q. Who made the arrangement by which you went?—A. I do not know.

Q. Did you meet together at the Ebbitt House and proceed from there?—A. Yes, sir.

Q. And you went to the Attorney-General's office and had an interview at about what time in the day?—A. At 11 o'clock in the morning, to my best recollection.

Q. I wish you would begin in your own way, as I have not a clear recollection of it, and I want it stated exactly as it was, and narrate exactly all that was said and done after you got into the Attorney-General's room without going into details.—A. I have told you that as near as I can remember it.

Q. If you will repeat it again—pardon me if I ask you to repeat it—not that I doubt the truth of what you have said. Was there any introduction; when you went in did you find the Attorney-General there?—A. I think we found him in the room. I do not remember whether there was any introduction.

Q. Had you any prior acquaintance with him yourself?—A. No, sir.

Q. Did anybody introduce the party?—A. I do not remember; I doubt very much. I do not think he knew my name.

Q. Who introduced you, if any one?—A. I do not know that any one did. Perhaps Mr. Van Benthuyssen or Colonel Young may have done so; I don't remember.

Q. Mr. Van Benthuyssen said that he and Mr. Huntington had had an interview with him previously, the day before. You knew nothing about that, I suppose?—A. Yes; I remember that they told me they had seen him the day before and asked him when the meeting should take place, and he said 11 o'clock.

Q. Of course if they had met him the day before, they did not need any introduction; but if you had not met him before you did?—A. I ought to have had one.

Q. I understand Casey Young says that he introduced you, or the Attorney-General says he did.—A. It is very possible.

Q. And you have forgotten that?—A. Yes, sir.

Q. Had you known Colonel Gantt?—A. No, sir; I met him that morning for the first time.

Q. Will you, with as much detail and accuracy as possible, disregarding your previous statement of it, state exactly what occurred and what was said?—A. That I cannot undertake to do, only as to the substance of it, as I have done before.

Q. Who did the talking?—A. I did. At any rate I remember in substance only what was said by myself and in reply by the Attorney-General.

Q. Was any allusion made there to the interview of the day before between Mr. Van Benthuyssen and Mr. Huntington?—A. No, sir.

Q. You did the talking?—A. Yes, sir.

Q. Give as near as you can the words and the exact substance of what you said and of what all said.—A. The exact substance of what I said was, that I had been informed that Mr. Van Benthuyssen had written him a letter which he had referred to the Department of the Interior, and by the Department it had been sent to the Patent Office; that in my opinion that was not a proper and correct means of starting his Bureau in an investigation as to the propriety of bringing such a suit, and that in my opinion the practice pursued in the Gunning suit was the proper one, which was that the district attorney upon affidavits, and upon ascertainment of the respectability of the parties making the application, would recommend to the Attorney-General then whatever action he thought proper, and then the Attorney-General might act upon that recommendation and order the suit to be brought or not. The Attorney-General then replied that he had always thought that any such application should be referred to the Patent Office. I remember replying that I did not think that was a proper mode of procedure, because we charged the Patent Office with dereliction of duty, and to make it sit in judgment on itself in a case of this kind would not, in my opinion, be a proper proceeding; that I thought the other proceeding was better. He did not commit himself in reply but simply said that whenever a proper application was filed, his Department would do with it what ought to be done. He did not say that he would not send it to the Patent Office or that he would. But he did not

choose, apparently, to discuss that question with me. He then said, "Moreover, if any application is made, I shall not be able to take charge of it, but it will be referred to another officer of the Department, because I am interested in a telephone company." That is about it. I wanted also to show him this affidavit of Mr. Wilbur, which I told him I had in my hand, and which I said was a paper which would satisfy him as Attorney-General that such a suit ought to be brought. But he declined to see it.

Q. Did he say what other officer of the Government it would be referred to?—A. I do not remember that he did particularly specify any officer. He may have said it would be referred to the Solicitor-General; I am not sure. I think he mentioned one or several.

Q. He said he could not attend to it, but it would be referred to another officer of the Department?—A. To the proper officer of the Department.

Mr. MILLARD: The witness says he thinks he mentioned one or several to whom it would be referred.

The WITNESS. I am not quite clear whether he mentioned the Solicitor-General only, or whether he mentioned him in connection with some others.

By Mr. MOFFATT:

Q. But he mentioned the Solicitor-General?—A. I am not clear about that either. But afterwards this action of the Solicitor-General having been had, it was frequently commented upon, and I may say that my recollection upon that subject was not as clear as it ought to have been. He may have mentioned it.

By Mr. RANNEY:

Q. What did you say to that after he had said that much?—A. I had nothing more to say except that I would withdraw that application or letter of Mr. Van Benthuyzen's.

Q. You told him at this very interview that you would then withdraw that letter?—A. I told him at the very beginning that I did not think that letter was the proper means of starting it, and that I would withdraw it.

Q. And that ended the interview, did it?—A. To my recollection it did. It was a very short interview.

Q. Did anybody else say anything?—A. I believe everybody said something, but I do not remember what was said. Nothing struck me as being to the point.

Q. Did Colonel Young participate in the conversation at all?—A. Very likely he may have said something; I really do not remember what he said.

Q. Did not the Attorney-General say in substance this: "I am connected with another telephone company, and I cannot attend to it; but it will be referred to another officer"?—A. To some proper officer.

Q. He said that distinctly?—A. Oh, yes, sir.

Q. There is no doubt about that?—A. I am very clear on that.

Q. And that was satisfactory to you, I suppose?—A. I did not see any other way, if the Attorney-General refused to act personally. I thought if we had any rights they would come out of his office.

Q. Did he say what telephone company he was connected with?—A. I do not remember that he did; he may have said it. I knew that he was connected with a company.

Q. You knew that he was connected with the Pan-Electric Company?—A. Yes, sir; I knew it from the examination I had made the day before in my search.

Q. Mr. Van Benthuyzen was aware of that also, I suppose?—A. I suppose so; in fact, I was greatly surprised when I saw Mr. Garland's name amongst the list of owners of some of these Rogers patents, and I remember calling Mr. Van Benthuyzen's attention to it, and he seemed to know it.

By Mr. OATES:

Q. Why were you surprised?—A. Because I had not known it.

By Mr. RANNEY:

Q. When you had your conversation with the Attorney-General that day, did you say anything about your acting at that time for the Pan-Electric company?—A. No, sir.

Q. Did you say anything to him indicating that you were making the application in behalf of the Pan-Electric company?—A. Most decidedly not, because I was not making it in behalf of the Pan-Electric company, and did not want to. But if I said anything to him as to my position, I said that I was the attorney of the party whose attorney I was.

Q. And you referred distinctly to the previous application made by Mr. Van Benthuyzen, which was for an independent company?—A. Yes, sir.

Q. Did not the Attorney-General tell you that he would have nothing to do or say about the matter in any way, instead of saying that it would be attended to by some

other officer?—A. He said he would have nothing to do about it, and would not express any opinion about it, except that he said that he thought such an application ought to be referred to the Patent Office; that he always had thought that that was the proper way.

By Mr. OATES:

Q. Speaking then of the general method?—A. Yes, sir; of the general method.

By Mr. RANNEY:

Q. But when he said it would have to be attended to by some other officer, did he say he would not have anything to do with it at all?—A. He said about what I have told you, I think.

Q. I think that is a fair inference; that is plain. The matter was not discussed any more than that.—A. No, sir.

Q. And you all went out satisfied?

The WITNESS. We went out satisfied.

Mr. RANNEY. Well, you were bound to be satisfied; I do not mean anything more than you were satisfied so that you did not pursue the inquiry any further. Where did you go then?—A. I went to the Patent Office.

Q. Did Mr. Van Benthuyzen go with you?—A. No, sir.

Q. You went, then, to withdraw the letter?—A. Yes, sir.

Q. You withdrew not only the letter of Mr. Van Benthuyzen, but what else did you withdraw?—A. Nothing else.

Q. You simply took Mr. Van Benthuyzen's letter?—A. It was given to me.

Q. You asked for that?—A. No.

Q. You may state what occurred when you went to the Patent Office on that occasion.—A. I went to the Commissioner of Patents and told him that I had just been to the Attorney-General and had informed him that I would withdraw that letter of Mr. Van Benthuyzen's, and that Mr. Garland had replied that that was all right. The Commissioner listened to me, and said that I should sit down for awhile; that he was busy. He was very busy there, with a great many people talking to him, and after about half an hour he suddenly seemed to remember me, and looked for some paper in his desk, and wrote something on it and handed it to me. I did not expect him to give it back to me. I simply wanted to withdraw that thing, and expected that the officers would return it in the proper channels. But he handed it to me.

Q. Who handed it to you?—A. Mr. Montgomery.

Q. He handed you the letter of Mr. Van Benthuyzen?—A. Yes, sir.

Q. Anything else?—A. Nothing else.

Q. What did you do with it?—A. I went right up to the Ebbitt House and gave it to Mr. Van Benthuyzen.

Q. Did you see there the letter of the Attorney-General referring that letter of Mr. Van Benthuyzen to the Department of the Interior?—A. All that is indorsed upon this letter.

Q. What letter?—A. This same letter of Mr. Van Benthuyzen's. It was a double sheet of paper, and on the back of it was indorsed what Mr. Garland had written and what the Secretary of the Interior had written, and what Mr. Montgomery had written finally.

Q. So that you then did get not only Mr. Van Benthuyzen's letter, but Mr. Garland's letter too.—A. I got the indorsement, not the letter. It simply says that it was referred to the Department of the Interior for investigation or for report, and then below that is the reference to the Commissioner of Patents for report.

Q. These original papers were carried away, were they not?—A. I have not got them. The letter was afterwards returned to the Department.

Q. But it seems that there was a letter of the Attorney-General, and likewise a letter of Mr. Van Benthuyzen's, separate papers?—A. No, sir.

Q. That is not your recollection?—A. I know positively that that was not so. There was a letter of Mr. Van Benthuyzen's on a double sheet of paper, and it was folded and indorsed as I have told you.

Q. But whatever was written by the Attorney-General to the Department, as well as whatever was written by Mr. Van Benthuyzen to the Attorney-General, was taken away by you?—A. Yes, sir; whatever was on that paper.

Q. On that one paper?—A. Yes, sir.

Q. You are sure you did not get but one paper?—A. I am very sure. If you have that letter it will show for itself.

Q. Yes, as I remember it now—I want to see that there is no mistake about it—A. There is none.

Q. As I remember it now, there were two separate papers, and all the indorsements were on the letter of the Attorney-General, instead of on Mr. Van Benthuyzen's letter.—A. No; there was a letter of Mr. Van Benthuyzen to the Attorney-General, and all the indorsements were on that letter, and that very letter will show, if you have it, and you ought to have it here.

Q. We have had them here, but my memory is not certain about it.—A. I am particularly clear on that subject.

Q. I had an impression there were two separate sets of papers.—A. If there were two I only got one. There may have been more than two.

Q. Your recollection is that you took away simply the letter of Mr. Van Benthuyzen, and that these indorsements were on the back of it?—A. That is my positive knowledge.

Q. Did you read it after you took it away?—A. Yes, sir; I read it after I had it.

Q. And gave it to Mr. Van Benthuyzen?—A. Yes, sir; I did, and afterwards the Commissioner of Patents asked me to return it, which was done.

Q. If there was an indorsement on that application of Mr. Van Benthuyzen's, and likewise accompanying it a separate letter of the Attorney-General, you did not get the letter of the Attorney-General?—A. I did not; but there was an indorsement on that letter by the Attorney-General.

Q. On the Van Benthuyzen letter?—A. Yes, sir.

Q. And if there was a separate letter of the Attorney-General?—A. I never saw it.

Q. You did not see it or get it?—A. No, sir.

Q. Who told you that Mr. Van Benthuyzen and Mr. Huntington had had an interview with the Attorney-General on the day previous?—A. One of them. I remember they told me that they had arranged to meet at 11 o'clock.

Q. Did not the Attorney-General in that interview of the 30th or 31st allude to what he had told them the day previous?—A. No, sir.

Q. Didn't he say "I will have nothing to do with it, just as I told you yesterday?"—A. I do not remember that he did; he may have done so.

Q. Were there any questions put to the Attorney-General that you remember, that he did not answer?—A. That is more than I can recollect.

Q. You do not remember that there were any?—A. I do not.

Q. Did you have anything to do with a written agreement that was drawn in Washington on the 4th of August?—A. No, sir.

Q. Did you ever know anything about it?—A. No.

Q. There seems to have been on the 4th of August a written agreement drawn between the Pan-Electric Company and the National Improved Company?—A. I suppose that that led to my discharge, and it is not very natural or likely that I should have known of it.

Q. Why not?—A. Because, probably, I was of no further use to that company; I could not have been of any use to that company.

Q. Was there anything said by these parties in your presence about a combination between the Pan-Electric Company and the National Improved Company?—A. Not to my knowledge. I did not know it, and therefore I do not think any one said it.

Q. When you went to the Attorney-General on the 31st of July, you had no knowledge or information or intimation that these two companies had made an agreement for a combination?—A. I had not.

Q. When did you first hear of it?—A. I heard it through the papers afterwards—after the 10th of August. I surmised it by the letter of the 10th of August.

Q. There was nothing of the kind said in that letter of the 10th of August?—A. No, sir.

Q. When were you first directed not to do anything more with the suit in Pennsylvania?—A. By the letter of the 10th of August. I had intended to do a great deal in that suit.

Q. Up to that time you had intended to go on with the suit?—A. Yes, sir; in fact, I had arranged with Mr. Storrow as to the mode of proceeding, and all that fell to the ground.

Q. What had you agreed with Mr. Storrow before the 10th of August about that suit?—A. We had agreed that the complainant—I forget now exactly. But it was an agreement which would have resulted in a very speedy introduction of testimony for the purpose of bringing the facts which we had into the Supreme Court in time for the argument on the first appeal on telephone matters that should come up.

Q. It was an arrangement whereby the evidence in another case should be put into that—evidence taken in New Jersey and Pennsylvania?—A. No, sir; that is not it. It was an arrangement so that we could be in the Supreme Court with all our proof before the Dolbear case could be argued.

Q. In the case at Pittsburgh, who else sat besides Judges Atcheson and McKennan?—A. That is all.

Q. And they decided they would hear you on any new matter they had not already passed on, did they not?—A. No; they did not.

Q. Did not Judge McKennan say he had just sat four days in Philadelphia hearing that same issue tried?

The WITNESS. Do you want to know what he said?

Mr. RANNEY. I have got it all here in print.

The WITNESS. No; you have not.

Mr. RANNEY. Have I not?

The WITNESS. No; you think you have it, if you have the report of the Bell company's stenographer.

Mr. RANNEY. I do not care to go into an investigation of that matter.

The WITNESS. If you wish to know about it, I will tell you.

Mr. RANNEY. That is an investigation we do not care to enter upon.

The WITNESS. I don't think you ought to.

Q. In that case there would have been no difficulty, I take it, in trying all the issues, if you had gone on with it.—A. I do not think Judge McKennan would ever have heard us. I don't think we could have had any trial before Judge McKennan.

Q. I mean on the merits of the case.—A. He would not have given us any relief.

Q. There would have been no difficulty in putting in the proof so as to carry it to the Supreme Court, would there?—A. That was the arrangement which we made, but—

Q. All the issues you know of were raised in that case, were they not?

Mr. OATES. Let him finish his answer.

Mr. RANNEY. If you have not finished your answer, please do so.

A. (Continuing.) But my connection with the suit was terminated before that arrangement could be carried into effect.

Q. If it had not been terminated, but had gone on, there would have been no difficulty in carrying the case up and having all the issues litigated?

The WITNESS. In the Supreme Court?

Mr. RANNEY. Yes, sir.

A. I believe so, yes; the issues which we had.

Q. When you were defending that case you knew of the alleged irregularity in the Patent Office?—A. I knew what the records showed, that is all. I did not have the proof positive from Mr. Wilbur.

Q. But you had set up a defense in that suit which would have covered it?—A. No; I don't think we had. I am not sure. The record will show for itself.

Q. The suit would have covered the question whether Gray or Bell was the original inventor?—A. Yes; but this question of the application of 1875 is a much more serious one, and I do not think we raised that in our pleading.

Q. Whose application?—A. Mr. Bell's application made in 1875, which was for the same invention as that of 1876 and was still pending.

Q. Were there any conferences at the Ebbitt House while you were here in July?—

A. I suppose those were conferences that I talked about.

Q. Other than those you have named? Did you have a conference after you left the Attorney-General that evening?—A. Yes, sir; there were quite a number of people present and a good deal of talk.

Q. Who were present at the conference?—A. The same persons that I named before, and some others—a gentleman from Baltimore; I forget his name.

Q. Bradley T. Johnson?—A. I think that is it.

Q. He was there in the evening?—A. Yes, sir.

Q. How long did the conference last?—A. Oh, I don't remember. I didn't stay it out. I didn't see anything for me to do.

Q. Can you tell what was said there?—A. No.

Q. Was Senator Harris there?—A. No; Senator Harris was not at the conference. I saw him the same afternoon.

Q. Mr. Bradley T. Johnson was there representing the Washington Telephone Company?—A. I don't know what he represented.

Q. That was in the evening?—A. In the afternoon, I think. I left him in the afternoon. I did not go back.

Q. There was yourself, Mr. Huntington, Mr. Van Benthuyzen, Colonel Gantt, and Bradley T. Johnson. In whose room was it?—A. I think in Mr. Van Benthuyzen's room. It might have been Mr. Huntington's.

Q. How long did the conference last?—A. I left before it was over.

Q. Were they arranging for anything particular?—A. I suppose they were; yes. I doubt whether it would be proper for me to state that. Whatever was said there I think ought not be stated.

Mr. RANNEY. I do not want to infringe upon privileged communications.

The WITNESS. There were matters said that did not concern me. My duties in the case were very simple. I was simply to defend the company against the Bell patents; and other matters that came to my hearing there did not concern my duties.

Q. In that conference at the Ebbitt House, if these things were not stated to you as counsel—A. I was there as counsel and in no other capacity, and if I heard matters, they did not relate to any combination, as you might think they did; not within my hearing. They related to details; for instance, to where the suit should be brought.

Q. What suit?—A. The suit by the Government.

- Q. The conference related to the details of the Government suit to be brought?—
A. Mostly.
- Q. What was said or done there at that time?
The WITNESS. Do you want to know what was said?
- Mr. RANNEY. They treated it as to be brought, did they not, and were proceeding to make arrangements for it?
- A. I was very determined that it should not be brought in any district in which the court had already been committed; and I suggested that it should be brought on some neutral ground, wherever that might be found, in any court in which this litigation had not yet been brought. That question was, in substance, discussed pro and con.
- Q. The subject of discussion was where the Government suit should be brought?—
A. To what district attorney the papers should be presented.
- Q. You all assumed it would be brought, I suppose?—A. I didn't think there was any doubt about our making the application. Whether it would be allowed I did not know.
- Q. But you acted as though it was going to be allowed, and you were arranging for it?—A. I was simply advising where the papers should be filed.
- Q. What was there in that interview that you did not want to state? I do not want to ask you anything that is improper. I will allow you to judge. What is there that you think you ought not to state?—A. What I don't want to state I don't want to state.
- Q. What does it relate to?—A. There may be some reflections upon persons.
- Mr. EDEN. I did not hear the witness. I suppose he objects to stating what occurred between him and his clients of a professional nature.
- The WITNESS. Substantially.
- Q. Something occurred that you do not think you are at liberty to state, because of your relations as counsel to your client. Is that the reason?—A. A good deal occurred of that description.
- Q. Did it occur at that interview?—A. Some at that interview and some at others.
- Q. I am speaking of that conference. Was it something that was said between you and your client of a private nature apart from the others, or when they were present?—A. Well, unless I am ordered by the committee to answer at length upon that branch I do not think I ought to answer. It was a private matter that was being talked about, or private matters.
- Q. If those matters were between you and your client I should not think it proper to call for them. I am trying to ascertain whether the matters were between you and your client.—A. I will say this: that as long as I was in the room I was active in the conversation, and when I thought there was nothing more for me to do I went away.
- Q. What Bradley T. Johnson said there would not be between counsel and client, would it?—A. No.
- Q. Or anything that Mr. Young said?—A. No.
- Q. That would not be between counsel and client. What did Bradley T. Johnson say?—A. I don't remember.
- Q. Do you remember his talking about wanting the benefit of the Government suit in the Baltimore case?—A. No.
- Q. Did you hear him say anything to indicate why he was there?—A. I understood he was there in his capacity as attorney for some telephone company, the Washington or Baltimore company, I don't remember which.
- Q. The Washington Telephone Company, which operates in Baltimore. What else?
The WITNESS. What else what?
- Mr. RANNEY. What else did you understand he was there for?—A. I don't remember anything else.
- Q. Did he participate in the conversation?—A. I don't recollect particularly. The main conversation was as to where the suit should be brought. Reasons were given pro and con, and I insisted on my view, which I pressed as hard as I could. That was all.
- Mr. RANNEY. I am trying to find out the part you are unwilling to state.
- The WITNESS. Oh, yes; I know you are.
- Q. Did Mr. Young have anything to say?—A. Oh, Mr. Young said considerable, I believe.
- Q. Do you know whether Dr. Rogers or his son were invited to that conference?—
A. I hope not. They were not there.
- Q. You say that things were said there which you cannot repeat or do not deem yourself at liberty to repeat because of your relations as counsel. I leave that to your own judgment.—A. Beyond that, it would be a most preposterous thing for me to try to tell you what every one said in a conference which lasted perhaps two hours, and there being five or six persons present, and considerable said, probably, by each one. I could not remember. I had a certain point in view which I tried to impress

upon the others; and that is substantially all I have charged my recollection with particularly.

Q. Do you say you are not willing to state it because you cannot recollect it, or because you think you ought not to be asked in view of your relations as counsel?—A. I state that I ought not to be asked.

Q. I happen to be the judge of what I ought to ask, while you are the judge of what you ought to answer. Did anything occur in that interview that you do not think proper to state because of your relation as counsel to the parties?—A. To some extent; yes.

Q. You may omit what you think you ought not to state. Is there anything else that you can state besides that?—A. No; principally not because I am not willing to do it, but because I do not remember the details sufficiently.

Mr. RANNEY. I understand your position and I appreciate the duty of counsel under his oath and the privilege the law gives. I believe there is nothing more that I want to ask you.

By Mr. EDEN:

Q. I understand the only objection you make to stating all that occurred at that interview you have spoken of is the objection as to the relation of attorney and client existing.—A. In substance. Another reason is that I do not recollect what every one said. I could not state here under oath that Mr. Young said so and so and Mr. Johnson said this and that. I could not do it. I don't remember it. What was said as to the conduct of the New Orleans litigation was certainly of a character that I deemed confidential.

Q. And that you would not have a right to state?—A. No.

Q. You were the attorney for the New Orleans company only?—A. Only for that company.

Q. You had but one interview with Attorney-General Garland?—A. That is all.

Q. Did you make an application at that time to the Attorney-General to bring a suit?—A. No.

Q. You talked with him about the letter that Mr. Van Benthuyzen had written and filed some time previously?—A. Yes, sir.

Q. And gave your view about the proper way of bringing the suit which you have already stated?—A. Yes, sir.

Q. And the Attorney-General heard what you said upon that subject. Did he give any opinion about it himself?—A. He said what I have told you before, sir. That he had always thought that in such a case when application was made it could be referred to the Patent Office. I sought to persuade him that that would be a most unjust proceeding, because the Patent Office would have to pass upon the correctness of its own action.

Q. You were not then talking about a particular application, but about general rules?—A. Yes; although of course we started by telling him that we came to see about this letter of Mr. Van Benthuyzen's. I told him I wanted to withdraw that letter because it was not a proper application; that an application should be made under oath; that there should be an affidavit setting out the facts to be proven, and when such affidavit was presented, then and not until then could his office be moved to act.

Q. You proposed to read to him or to have him read this affidavit of Wilbur?—A. Yes, sir.

Q. What did he say to that?—A. He said "I don't want to hear it; I don't want to see it; in fact I cannot have anything to do with any telephone litigation, because I am interested in one of the telephone companies."

Q. And he stated that if an application came it would have to go to some other officer of the Department?—A. That is the way I understood him, yes.

Q. Do you have any recollection as to whether he mentioned any officer, or just stated it in that general way?—A. I have been asked that question before; I don't remember; it is possible he suggested the Solicitor-General, perhaps also some one else; but I am not clear on that point; I do not remember.

Q. That is what I want to ask, whether you remember that distinctly or not?—A. No, sir; I do not.

Q. But you do remember that he stated distinctly he would have nothing to do with it?—A. Yes, sir.

By Mr. MILLARD:

Q. Why could you not have pursued the course that you suggested to the Attorney-General and still leave Van Benthuyzen's letter on file?—A. My object was not to take it from the files. My object was to withdraw it and start the matter in the proper, lawful manner.

Q. I so understand; but why not leave the letter on file?—A. Because I did not want the Commissioner of Patents to act upon that letter, if he was to act upon any-

thing. His action, if any, should have been upon all the papers which we wanted to present.

Q. It was withdrawn for fear there might be action upon it?—A. Action upon it without knowledge of the facts we wanted to base our application upon.

Q. You thought that office should not pass judgment upon a matter that had been before it?—A. I thought that was not proper, any more than if you wanted to find whether the Broadway franchise in New York was lawfully granted you should refer that question to the board of aldermen.

Q. I so understand you. It was you who suggested to the Attorney-General that the application should be made to the district attorney?—A. Yes, sir; I told him I understood that that had been the practice in the Gunning case, and I had every reason to believe that was the practice.

Q. Then the course that was pursued in the Government suit is the same course that you suggested?—A. I do not know what has been done. I have been out of the case for some time.

Q. Application was made to the district attorney?—A. If it was made to him and if he referred it, and if action was based upon that, then it was done just as I thought it ought to be.

Q. It was referred to Goode, and he ordered the suit. That was precisely as you suggested?—A. Exactly; but afterwards, as I understand, that suit was discontinued.

Q. But the same thing was gone over again?—A. No; I don't think so.

Q. Except that it was referred to the Patent Office?—A. I think that was a mistake.

Q. You have made a statement here which perhaps has no relation to this suit.

The WITNESS. Which suit?

Mr. MILLARD. The Government suit. You stated that after the combination of the Pan-Electric Company and the National Improved you could be of no further use to them; why not?—A. In the first place the Pan-Electric Company had numerous counsel, and a multitude of counsel are not apt to be useful in a suit. In the second place, I would not like to be in a litigation of that kind unless I had charge of it; and I would not have had charge of any such combination. In the third place, as the attorney for the New Orleans Company, I would not approve of such a combination; it would have been done against my protest.

Q. Why?—A. Because the parties were the owners of property which in due time would be apt to bring them into conflict with one another.

Q. You refer to the National Improved and the Pan-Electric?—A. Yes, sir; that is my opinion; I may be all wrong.

Q. There was a conversation at the Ebbitt House, that was held after you came from Attorney-General Garland's, relative to the Government suit, that you do not desire to disclose on the ground of your being attorney for some of the parties, as I understand it.—A. I was attorney for the New Orleans Company.

Q. I say there was a conversation at a conference held the same evening or day, in regard to this Government suit, which conversation you do not desire to state to this committee by reason of the fact of your being counsel or retained by some of the parties. Do I state you correctly?—A. Yes; you state some of my reasons. I have said I could not recollect the conversation. I have told you the purport, the object of it, which was to determine the place where this suit should be started. I have told you that already.

Q. But you have not told us the whole conversation?—A. No; I do not think I ought to.

Q. Are you acquainted with an attorney by the name of Pine, a patent lawyer in the interior of the State of New York?—A. Yes, sir.

Q. Have you not talked freely with him in regard to this Government suit and how it came to be brought?—A. Never.

Q. I speak of the Government suit?—A. No, sir; I never have. I have had no conversation with him about it.

Q. When did you see him last?—A. I don't know. I think —

Mr. OATES. What is the object of this?

Mr. EDEN. It doesn't seem necessary to me.

Mr. MILLARD. If he has seen him recently I want to call his attention to another matter, to refresh his recollection.

The WITNESS. I don't remember when I saw him last, but it may have been in the spring of 1885. I don't think it was later. Certainly, according to my recollection, it was not after July.

Q. Did you see him after you were here?—A. No; I don't think I did. He was not a man I would be likely to talk with about such subjects.

Mr. MILLARD. I only learned of it accidentally.

The WITNESS. Of such a conversation with me?

Mr. MILLARD. Yes.

The WITNESS. It must have been a different person he conversed with. I don't think he conversed with me.

By Mr. MOFFATT:

Q. In the conversation you had with Mr. Van Benthuyzen on the 12th of July who introduced the subject of bringing this suit by the Government?—A. I don't remember. I only know that I was thinking of any possible means of preventing the recurrence of what I thought to be a very great injustice in Pittsburgh, and it occurred to me that the Government suit would bring all the parties that had knowledge of the facts into a position where they would have to produce those facts.

Q. Did he not call your attention to the fact that he had been informed that a law had recently been passed giving the Attorney-General authority and making it his duty to bring suit for the vacation of patents?—A. I think he did mention that; yes; and I think I remember saying that there was no such law to my knowledge, but if there was I was greatly surprised, as I saw no necessity for it, the Gunning suit having settled the fact that a suit could be brought.

Q. You advised the bringing of the suit on the ground that there had been so many decisions upholding the Bell patent, as I understood you?—A. So many decisions based upon admissions.

Q. So many that in your judgment the matter could only be settled by Government suit?—A. In my judgment the Government suit would be the only means of bringing all the facts into one case, because each one of these defendants had a parcel of facts which counted perhaps for but little when you considered the immense power of the other concern.

Mr. MOFFATT. I mistook your position. I understood you to say the judges had all passed on it and had established precedents that would have to be followed; and I could not understand why they would not have to be followed just as much in a Government suit as in any other suit.

By Mr. RANNEY:

Q. They were only followed in granting preliminary injunctions?—A. No, sir; I think you are mistaken. I think if you will read Judge McKennan's statement in the Clay case, in Philadelphia, which was a final hearing, you will see he then said he would not look into the facts that had been, in his opinion, previously passed upon.

Q. Adjudicated?—A. Those were findings which, as we thought, were based merely upon admissions.

Q. I understand the custom in equity cases is not to grant preliminary injunctions, as a rule, until patents have been established judicially with some certainty?—A. Yes; but we had so many new facts we had gathered at great expense, and we came there in the utmost good faith, hoping to have a hearing, and we were not only disappointed, but I may say we felt ourselves ill-treated by the fact that the court announced it would not deny the injunction, no matter what facts we showed.

Mr. RANNEY. They say the only consolation a lawyer has when he gets beaten is to damn the court and jury.

The WITNESS. We did not do that, but we looked to other means of getting our rights.

Mr. HALE. You felt a little like damning them, didn't you?

The WITNESS. That is not my habit. I think probable Judge McKennan acted according to his conscience.

Q. In that conference with the Attorney-General on the 31st of July was any allusion made by the Attorney-General to the fact that he was going on a vacation?—A. No; there was not.

Q. Or was anything said about Mr. Goode not having returned?—A. No, sir; not to my knowledge.

Q. Was anything of the kind said in the conference?—A. Oh, no. There was nothing said about it in any way in the conference. I am free to say there was nothing said about the personalities of the officers; absolutely nothing.

Mr. RANNEY. The record shows that Mr. Montgomery had Mr. Van Benthuyzen's letter and a separate letter from the Attorney-General.

The WITNESS. That may be.

Q. He did not give but one to you?—A. That is all.

Q. You are sure of that?—A. Oh, yes.

Mr. RANNEY. He has taken them away by mistake, and they have not gone on the record.

The WITNESS. Can you send for them?

Mr. RANNEY. Yes.

Mr. MOFFATT. They were introduced at an earlier stage, and therefore were left out at that point, probably. The letter which the Attorney-General wrote went to the Interior Department, but was not referred to the Patent Office.

The WITNESS. I think you will find I have made no mistake, Mr. Ranney.

CECIL CLAY, who had been previously sworn, was recalled and further examined, as follows:

By Mr. RANNEY:

Question. You said there was one case, and only one, which was not referred to the Secretary of the Interior, and that you could not find more than one of the papers in that case, at the time of your examination previously. Have you found those papers?—Answer. I have here the papers in all the cases.

By Mr. OATES:

Q. What papers have you brought?—A. I have brought all the original letters received, and copies of the letters sent in all the cases in which applications were made and granted or refused.

Q. For how far back?—A. Back to 1871, I think; to the date of the original list which appears in print.

Q. You have brought the original papers?—A. I have brought the original papers; the original letters received and copies of the letters sent.

Mr. RANNEY. I do not think that is necessary. It already appears in the record as to how many applications have been granted and how many have been refused; and he was asked to see if there were any that had not been referred to the Secretary of the Interior. He mentioned one case in which he said he could not find but one paper, and had not the paper here. He was requested to look the matter up, as I recollect it.

The WITNESS. I do not think I said I could not find but one paper. I think I said there had been but one or two papers on file in the Department.

Mr. RANNEY. I accept the correction. I think you are right.

The WITNESS. The remainder of the papers that are now there in the custody of the Department have got there irregularly.

Mr. RANNEY. Have you the papers with you now?

The WITNESS. Yes, sir.

Mr. RANNEY. I wish you would give me the papers in the Well case. I don't want to get into a very deep well of muddy water.

Mr. OATES. It strikes me all the committee wants is a statement of the causes and the point in each case. Here is the statement to which you refer, Mr. Ranney [hands paper to Mr. Ranney].

By Mr. OATES:

Q. Were you required to bring all the original papers?—A. I received a letter from the chairman of the committee, written, I think, on Saturday, asking me to come up yesterday and bring all these papers; and I was requested orally by somebody on the committee the last time I was here to bring all the papers in all the cases.

Mr. OATES. My understanding was that the only reason why this statement, which I believe you prepared, was not satisfactory, was that it did not show what was involved in each one of the cases. It states a number of cases, but does not show what was involved.

The WITNESS. As to what the particular patent was and the allegations against it?

Mr. OATES. Yes.

The WITNESS. That list could be taken and amplified a little.

Mr. OATES. I see an entry here, "April 24, 1883. U. S. Attorney authorized to attach signature to bill to vacate patent issued to A. L. Roberts for torpedoes in oil-wells."

The WITNESS. That is the Well case.

Mr. OATES. The patents are referred to by number, but the list does not show what the patents were.

The WITNESS. May I look at that list for a moment?

Mr. OATES. Yes. (Hands it to witness.) It seems to me that if that list was amplified it would be all that the committee would need.

The WITNESS. This list was made by taking the list which was in print, and which simply gave the titles of the different cases in which permission had been given to institute suit; that was compiled after looking at the record to see what had been done. Then a statement of this sort was added: "Application having been made by John Smith, and approved by the Commissioner of Patents," simply to show in that case the action of the Interior Department upon it. And so with these others.

Mr. OATES. It would not be much trouble, would it, to take that list and enlarge it by mentioning in each case the action taken and the subject-matter; that is, giving just enough to show what kind of a patent it was and what it was about?

The WITNESS (referring to another paper). There is another list that was furnished to the committee.

Mr. OATES. This is the only one I have. I got it from Mr. Boyle when he was going away.

By Mr. RANNEY:

Q. Was that a statement of the cases referred and not referred?—A. Yes, sir.

Q. Where is that?—A. That should be here with the committee.

Q. Who is Duncan S. Walker?—A. He is a lawyer in this city.

Mr. RANNEY. I do not find the application here.

The WITNESS. Those are all the papers that the Department has in that case. When I came to look for the records at the Department I found only a few letters on file there, received or sent. Some time after that Mr. Walker returned to the Department a number of papers, which are there, as having been in his hands. The correspondence seems to have been conducted by him and Gen. Butler. When we were called upon to state how many cases had, and how many cases had not, been referred to the Interior Department, I took that original list and put into it whatever was necessary, whatever the phraseology might have been in the letter of the attorney. That simply included in each instance the wording of the letter sent to the attorney at the time the instructions were given, either after reference to the Secretary of the Interior or on the suggestion of the Secretary of the Interior, whatever the action was. If that list has been mislaid we can furnish several copies if need be.

Mr. RANNEY. Mr. Boyle and I had it and looked at it. I do not find that there was any application whatever made to the Department, except a letter of Gen. Butler's, which seems to be an application on the relation of some of the parties, and those parties were permitted to take charge of it.

The WITNESS. I do not know anything about that case except the mere collection together of these papers. I have no idea how it got into the Department originally. I know upon one occasion Mr. Duncan S. Walker, who was one of the counsel in the case, came to the Department and said he had brought the papers in the Roberts torpedo case, which he wished to return, or rather, not to return, but to turn over to the Department. I took them and went all over them and gave him a receipt for them. I then looked on the record of the Department to see what we had concerning the Roberts torpedo case, and found several letters from the Department. Copies of those letters from the Department are here, and also the papers presented by Mr. Walker. I put them in one bundle and filed them with the papers already on file. I have never read the papers so as to know how the papers got into the Department, or anything at all about it.

By Mr. OATES:

Q. It does not appear here that there is any order for the suit. The attorney is simply authorized to attach his signature on behalf of the United States on the relation of these parties.—A. That is the nearest approach to definite action on the part of the Department that we could find.

Q. Probably it may explain somewhat the absence of a formal application. The suit may have been commenced, and that order may have been made subsequently.—

A. The case came to the Department before my incumbency as chief clerk. When I received the papers from Mr. Walker I asked one of the clerks in my room, who had been there for some time, what the case was and how it had arisen. He said that was something he had never been able to discover, except that Mr. Walker and General Butler had charge of the case; that Attorney-General Brewster had managed the matter, and he had placed it in their hands. That appeared to be all that this clerk knew about it. There was no correspondence with our Department as a Department. When they got through with whatever they did in the case they brought these papers to the Department and turned them over.

Mr. RANNEY. It was in regard to a reissue of patent, not the original issue. It was a proceeding in the nature of a *quo warranto* on the Patent Office, one of General Butler's operations.

Mr. OATES. We do not need that in this case.

Mr. RANNEY. I do not mean to say that it was anything improper.

Mr. OATES. It does not throw any light on any matter we have under consideration.

Mr. RANNEY. I think this will throw some light upon it. I would like to have it taken down.

Mr. OATES. Suppose it is taken down and shows the nature of the case, will it do us any good?

Mr. RANNEY. The question is, whether it is the universal practice of the Department. It has been stated that it is not. Mr. Clay, after examination, has produced a number of cases where suits were ordered, and a number where permission to institute suit was refused. Every one was referred to the Interior Department with a single exception. The excepted case is a case of a peculiar nature, which would not be referred, and does not come within the rule.

Mr. EDEN. All that proves is that there are some cases where reference would not be made.

Mr. RANNEY. It is an application to prevent the vexatious use of a patent reissued.

Mr. OATES. Suppose we just state that, without introducing any of the papers.

Mr. RANNEY. I would like to put in a paper I have here; it is very short. It is the report.

Mr. OATES. Nobody will ever read it, any way.

Mr. EDEN. What you wish to show is the practice, and that can be shown without putting all the papers in the record.

Mr. RANNEY. I will show you the nature of this case, if you want to see it.

Mr. OATES. I am perfectly satisfied.

Mr. RANNEY. It appears by these papers that the proceeding was had in order to stop the multitudinous litigations instituted by the Roberts Torpedo Company; that there were five thousand suits, according to General Butler's statement, pending against different parties for alleged infringements of patents claimed by that company; that said patents had been issued twice, and that it is claimed, under decisions of the Supreme Court, that they are not valid now, if they ever had any validity.

Mr. EDEN. I suppose that will answer the purpose as well as putting in all the papers.

Mr. RANNEY. There is another thing. The report shows that on May 31, 1882, Gen. B. F. Butler applied to the Att'y-General asking that proceedings be instituted to vacate the patents for exploding torpedoes in oil wells, which patents were owned by the Roberts Torpedo Co., and alleging that the patents were void because of illegal reissue, and also alleging extortion practiced by the company and vexatious litigation set on foot by the company. It was stated that the number of suits brought in the western district of Pennsylvania was five or six thousand, and that one hundred and sixty suits were brought in the northern district of New York. The suit was brought on the relation of the parties interested.

Mr. EDEN. That was a case that was not referred to the Interior Department.

Mr. OATES. That is the case that was not referred.

Mr. RANNEY. The case was brought on the relation of the parties, and the Government was simply asked to intervene and allow the parties to proceed. General Butler returned the papers in the torpedo case and said they were withdrawn in order to be presented to the Supreme Court of the United States in another case. I have here the original letter of General Butler, saying: "I withdrew the papers in the torpedo case for the purpose of using them before the Supreme Court if necessary. I now return them so that they can be placed on file in your office, together with the motion made in the Supreme Court." The papers show that it was a case peculiar in itself and unlike the others. The United States was asked to intervene and allow these parties to proceed on their relation because of oppression and vexatious litigation. It was based on a reissued patent, not on the original issue. It appears to be a case which was brought because of his allegation that many thousand oppressive suits had been brought, and the United States was asked to intervene and allow a bill to be prosecuted on the relation of the parties named. The Department of Justice allowed it, but the cases were finally abandoned, the papers returned, and the parties proceeded in another way in another case in the Supreme Court.

The following letter is inserted at the request of Mr. Ranney:

DEPARTMENT OF JUSTICE,
Washington, Jan'y 11, 1883.

Genl. DUNCAN S. WALKER,
Atty. at Law, Washington:

SIR: It is not possible for me to see you when you call frequently; and then again I have no instructions to give you in that business. If you want any further instructions or advice, write to Gen. Butler about it, and the district attorney here. I really handed it to you because I did not want to have my mind interrupted with it. I am so much occupied. The person who represents Gen. Butler went to you yesterday, and represented to me that he had made an arrangement with you which was satisfactory. If it is satisfactory between you it is satisfactory to me. All I have in view is to have the business of the Government promptly attended to by a responsible man, to be paid proper, reasonable charges for it. This is a special case that the dist. atty. and you should attend to. I cannot consent to have such litigation pass exclusively into the hands of the claimants who bring the suits. The Government must have somebody to stand guard over it. Now, exercise your own discretion as a lawyer, having due regard to what the parties in interest request and aver to Gen. Butler, their attorney; also having regard to Mr. Corkhill's views.

Proceedings ought to be taken *at once*. The man is urgent, and the parties I employ are employed to get a speedy remedy. I leave it to you. Pray do not trouble me for it.

Very truly, yours,

BREWSTER,
Attorney-General.

E. N. HILL then came before the committee, and was duly sworn.

By Mr. OATES (in the chair):

Question. Where do you reside?—Answer. In Washington City.

Q. How long have you resided here?—A. Since 1876.

Q. Where is your former place of residence?—A. Arkansas.

Q. What is your business or vocation?—A. Attorney-at-law.

Q. Have you any other?—A. Yes, sir; I sometimes write for the newspapers; journalist.

Q. Were you ever in the employ of Col. Casey Young as his clerk or in any capacity in connection with the Pan-Electric company or the Pan-Electric Telephone Company?—A. I was never employed by Col. Casey Young; I have done a great deal of work for him, but never under any employment in any capacity. I do not think it was considered between Colonel Young and myself that I was in his employ.

Q. You did a good deal of work for him?—A. Yes, sir.

Q. Did you do any work for him in connection with either of the companies named or touching their business?—A. Some little.

Q. Are you familiar with the affairs of either of those companies or the organization of the companies and the stockholders?—A. From personal knowledge I could hardly say that I was familiar with their organization. I have heard the organization stated by quite a number of persons, Colonel Young and others, and I have seen the books of the company which showed the organization. I suppose that would be personal knowledge from reading it off of the books.

Q. Did you ever write up the books or the minutes of the proceedings, or act as secretary or clerk?—A. I never acted as secretary or clerk at the meetings of the Pan-Electric company.

Q. You are aware that Colonel Young was the secretary and treasurer, are you not?—A. I am, sir.

Q. Did you ever write for him at his instance?—A. Oh, yes, I have written a good deal for him at his instance.

Q. Touching the affairs of the company?—A. Yes, sir.

Mr. OATES. I will suspend the examination here for a moment. My attention has been called to a matter that I want the committee to pass upon. Mr. Huntington has been subpoenaed here as a witness. I have just received a telegram sent to General Catchings, in which the signer of the telegram inquires if the committee cannot arrange the testimony of Mr. Huntington by deposition. The telegram reads:

"Mr. Huntington has been subpoenaed before the Pan-Electric committee. Go and see Casey Young and arrange to have Huntington's testimony taken by interrogatories, if you can, as he is too unwell to travel and does not wish to cause delay. He has telegraphed Sergeant-at-Arms to obtain time from the committee.

"J. S. McNEAL."

I told General Catchings that I would bring this matter before the committee and learn what the committee had to say. He wants to know so that he can reply to the dispatch.

Mr. RANNEY. Mr. Huntington was subpoenaed at my instance and request. I do not think that an examination of him by interrogatories would amount to anything. I do not think that his deposition could be taken in that way so that it would be of any use.

Mr. OATES. His statement is that he is too unwell to come.

Mr. EDEN. He cannot come until he gets better, I suppose.

Mr. OATES. What action will the committee take about it?

Mr. RANNEY. I think he had better be telegraphed to come personally if he can. We have no authority to take depositions. We consented that those men in New Orleans should be examined in that way because their testimony only relates to the matter of a date. A man must be examined orally in order to have his testimony of much value. We might send two members of the committee down to examine Mr. Huntington, though I do not think his testimony is of so much importance as to render that necessary. Now that Mr. Von Brieson has testified I do not think Mr. Huntington's testimony is important, for it would only confirm the fact that this interview took place. That was the principal thing I wanted. I do not think it becomes of consequence now, and yet I think it is but fair that he should be called.

Mr. OATES. Suppose I say to General Catchings to tell Mr. Huntington to come on if he can or if he is able.

Mr. EDEN. Yes, I think that is all we can say.

The WITNESS. Mr. Chairman, I was just going to ask you to allow me to make a statement of all I know about this matter, and then you put your questions afterwards, if it will answer as well.

Mr. OATES. Yes, you may do that; just proceed and make your statement.

The WITNESS. So far as I know this Pan-Electric company was organized in 1883.

During the fall and winter of 1883, or rather in the winter and spring of 1874, I was at Col. Young's room a great deal, and he asked me to do some writing for the company, which I did. In doing that I obtained some knowledge of the business of the company. That was continued up until probably July or August, 1884; I am not certain as to the exact date; sometime about that time. After that I had no connection with the company in any way, and I had very little intercourse with Col. Young. When he came back here in December as a member of Congress I think I was in his room only two or three times. I found in July, 1885, that the newspaper reporters were trying to get a statement of the Pan-Electric company's business, and I was satisfied, from the men that were working at it, that it was intended to make a political attack upon these parties. Knowing the facts as I did know them, I wrote out what I conceived to be a fair statement for these gentlemen, making no attack upon them at all, but just stating the facts as they existed. I gave this to Mr. Clark, of the New York Tribune, telling him not to publish until he found out that other papers were about to publish incorrect statements. Mr. Clark held that statement for ten or fifteen days before it was published, and then notified me that other papers—I think some of the Chicago papers—were about to publish it, and I told him if he chose to publish it then, to do so.

I only wrote the first part of that article. Mr. Clark added a good deal to it. If I had the article I could designate it. I haven't it, and I haven't read it since that time. He added a good deal of knowledge of his own to the article. The part I wrote was simply a statement about the stockholders of the company. I forgot to say that before I wrote that I saw a number of articles printed in the New Orleans Times-Democrat on the subject, a paper which I took or which came to the office where I was and which I read every day, and also an article in the Baltimore Sun. Then, when General Sypher came from New York in the latter part of July or August he told me what Mr. Cahoon had said to him, and the papers came from Saint Paul with some very incorrect and I thought improper statements in them, before I wrote my article at all. I wrote the article as a statement of what the interests of these gentlemen were in the matter.

Some time after that there was an interview with Col. Robert Alexander printed in the Globe-Democrat, and that renewed the inquiry on the part of the papers. I saw something in the New York World about it, and I went to Mr. Crawford and told him if he wanted a complete and correct history of that matter that I could give it to him. I wrote it up, had it type-written, and gave Mr. Crawford a copy of it. In talking about it he said "I think Mr. Garland has done something very wrong in this thing." Said I, "I can't see where he has done anything wrong." He said, "He must be very obtuse if he don't think he has done wrong." I said, "If he is obtuse so am I, because I can't see where he was wrong in the matter. Mr. Garland, as far as I know, has never been at the meetings of the company; I never saw him at one in my life, and I was in the room when they used to assemble, and would leave; I never staid at one of their meetings, and I never was present at a meeting, but I used to be in the house there with Col. Young, and when the board of directors of the company used to meet, I always left the room and the house generally."

I wrote that statement and kept some copies of it. Before I gave it to Mr. Crawford I sent it to Mr. Dana with the letter which he read here, that if he thought it was worth publishing to publish it, and if he didn't to give it to the office cat. Two or three men had come to me professing to be agents of different parties. One man who called himself Ray, I believe, came to me and talked about being the agent of some capitalists in Chicago, and wanted me to tell him if Col. Young and Garland had not written letters to each other. I told him if they had I didn't know it. He was very anxious, as it seemed to me, to get something upon Mr. Garland. He asked who was Mr. Young's stenographer, and I told him I didn't know he had any. He asked further a great many questions about it. He hadn't been talking to me more than 15 minutes before I made up my mind that he was a detective, and I verified the fact by learning that he was one of Pinkerton's detectives. I don't know who employed him. As soon as I had made up my mind that he was a detective I talked very freely to him, and I didn't confine myself at all to facts, either, in talking to him; I told him a great many things that were just buncombe; I tried to hide anything I might have said or might know in the matter. In the statement that was published in the World there is a great deal of matter that was given to me by other persons, and I, of course, made some mistakes in it. I know it is said there that Senator Vance had some stock in the company; I find he did not have it, but I was so informed by some one.

Q. By whom?—A. I decline to say who it was. It was said that Mr. Garland was at a meeting at 1327 C street. I stated in my letter to Col. Dana that I did not know that to be a fact; I was informed that he was there; I do not know that it was a fact.

Q. By whom were you so informed?—A. I decline to answer. I am not going to involve anybody else in what I have to say. Those statements were incorrect. The

general history of the Pan-Electric Company, I believe, as I give it, has been substantially proven by the testimony of all the parties that have been here. Part of the information I got by writing for Col. Young. I didn't think there was anything improper in it, because I really thought it was due to him and his associates to have a correct statement made. Part of that information I got from other parties. That is the history of my connection with it. I haven't known anything about it since July, 1884, I think. I haven't been in Col. Young's company or in the company of any member of the organization. The subpoena that came to me was a subpoena *duces tecum*, to bring papers and letters in regard to the Pan-Electric Telephone Company and the Bell Telephone Company. I haven't a letter from any member of the Pan Electric Telephone Company, except, perhaps, personal letters from Col. Young written years before the company was organized. I don't know by sight any member of the Bell Telephone Company or any stockholder in it, that I know of. I never had any communication with any person connected with the Bell Telephone Company in my life, that I know of, and never spoke to one of them that I know of.

Q. You say that your purpose in compiling the article known as the history of the company and in giving the information that you gave to Major Clark was that no misrepresentation or injustice might be done to the company?—A. As far as I was concerned that was my principal object. I knew the facts and I knew they would be twisted and tortured a great many ways, politically and otherwise, and I thought I would put them out properly.

Q. Were you in accord with those gentlemen in politics?—A. I am on good personal relations with Colonel Young and with Mr. Garland; I have had any ill opinion or bad feeling towards either of them. I am not in accord with them in politics. I am a Republican in politics.

Q. You have stated that you were satisfied that attacks were going to be made on them for political purposes?—A. I thought so, sir.

Q. When you prepared that statement known as the history, did you submit it to either of those gentlemen?—A. I did not, sir.

Q. Or did you inform them of your purpose to defend them and see that no injustice was done to them?—A. I did not.

Q. You say you had seen articles in the New Orleans Times-Democrat concerning them before you mentioned to Major Clark the information that you had?—A. For several days, probably weeks, before.

Q. Were they of a hostile character?—A. I don't recollect now what they were.

Q. Were they hostile to the Pan-Electric company or the Pan-Electric Telephone Company?—A. I think some of them were. I think they were in the interest of the National Improved Telephone Company, and attacking the Bell company to some extent.

Q. The Times-Democrat is a Democratic paper, is it not?—A. Yes.

Q. And you went to Major Clark, the correspondent of a Republican paper, to save these gentlemen from an attack which you regarded as a political attack?—A. I will tell you how that was, Mr. Chairman. I think on the 10th of March, 1885, an article was sent from here as to Mr. Garland's personal character. That was written by me, and it is as complimentary to him as anything that has ever been printed in any paper. They came to me, as a great many correspondents do—as I am on very good personal relations with them—Major Clark of the Tribune asked me to write that article about Mr. Garland because I knew him and had known him from boyhood. I will say it, it is a very complimentary article to him, and the Tribune published it just as I wrote it.

Q. Was it true?—A. It was, so far as I know. There is not a breath against Mr. Augustus H. Garland of any sort in his home. He is, as I stated in that article, a man that is thoroughly in earnest so far as I know, and has always been so regarded; he is a man of high reputation as a lawyer; but, as I think I said in that article, like all politicians he would work for success; I think I stated that in the letter.

Q. Where did you write the article known as the history, published in the World?—A. Partly at home and partly in the office occupied by myself and Mr. Sypher.

Mr. RANNEY. I do not know whether that history has gone into the record or not.

The WITNESS. I wrote it partly at my house and partly at the office occupied by myself and General Sypher.

Q. At whose suggestion did you do that?—A. I don't know, sir, that I did it at any one's suggestion. I talked to General Sypher about it; I don't know whether it was at his suggestion or not.

Q. Did you hear his testimony?—A. I did not.

Q. Have you read it?—A. I have not, except the report in the newspapers.

Q. Did he not suggest the writing of that article by you?—A. As I say, I don't recollect whether it was a suggestion of his or mine that I should write it; I am not positive about that.

Q. Did you not write that article and furnish a copy of it to different newspapers in New York for publication?—A. No, sir; I wrote that article, and Mr. Sypher took

a copy of it and sent it, as he tells me, to Prof. Bell, probably a month after that. I am certain it was a month or more.

Q. After you had written it?—A. After I had written it.

Q. I mean sent it to Prof. Bell?—A. No, no; I don't know when he sent it to Prof. Bell; I don't recollect. I say perhaps a month after that—I think it was more than a month—there was an interview with Col. Robert Alexander published in the Globe-Democrat; the record will show what date it was. I then sent my article to Mr. Dana. I first carried it to Colonel Alexander and asked him to introduce me to the correspondent of the Globe-Democrat; and I asked him if he wanted to publish it, and he said he did not. I then sent it to Mr. Dana at the date he spoke of. I am satisfied that that was published two or three months after the article was written; I am not positive as to the date.

Q. Did you not sell that article to Mr. Crawford, the correspondent of the World?—A. When he took the article he paid me for it.

Q. How much did he pay you?—A. I think about eighty dollars.

Q. Was it not your object when you compiled that article to sell it to the newspapers for money, to make money out of it?—A. No, sir.

Q. Instead of a mere act of friendship to guard these Democratic officials from political attack?—A. No, I was not regarding them as Democratic officials. I want you to understand that; I was regarding them in a different light. Only two of them were officials and some of them were my friends. I did not write it originally for publication, I will say that positively and without any hesitation; I did not write it for publication at all; I wrote it with an entirely different intention.

Q. What was that?—A. I think that is something neither you nor any one else has a right to inquire into; that is my opinion.

Q. You just wrote it?—A. I wrote it because I had an intention in writing it, but I did not write it for publication, and I state so most emphatically. It was not published for months after I wrote it.

Q. If you wrote it for the purpose of bringing out the exact truth and shielding Mr. Garland and others from false representation, how did you expect to accomplish that by withholding it from publication?—A. I told you exactly how I accomplished it. When he was attacked in the Globe-Democrat in the interview with Mr. Alexander, which I have been informed, although I don't know it, has been printed in circulars and sent out, I then offered my papers for publication and not until then.

Q. Where is the Globe-Democrat published?—A. In Saint Louis.

Q. Have you the article?—A. I have not; I never even read it; I was told what was in it by Colonel Alexander himself.

Q. What did it relate to?—A. It related to Colonel Alexander's own connection with the telephone company and gave some statements in regard to what had occurred.

Q. About that branch company in Missouri?—A. I don't recollect positively; I paid very little attention to it at the time.

Q. If you never read the article, and relied upon Colonel Alexander's statement to you as to its contents, will you please give that statement or the points in it which you considered untrue?—A. I couldn't possibly do it at this length of time.

Q. Was there anything in that statement which you considered untrue?—A. I don't mean to say anything in it was untrue, sir.

Q. Then why did it call out your publication, if there was no error to correct?—A. Well, sir, a thing might be an error and not be untrue; there is a great deal of difference.

Q. Will you point out anything of that character?—A. I don't recollect it, sir; if I had the article here possibly I might do so. I recollect that Colonel Alexander and I talked about it at the time. He came to my office and told me about it, and he told me afterwards that it had been printed as a circular, I think, by the Bell Telephone Company, and it was then I started out to publish that history, not until then.

By Mr. RANNEY:

Q. In order to vindicate the Pan-Electric Company?—A. I don't see anything in the history that I wrote about the Pan-Electric Company that reflects in the least bit upon any of the gentlemen.

By Mr. OATES:

Q. What was there in Alexander's interview or statement that you thought was damaging?—A. I stated, Mr. Chairman, that I don't recollect at this time, because I had other things to attend to, and paid very little attention to it.

Q. You do not remember what he stated that was erroneous or false or unjust to these men?—A. I wouldn't say that he stated anything that was false in that interview.

Q. Or anything that was unjust?—A. I think possibly that he did them some injustice, though I don't recollect.

Q. The matter did not fasten itself upon your memory so that you have been able to carry it up to this time?—A. No, sir; because it was a matter of very little importance to me.

Q. And you have never read the article?—A. I glanced over it. I never read it.

Q. Yet it was of sufficient importance to induce you to give to the public the history you had written?—A. Yes, sir.

Q. Which you say you had written for the purpose of vindicating Garland and the others?—A. I didn't say it was written entirely for vindication. I said it was written to correct any false statements that might have been made.

Q. If no false statements had been made, and, as you have just stated, you did not intend it for publication, why was it that you gave it to the public by selling it to the newspapers?—A. Well, I saw that erroneous statements were being published, and I meant to characterize them as false, and I thought mine was a correct statement of the facts that did not do injustice to any one, and I therefore gave it to a newspaper.

Q. You say you did not intend it for publication when you compiled it?—A. I did not originally intend it for publication.

Q. Yet you furnished Sypher with a copy of it, and permitted him to send a copy to Professor Bell?—A. It was written in his office and at my house. After he and I had talked over the matter, he took a copy of it, and said: "I will send a copy of this to Professor Bell."

Q. Did you think that was keeping it very closely from the public?—A. I didn't suppose Professor Bell would publish it. If he has done so, I don't know it.

Q. Was he put under any obligation not to do so?—A. I presume he was; I don't know. I never saw Professor Bell in my life. I wouldn't know him if I was to meet him.

Q. You knew him as the inventor of the Bell telephone?—A. Yes, sir; I know him in that way, of course.

Q. You did not intend the article for publication, and yet you permitted a copy of it be furnished him without prohibiting him from publishing it?—A. I did; I let him do with that copy as he pleased.

Q. Did you offer to sell that history to Major Clark before you disposed of it to the correspondent of the World?—A. I don't recollect that I ever did; possibly I might have said to him that if he wanted it he could have it.

Q. When you sent it to Mr. Dana for publication, did you ask to be paid for it?—A. My letter says, if he thinks it worth publication, he can inclose me a check for whatever it is worth, and if not, he can give it to the office cat. I corresponded a great deal for the New York Sun, and never put a price upon an article I sent them. I would send to Mr. Dana personally, and he paid what he thought they were worth.

Q. You say that you obtained the information which that article contains from your familiarity with the affairs of the company through Colonel Young, and from what you learned in the newspapers?—A. Yes, sir; and from other sources.

Q. When you were writing for Colonel Young and working for him on the affairs of the company, was not your relation a confidential one to him in that matter?—A. Well, I don't know, sir; the books were there in the presence of a thousand people; his rooms were always crowded; there were great numbers of people in there; I saw those books and saw them open and lying on the table there.

Q. Did you ever exhibit any of the books of Colonel Young to any other persons for publication?—A. I never handled the books of Colonel Young after he left here at the close of the last Congress.

Q. Did you ever at any time show any book or books of his to Mr. Crawford, the correspondent of the World?—A. In making out the accounts of Colonel Young as secretary and treasurer of the company, the first statement I made was found to be incorrect, and I made a second one, which was a correct account-current of himself with the company; and in his moving away and in my taking the things of mine that were in his office, that was accidentally included among my things. I didn't know it was there until in moving a desk where my things were kept in Colonel Meyer's office, I having left that office, that paper was thrown out and I saw it there; up to that time I didn't know it was there. The mistake occurred of its getting among my papers just as the mistake occurred of some of my papers going off with Colonel Young.

Q. Do you know anything of a stenographer's book of letters belonging to Col. Young?—A. I never saw such a book.

Q. You never saw it?—A. No, sir.

Q. Did you ever show any of the books of Col. Young connected with either of these companies to Mr. Sypher, or have them at your desk in his office?—A. I didn't have any of his books.

Q. You never exhibited any there?—A. No, sir.

Q. You never had any of them there?—A. No, sir.

Q. What suggestions did Sypher make to you about the compilation of that article called the history?—A. I couldn't tell that, sir; I can't recollect.

Q. Do you decline to state that?—A. I do not decline. I say I can't recollect it; I do not recollect what suggestions he made.

Q. Did not he call your attention to some statements made in the newspapers and talk it over with you and suggest to you that you compile a history, as you were a newspaper man and sometimes correspond with the papers, and that you might make some money out of it?—A. I don't recollect that he ever said anything of that sort, sir. General Sypher and I occupied adjoining desks in an office together, and we talked together a great deal. I cannot pretend to recollect our conversations.

Q. Then you do not deny that he suggested to you you might make some money out of it?—A. He possibly may have said such a thing. I don't recollect whether he ever did or not.

Q. If he did, did you tell him you would not write an article of that character for publication or to make any money out of it?—A. I don't think he ever did; and I know, as I have stated before, that I did not originally write the article for publication, and only intended to publish it, as I stated before, whenever I thought a proper time might arise for its publication. I did not originally write it for publication or with the intention of selling it for money. I wrote it because I had the facts. I took a little pains to gather those I did not know, and I put them all together and wrote up that history. I have got a good many such papers written now that have never been published.

Q. Did you not write other articles upon the same subject or parts of that same subject and offer them to the newspapers also for publication?—A. I think not, sir. I don't think I ever wrote another article except the first part of the one in the Tribune and this one in the World. I don't recollect ever having written another line on the subject.

Q. The one in the Tribune was the starting point, was it not?—A. It was not given to the Tribune as the starting point, because a number of other articles had been printed before, which made me write that. There were two or three newspaper reporters, so I was informed, looking up the history of the Pan-Electric company, and I gave that to Mr. Clark after writing it, and told him to hold it and not publish it until he found some other newspaper was going to print something about it and then he could print it.

Q. Were you ever present with Col. Young when he was having any conferences with any of his associates or any of the lawyers in reference to this matter?—A. I don't think I ever was, sir. I have been in Col. Young's room when he was talking with these gentlemen, but whenever I noticed they commenced talking about the business of the Pan-Electric company I left the room as a rule, sir. I have not been in Col. Casey Young's company half a dozen times since July, 1884, except casually meeting him on the street.

Q. How often were you in his company before that time?—A. Well, I was in his room all winter, the previous winter.

Q. That was when you were writing for him?—A. I was not writing for him especially. I was there in his room and whenever he wanted any writing done he thought I could do well he asked me to do it.

Q. Did he pay you for working for him?—A. Never. I have gotten money from Colonel Young. If I wanted \$5 or \$10 I asked him for it and he would give it to me. He never paid me any money as an employé for writing for him. There was no relationship between us such as clerk and principal or hireling and master.

Q. You mean you did no work for him for an agreed sum?—A. For any sum.

Q. But you did work for him and then asked him for money and he would give you money?—A. No, sir; I didn't do it with that idea. I did whatever friendly act Colonel Young asked me to do for him; and if I happened to be short of money and wanted a little, I would ask him for it. I usually had money, but sometimes I might want a dollar or two or five dollars, and if I was short of money I would ask the Colonel for it and he would give it to me.

Q. How often would you get short?—A. I don't know. I was getting a pretty good income at the time.

Q. What business were you engaged in then?—A. I was an attorney, sir.

Q. Did you practice before Congress or its committees?—A. Yes, sir; I had business before Congress and in the departments.

By Mr. RANNEY:

Q. I see in your letter to Mr. Dana, of the New York Sun, dated Washington, D. C., November 9, 1885, and found on page 867 of the record, you say the inclosed article is all true within your personal knowledge, except the part which relates to Mr. Garland.—A. I will not swear to that, sir. I said that in the letter. I could not without reading the article speak as to my personal knowledge. I could select from my personal knowledge what was in it and what I obtained from others. It was true as far as I know. I could not say upon oath that all that article is true.

Q. You came from Arkansas, did you not?—A. Yes, sir.

Q. Is that your native place?—A. Well, sir, it is pretty near it. I have lived there since I was ten years old.

Q. In what part of the State?—A. In the southern part of the State, at Camden.

Q. Did you know Senator Garland before he came to Congress?—A. I have known him ever since we were boys, sir. His father was judge of the same circuit in which I lived.

Q. What is about your age?—A. My age is fifty-five.

Q. Are you and he about the same age?—A. I think we are about the same age, sir.

Q. When did you come to Washington?—A. In December, 1875.

Q. You have lived here ever since?—A. Yes.

Q. When did you first know Casey Young?—A. I don't recollect when I first got acquainted with Colonel Young. It was a great number of years ago. I think I met him in Memphis; in fact, I know I did, probably as far back as 1866 or 1867, or somewhere along there. I am not positive as to the time. Perhaps Colonel Young knows. It was about that time. I have known him since that time.

Q. On what terms have you been with him?—A. Very excellent terms, sir; intimate for a number of years.

Q. What sort of personal relations have you had with him in the last three or four years?—A. The most friendly, sir.

Q. When this Pan-Electric scheme was started, what was your first knowledge of it?—A. Some time in November, 1883, I think was the first that I ever knew of it.

Q. How did you learn of it then?—A. I learned of it from Colonel Young.

Q. What did you learn of it?—A. I learned that there was such a company, that was all; that there was a company started on Harris Rogers's patents; and he told me who was in it.

Q. Whom did he say was in it?—A. I think he said Mr. Garland, Mr. Atkins, Senator Harris and himself, and General Johnston, with the Rogerses, were the company.

Q. That was in 1883?—A. I think that was in November, 1883, or December, perhaps. It was at the organization of the last Congress.

Q. How did he happen to mention it to you?—A. I don't know how he came to mention it. I was at his room a good deal, and he told me about those things.

Q. From that time on how much were you with him until you wrote this article?—A. Well, after February, 1884, my wife being in Baltimore, I was at his room pretty much all the time. We generally took breakfast together. When he was not boarding at the Ebbitt House we went to a restaurant together. Sometimes I slept at his room and sometimes I went home and slept. Col. Young always liked to have me at his room late at night. He didn't like to be alone at night; and when other people went away from there I would often stay with him until it was too late to go home, 11 or 12 o'clock at night. I sometimes stayed and played casino with him just for our own amusement, not for money; and I used to be with him in that way, and in fact I got in the habit of staying at his room a good deal, and was there until the adjournment of the first session of the Forty-eighth Congress.

Q. Was that the room where the office of the company was of which he was the secretary and treasurer, or was it his private room?—A. It was his private room, but I think the company held most of their meetings in those rooms.

Q. Were you often at the room where he kept his books, or were they kept in his private room?—A. His books were kept in the front parlor of his suite.

Q. During all that time were you in the habit of talking over this Pan-Electric matter?—A. I have talked a good deal with him about it, sir.

Q. Do you know anything of his correspondence?—A. No, sir. He had a clerk who did his correspondence.

Q. Who was he?—A. I forget his name. He was a little clerk of his committee. Colonel Young was the chairman of a committee of the House at the time, and this was his committee clerk. He was a youngster, about nineteen years old. I have really forgotten the name.

Q. Do you know where he is now?—A. I do not, sir.

Q. Did he write his letters for him?—A. Colonel Young dictated the letters to him.

Q. Were they written in shorthand?—A. No, sir; he wrote in longhand, but he wrote very rapidly.

Q. Did he keep a letter book?—A. I do not know that he did, sir. If he did I never saw it.

Q. Did you have access to his books?

The WITNESS. What books do you mean?

Mr. RANNEY. The books of the company.

A. Yes, sir; I had access to them whenever I wanted to. Whenever I was asked to I took them and did whatever I was asked to do about them. They were lying in the room there.

Q. What were you asked to do about them?—A. I was asked at different times to do certain work; to make up certain things about those books, and I did it.

Q. I see in this letter you say something about meeting at 1327 G street. What meeting do you refer to there?—A. The history speaks of a meeting or conference at the rooms at 1327 G street. That history said that Mr. Garland was at that meeting. I wanted to say that I did not state that upon my own knowledge, for I did not know it.

Q. What rooms were those at 1327 G street?—A. They were Col. Young's rooms at the time he was here.

Q. He came here and stopped at the Ebbitt House on his arrival on Saturday night July 30?—A. Yes, sir.

Q. And stayed there a day or two and then took a room elsewhere, did he?—A. Yes, sir.

By Mr. HALL:

Q. Do you speak of your own knowledge?—A. No, sir; I am not speaking of my own knowledge, for I do not know. I said in that letter I did not know. That information was furnished me.

By Mr. RANNEY:

Q. I allude to that as the time.—A. Yes, sir; that was the time.

Q. Were you at that room?—A. No, sir; I never was at that room.

Q. How do you know of that meeting?—A. I do not know of it, except what was brought me by another person. It was told me by another person.

Q. Who was that person?—A. I decline to answer that question.

Q. If there is any person who knows of there being a meeting at that place, I would like to have you state who he is?—A. Well, sir, the person that informed me did it in such a way that I do not feel at liberty to give his name.

Q. Was it a man or a woman?—A. It was a man, sir.

Mr. EDEN. What information was it?

Mr. RANNEY. Information of a meeting at 1327 G street. (To the witness.) I think you should give us that name.

The WITNESS. Well, sir, you may think so. I don't think so.

Q. Was that room on G street near the Catholic church?—A. 1327 is near the Episcopal church.

Q. Harris Rogers testified to a meeting there to which he was invited. Was that the meeting?—A. I suppose that was the meeting.

Q. Did you learn it from Harris Rogers?—A. I did not, sir.

Q. Did you learn it from Dr. Rogers?—A. I did not.

Q. Did you learn it from Casey Young?—A. I did not.

Q. From whom did you learn it?—A. I decline to answer.

Q. Why?—A. Simply because a gentleman told me, and I do not want to bring his name before the committee. That is the only reason in the world. A gentleman gave me the information who is not connected with the Pan-Electric Telephone Company in any way, shape, manner, or form.

Q. When did he give it to you?—A. About the time it occurred.

Q. You say here that Mr. Garland attended that meeting?—A. That gentleman told me so. I said I did not know whether it was true or not.

Q. Was that house kept by Mrs. Ryan?—A. I don't know, sir.

Mr. HALL. This testimony is not competent.

Mr. RANNEY. It is a search for information. We have to search under difficulties sometimes.

Mr. HALL. I do not think the testimony is proper to be retained on the record.

Mr. RANNEY. It is already in another form.

Q. Did not Mrs. Ryan keep that house?—A. I don't know. I haven't the slightest idea.

Q. Have you ever told any one you could get an affidavit that Mr. Garland came over there?—A. As I say, a gentleman gave me these facts, and he said he could get it.

Q. Get what?—A. He said he could get that affidavit.

Mr. HALL. I object to going into that, Mr. Chairman.

Q. Why can you not give us that man's name? Does he live here in Washington?—A. I decline to answer any questions.

Mr. EDEN. Was that statement with reference to a meeting of the Pan-Electric Association?

The WITNESS. It was in relation to a meeting as alleged between Col. Young, Mr. Van Benthuyzen, Mr. Huntington, and perhaps Bradley T. Johnson, at which it was said Mr. Garland was present.

Mr. OATES (in the chair). Do you insist on your objection?

Mr. HALL. I insist on it.

Mr. RANNEY. It has been testified to and is already in the case.

Mr. HALL. Nobody has testified to it that I know of.

Mr. RANNEY. I do not ask these questions in the way of proof.

Mr. HALL. I know; but you have brought it out in such a way that many people would take it as testimony.

Mr. RANNEY. We cannot assume that everybody is a fool.

Mr. HALL. We can assume one thing, that only competent evidence should be called for.

Mr. OATES. You direct your objection towards that part of the testimony of the witness in which he refers to what he was told?

Mr. HALL. I object to that part of his testimony in which he narrates what this unknown, unattainable individual told him.

Mr. OATES. That Mrs. Ryan would give an affidavit that Mr. Garland was there.

Q. Was it told to you in confidence?

Mr. EDEN. I object to hearsay evidence.

Mr. OATES (in the chair). Let us pass on this point. [To Mr. Ranney.] Do you insist on having the testimony of the witness on this point?

Mr. RANNEY. Not as proving the fact.

Mr. OATES. Then we had better strike it out?

Mr. RANNEY. No; he has already stated in his examination, as he stated in his letter, that what he said was hearsay and not of his personal knowledge. That fact is to be taken in connection with the rest.

Mr. OATES. In connection with his letter?

Mr. RANNEY. Certainly.

Mr. HALL. If Judge Ranney will go on and ask him all about what this unknown man said—

Mr. OATES. He is examining him on a letter.

Mr. HALL. There is nothing in that letter.

Mr. RANNEY. He says in his letter, "Every allegation in this article except the one that Mr. Garland attended the meeting at 1327 G street is of my own knowledge."

Mr. HALL. He says it is not of his own knowledge.

The WITNESS. The letter says so, and I say so.

Mr. HALL. Mr. Ranney insists upon asking this witness what this unknown individual told him, and I object.

Mr. RANNEY. That already appears. I am not putting it in anew.

Mr. HALL. I do not think it does appear.

Q. Why cannot you tell us who that man was?—A. I have told you why.

Q. Why?—A. Because it was given to me in confidence, and I don't intend to tell.

Q. Was it Mr. Sypher?—A. No, sir, it was not Mr. Sypher, and I shall not answer any more questions of that kind. I simply say it was not Mr. Sypher. I decline positively to give that man's name.

Mr. RANNEY. I think the witness is obliged to give us the name of that man.

By Mr. OATES:

Q. What is your reason for declining?—A. Because it was given to me in confidence and I do not care to tell it. The gentleman don't want it known that he told it to me, and I have said I would not give it. I said in my letter to Mr. Dana, and I have testified under oath that I did not know anything about that meeting myself; and therefore why should I be called upon to give that man's name? I said that in my letter to Mr. Dana.

Mr. OATES. I do not know of any confidential communication that will relieve a witness from the necessity of answering except such confidential communications as those between attorney and client and husband and wife. A gentleman who makes a communication in a confidential way to another as to some fact I do not think has a right to have his name held sacred.

Mr. HALL. May I be allowed to interrupt Judge Ranney's examination long enough to put one or two inquiries in the same line?

Mr. RANNEY. I am now asking for the ruling of the chairman.

Mr. HALL. I would like to make a preliminary examination which will have relation to the ruling. I do not want to interrupt your examination, but this is a question addressed to the committee, and it is proper I should do so.

Mr. RANNEY. The witness has stated his reason why he will not answer, and I think the chairman should rule on it.

Mr. HALL. I am simply going to make an inquiry in the same direction.

By Mr. HALL:

Q. Was this individual whom you say communicated this information to you in your employ?—A. No, sir.

Q. Or were you in his?—A. No, sir.

Q. Do you know whether he was acting as the employé of any other person or corporation?—A. I know he was not acting as the the employé of any person.

Q. Did he come to you and communicate this information in order to enable you to proceed with your history?—A. Partly that; I asked him about it and he gave it to me.

Q. Then he knew that you were interested in some way in knowing what was going on?—A. He knew I was writing this thing.

Q. Then he knew you were interested in knowing what was going on?—A. Yes, sir.

Q. In obtaining the information, or in becoming cognizant of it, did he act for your benefit and at your suggestion?—A. I think not, sir. I think he obtained the information accidentally, and gave it to me, if he had any such information.

Q. But prior to that time he knew what you were doing?—A. He knew I was writing a history of the Pan-Electric Telephone Company.

Q. Did he receive any pay for his information?—A. Not a cent, sir.

Q. Then there was no other relationship between you and him except that of mere personal acquaintanceship?—A. Mere personal acquaintanceship.

Q. He was under no obligation to give you this information?—A. None in the world.

Q. And you were under no obligation to take it?—A. No, sir; he was under no obligation to give it to me.

Q. Did you say this lady's name was Ryan?—A. I don't know her name, sir.

Q. Then your answer to Judge Ranney's question where that name was used was scarcely correct, was it?—A. I said I didn't know her name.

Mr. MOFFATT. He told Judge Ranney so.

Mr. HALL. I did not understand it so.

Q. Then it is an unknown man or an unknown woman?—A. The woman lives in that house, of course. I don't know anything about her.

Mr. OATES (in the chair). It is the opinion of the chair that there is no such confidential relation shown between you and your informant as would make the communication sacred or protect it by law from the knowledge of the committee. It is about a matter that is clearly within the scope of our inquiry as directed by the House in the resolution creating this committee; and the chair therefore decides that you must disclose the name of your informant.

The WITNESS. I think, Mr. Chairman, that it is a matter that is entirely within my own determination as to whether it is a matter that is confidential; but if you press the matter, it was given to me in my law office, and I am an attorney licensed by the Supreme Court of the United States, and therefore I could say that that man was my client, and that you could not get that information from me. He was coming to me. I am not certain whether I suggested it to him before the first visit or not, that he get me the information, but I think he came and gave it to me first, and then I asked him afterwards to go and get further information, and he came and gave it to me in my law office. I cannot answer the question.

By Mr. OATES:

Q. Was that about any suit that you had or any legal business that you had for him?—A. No, sir; but I shall decline to answer the question. I cannot help the ruling of the chair.

Q. You say you are a lawyer. Do you not know that unless a communication is made to you in the confidential relation of attorney and client concerning some matter of suit, or of a legal nature, that it does not fall within the rule?—A. I know this communication was made to me in a confidential way, and that I cannot violate that confidence.

Mr. OATES. I will take the opinion of the committee on it.

By Mr. HALL:

Q. Let me ask a further question. You were not the attorney of the Bell Telephone Company?—A. I have never been the attorney of the Bell Telephone Company.

Q. And you do not regard this communication as having come to you in the interests of that company?—A. I do not, sir; because I never had the slightest communication with the Bell Telephone Company that I know of.

Mr. OATES. Here is a charge made against the Attorney-General that he was at a meeting and in conference with gentlemen connected with other telephone companies, with reference to their affairs and with reference to bringing a suit. You say that fact was communicated to you by a person who said he knew it and could furnish an affidavit of the fact. If the Attorney-General was there in that conference it is a matter of the highest importance that it should be known, and is clearly within the scope of the inquiry.

Mr. HALL. This witness has made the public charge in the press.

The WITNESS. I have withdrawn that. Before you go any further, allow me to say this: That the Attorney-General, if he were present at that meeting, would so state. He has been before your committee. The other gentlemen that were present at that meeting, if there was such a meeting (and I don't know that there was), would state the fact, and whether the Attorney-General was present. They are all gentlemen whose word could be taken, let alone their oath.

Mr. OATES. That is not the question now. Mr. Clerk will you call the names of the

committee. All those who are of the opinion that the witness should answer the question and disclose the name of his informant, will say ay when their names are called. Those opposed will say no.

The clerk called the roll, and all the members present, as follows, voted ay: Mr. Eden, Mr. Hall, Mr. Oates, Mr. Ranney, Mr. Moffatt.

Mr. OATES (in the chair). You have the opinion of the committee.

The WITNESS. I still decline to answer the question.

By Mr. HALL:

Q. I would like to ask you this: Was there anything dishonorable in this man's conduct?—A. No, sir.

Mr. RANNEY. That will not do.

Mr. OATES. The question is settled. We will have to go to the House with it.

Mr. RANNEY. I move that the witness be presented to the House for contempt.

Mr. HALL. I thought possibly we might obviate such a course.

Mr. RANNEY. We can deal with this matter.

Mr. OATES. It was held in the case of Kilbourn and Thompson that where the question asked was within the scope of the inquiry it was proper for the committee to deal with the witness, but where it was not, it was not proper. I think this question is clearly within the scope of the inquiry, but the committee had better be careful about it.

Mr. HALL. I suggest this, in order to save time: That perhaps the gentleman in question will give permission.

Mr. OATES. He says he declines.

Mr. HALL. Are you willing to answer if the party involved will authorize you to do so?

The WITNESS. I am willing, if he will authorize me to answer.

Mr. HALL. Have you made any inquiry of him?

The WITNESS. I have not.

Mr. HALL. I suggest that action on this matter be suspended long enough to let the witness ascertain whether the party involved will permit his name to be given.

Mr. RANNEY. I do not think we ought to qualify our position. I think we had better go on and try the power of the committee. We will not act on it now. We will leave that question for the present.

Mr. HALL. I move that the witness be directed to ascertain whether upon further consideration he will answer the question, and that he be given until to-morrow at 12 o'clock.

Mr. OATES. The chair would suggest that at any time up to the final action taken by the committee to compel him, he would have the opportunity of doing that, if he sees proper. It does not require a vote.

The WITNESS. Will you allow me to ask you to suspend until to-morrow? I have been confined at home by sickness for twenty-odd days. I came here early this morning and have been kept until there were several other witnesses examined. I am very weak and was so exhausted before I commenced that I had to lie down for some time. I am now covered with perspiration and utterly exhausted.

Mr. OATES. Let him go until to-morrow.

The WITNESS. At what hour?

Mr. EDEN. We had better meet at 12, had we not?

Mr. OATES. The House meets at 11.

Mr. HALL. We had better meet at 12.

Mr. OATES. Then you can be excused until 12 o'clock to-morrow, and at that time, if you see fit to answer the question, you can do so.

The witness then left the stand.

Mr. CASEY YOUNG. Is the committee through with the books and papers I brought here?

Mr. OATES. So far as I know, they are.

Mr. MOFFATT. I want to ask you one or two questions in regard to the organization of the Illinois Company, brought out by what we have found on the books, and not referred to in your testimony. That matter was overlooked.

Mr. YOUNG. I think I can answer without the book. If not I can bring it back.

Mr. OATES. You may take your books. (To the committee.) Before Mr. Boyle went away he handed me certain papers, which I will lay before the committee. The first is a letter as follows:

BOSTON, May 6, 1886.

HON. CHARLES E. BOYLE,

Chairman Committee on Telephone Matters, Washington, D. C.:

SIR: I find in the Boston Journal of the 6th inst. a dispatch which says that Mr. George Jones, of the New York Times, in his examination before your committee, makes the following statement:

"Mr. Forbes had written to him that his son was a large owner in the Bell Tele-

phone Company, and urging him to write to the President of the United States to interfere on behalf of his patent."

Upon examining a copy of the letter referred to I find that this testimony does not fairly represent its purport or object, which doubtless was owing to the unfortunate loss of the letter.

To correct this mistake, the shortest way seems to be to send you another copy, which you may think it best to lay before your committee. Perhaps if Mr. Jones reads it once more he may think it a pity that he did not at the time follow its suggestions.

Very respectfully, your obedient servant,

J. M. FORBES.

I have here the copy which he desires to put in. I do not see any objection to it.

Mr. RANNEY. I understood that was already in evidence.

Mr. EDEN. It has already been put in, I think.

Mr. OATES. The stenographer will put in the letter of Mr. Forbes to Mr. Boyle and also the copy.

Mr. EDEN. It might be submitted to Mr. Jones; but I suppose it is not necessary.

Mr. OATES. He will see it; and if he thinks it needs any correction, he can say so. Mr. Forbes thinks this letter ought to be put in in justice to him, and I do not see any

Mr. RANNEY. We all agree about that. Mr. Forbes is a man of very high character.

Mr. EDEN. I have no objection.

The letter in question is as follows:

BOSTON, *January* —, 1886.

MY DEAR MR. JONES: By reason of my son's connection with the American Bell Telephone Company, I have become acquainted with some of the facts connected with the Pan-Electric Telephone Company's effort to have Attorney-General Garland authorize suits to be brought for vacating the Bell patents.

I learn from the managers of the Bell Telephone Company that they feel no anxiety as to the final results of any action taken by the Government in this matter, though admitting that much temporary annoyance might result on Garland's acquiescing in the request of his company.

Looking at it, however, from a wholly different point of view, that of the independent voters, and in fact of all who supported, and desire to support, Mr. Cleveland, it seems to me the Administration would make a serious mistake if Garland's Department is permitted to lend any countenance to the scheme proposed by the company in which he is so largely interested.

There is no doubt that all the matter contained in the claims which it is proposed that the United States should set up have already been heard and decided in the circuit courts of the United States, and these cases are well advanced for hearing on appeal to the Supreme Court. There is no doubt that the new move was made simply in the hope of obtaining indefinite delay in the suits for injunction against the Pan-Electric Company, already ripe for hearing before the court at Baltimore, on the ground that no such suits should be heard while the Government suit was awaiting a hearing. There is equally no doubt that an attempt is being made by a syndicate of Southern brigadiers to use the influence of a Democratic Administration in the interest of an enterprise of, to say the least, a highly speculative character, and to throw the weight of the Government's power in the scale, before its own courts, on the side in which this Southern syndicate is interested.

There can be no doubt that Garland received an enormous bonus of stock of the Pan-Electric Company for the influence he was expected to exert.

The entire Republican press of the country will be only too glad to open on such a trail as this, and it seems to me of much importance that no such opportunity should be afforded them. Even were the procedure not a most unusual one, and had the claim not already been acted upon, and were there strong presumptive evidence in favor of the claims proposed to be set up, the fact that the Government's interference is invoked in behalf of a private enterprise of prominent Southerners, and that a member of Mr. Cleveland's Cabinet is counsel for, and one of the largest stockholders in the company interested, ought to show the extreme danger of permitting this thing to go a single step further.

I would give you, confidentially, the whole history of this scheme, which would make the basis of a dime novel and be pretty good reading, but you already know the substantial facts of the case.

If the Southern syndicate succeeds it will be a great step towards a new set of swindles, such as you exposed in the Tweed case, and will of course be the end of Cleveland's usefulness; he cannot escape the blame for endorsing what his Attorney-General does.

If you agree with me in this, I shall be glad if you can see your way clear, either

by writing to some one who has Mr. Cleveland's ear, or possibly to Mr. Cleveland himself, or by using the power of your paper in such a way as to aid in preventing the President from permitting such a dangerous step as the one proposed to be taken.

And I am, very truly, yours,

J. M. FORBES.

Mr. RANNEY. I think we ought to do something about the report of the Attorney-General's testimony. I have compared it with the report of the other stenographer, and the official report is the worst mangled piece of stuff I ever saw.

Mr. OATES (in the chair). I was directed by Mr. Boyle to bring to the attention of the committee a matter already passed on, as to the subpoenaing of Mr. Miller, the managing editor of the New York Times. I believe, on considering the matter the other day, I voted against it. Mr. Boyle's idea was that the committee ought to reconsider the action then taken and subpoena Mr. Miller.

Mr. RANNEY. On what points?

Mr. OATES. I suppose with reference to the course of the paper. I do not know what else. He seems to be the managing editor.

Mr. RANNEY. There is no question but what his paper has taken strong ground in favor of the Pan-Electric side of this issue, if we may designate it in that way.

Mr. OATES. Mr. Boyle also remarked that if the committee decided to subpoena Mr. Miller he thought they should also call Mr. Dickerson, as Mr. Miller would probably testify about Mr. Dickerson's coming there and wanting a communication published, as he is the gentleman referred to. Mr. Jones said he did not see him, but that he had been informed Mr. Dickerson had come there. The other day I voted against subpoenaing either of these gentlemen, because I did not deem it necessary.

Mr. RANNEY. There was no vote taken on it. Nobody moved to have Mr. Miller called.

Mr. OATES. And it was the same way as to Mr. Dickerson.

Mr. RANNEY. I suggested that if we did summon Miller we ought to summon Dickerson also, providing the testimony referred to him.

Mr. MOFFATT. I move that Miller and Dickerson be subpoenaed.

Mr. EDEN. I was never of the opinion that we would get much evidence from newspaper men, and I think so still.

Mr. OATES. I was not in favor of it the other day, but as Mr. Boyle has requested it, I bring the matter to the attention of the committee.

Mr. RANNEY. I do not oppose it, but I do not believe there will be anything got out of it.

Mr. MOFFATT. I do not make the motion with the expectation of developing much. I have always taken the position that if any member of the committee wanted a man summoned, he ought to be summoned.

Mr. OATES. I do not know about that being a safe rule. I believe we have pretty discreet men on this committee. To test the soundness of the rule, suppose we had a cranky man on the committee who wanted a thousand witnesses.

Mr. MOFFATT. That is outside of my premises.

Mr. EDEN. It seems to me the committee ought to agree on these matters.

Mr. MOFFATT. Oh, yes.

Mr. OATES. I will put the question.

Mr. RANNEY. If Mr. Boyle says expressly that he wants it done—

Mr. OATES. He only states that he thought it had better be done.

Mr. RANNEY. If Mr. Boyle thinks that it should be done, I will not object. I only say if Mr. Miller comes, Mr. Dickerson should come too.

The question as to the subpoenaing of Mr. Miller and Mr. Dickerson was then put and lost; and the committee thereupon adjourned until to-morrow, May 12, 1886, at 12 m.

WASHINGTON, D. C., *Wednesday, May 12, 1886.*

The committee was called to order at 12.35 p. m.

Mr. E. N. HILL again came before the committee, and his examination was continued, as follows:

By Mr. OATES (in the chair):

Q. In the paper produced by Prof. Bell, said to be a copy of that which you prepared and furnished to the World, is this paragraph:

"On the 29th of August Mr. Van Benthuyzen and Mr. C. P. Huntington, representing the lately defeated National Company, registered at the Ebbitt House in Wash-

ington. On the next day Col. Casey Young and Col. Gantt, representing the Pan Company, stopped at the same place, as did Mr. Bradley T. Johnson, the president of the local Pan Company in Baltimore. That these gentlemen were in consultation together is well known. On the 1st of September Col. Casey Young secured private apartments at 1327 G street, a most central locality, within two squares of the Ebbitt, Riggs, and Willard's. At these rooms a number of conferences were held amongst the parties named above, *and among the callers upon Col. Young while these conferences were being held was Attorney-General Garland.* Shortly after the conferences closed it was announced that the Attorney-General would soon start for a visit to his country place in Arkansas, and he did leave on August 27, burying himself in the woods away from all postal or telegraphic communication, and remaining there until the press of the country was glowing with comments upon the action of the Department of Justice."

Did you write that?—A. I wrote that, sir.

Q. You stated that Attorney-General Garland was one of the callers on Col. Young at these conferences. Was that a fact?—A. I do not know, sir. I stated yesterday to the committee that I had information from another person that Attorney-General Garland was a caller there, and I so stated in my letter to Mr. Dana, that I could not verify that fact.

Q. But you wrote it here, and it was published?—A. I wrote it, and it was published as information that was given to me, which I supposed to be true, sir; I do not know it to be true, and I haven't any personal knowledge of it; no one who writes for a paper—

Q. Who was that person?—A. That is the question that I declined to answer yesterday.

Q. Do you still decline to answer it?—A. I do, sir.

Mr. OATES. Very well; it is a matter then for the action of the committee hereafter.

The WITNESS. I wish to be distinctly understood that I decline to answer upon the ground that it was a confidential communication to me; that in writing for a newspaper, or any other purpose, confidential communications, I think, are always held sacred, and I could not give that person's name. I was so careful in writing Mr. Dana about the publication of that article that I stated that that was not within my personal knowledge.

Q. You claim, then, that this was communicated to you in confidence, and you will not give the name for that reason?—A. Yes, sir.

Q. You say you are a lawyer and have a license from the Supreme Court to practice?—A. Yes, sir.

Q. As a lawyer, do you not know that that sort of communication is not privileged by any rule of law that ever was written in any book of authority?—A. I do not know, sir, whether it is or not. I have never examined that question of law. It has never come before me to examine it, and for that reason I have not examined it.

Q. What was it you said yesterday about your informant saying that some woman would make an affidavit he was there?—A. He said he would get an affidavit.

Q. What woman was that?—A. I don't recollect exactly what I said yesterday. He said he would get an affidavit.

Q. From whom?—A. I am not positive as to whether he said a woman or not. I don't recollect what I said yesterday. I am not positive about it. You must remember that this was some time ago.

Q. Did he say whose affidavit he could get?—A. I don't know that he did, sir. I am not positive that he did. These things happened some months ago, and I have not kept them in my mind.

Q. How did he say that he knew Garland was there?—A. Well, sir, I didn't inquire about that.

Q. But you put it as a fact in that communication?—A. Why, certainly, sir.

Q. Although you did not know whether it was true or not?—A. It was told to me by what I considered to be good authority. If you were to tell me, or any other gentleman was to tell me certain things had occurred, I should write it down as a fact.

Q. Have you seen that person and conferred with him to see whether he would give his consent for you to answer?—A. No, sir.

Q. You stated on yesterday if the person was willing you would answer the question.—A. I have not been able to see him yet, sir. I went from here directly home, and am barely able now to be here.

Q. Have you made any effort to see the person?—A. I did try to see the person. I probably shall see him to-day.

By Mr. RANNEY:

Q. How much did you see of Col. Young between the 30th of July, 1885, and the 7th of August, 1885. He seems to have arrived here on the 30th of July in the evening, and left, as he says, on the 7th of August?—A. I possibly may have met him two

or three times, although I am not positive whether I did or not. If I met him at all it was just simply to shake hands with him.

Q. Did you know of the fact of his being in Washington, and likewise Mr. Van Benthuyssen, Mr. Huntington, Col. Gantt, and Mr. Von Briesen from New York?—A. Yes, sir; I know the fact that they were here by being at the Ebbitt House and seeing it on the register there. I think I met Colonel Young there. I am not positive about that.

Q. Did you know of their having conferences?—A. I was not in their room when they were having any conferences. I had nothing to do with it. I knew generally that they were consulting together. I did not know it as a personal matter.

Q. What did you see indicating it?—A. I was never in the room of any of the gentlemen. I did not see them in conference.

Q. But you saw them go into the room?—A. I did not.

Q. Did you see them come out?—A. I did not. I don't know what room it was.

Q. Did you take any special interest in it?—A. No; no special interest in it, sir.

Q. Had you any indication what they were here for?—A. I had no indication except a general knowledge of the fact that these gentlemen were organizing, which knowledge I obtained from the newspapers and from hearing other people talk.

Q. Did you know or hear of the fact that there were one or more conferences with the Attorney-General?—A. Only what I have already stated, sir; I was informed that the Attorney-General went to one of those meetings; I know nothing about it personally.

Q. Were you informed or did you know of the fact that there were conferences with the Attorney-General at his office?—A. I did not, sir, except what I might have seen in the newspapers.

Q. Was that noted in the papers?—A. I think so, sir.

Q. In what paper was that fact noted?—A. I do not know, sir; I read eight or ten papers every day. I think there was a notice, probably, in some of the papers that these gentlemen had called on the Attorney-General.

Q. You know something more about that transaction than you have stated, do you not?—A. I do not, sir, personally know anything more about it than I have told.

Q. You say you wrote this article giving a history of the Pan-Electric operation, in the interest and for the benefit of the people connected with it, Mr. Garland included?—A. That was the general idea, but there is no man, I don't care who he may be, that can tell altogether what motives may actuate him in doing a thing. There may be some motive that he don't even know himself. I have no doubt a great many gentlemen in Congress vote for a river and harbor appropriation, perhaps with an idea they are doing a proper thing, and possibly they might do it, without even acknowledging it to themselves, with an idea that it would help to re-elect them to Congress. There might have been such a motive lying back behind what I was doing. I couldn't explain it very well.

Q. Do you mean to intimate that the reason you have given to the committee as your reason for writing that history, to wit, that it was in the interest of Mr. Garland and others, may have been a mistaken statement as to your motive?—A. No, sir; I do not mean to intimate that, but I mean there may have been some other motive that actuated me at the time, though I did not even recognize it myself.

Q. What do you imagine it might have been?—A. I couldn't imagine, for if I could I would have known it was a motive.

Q. It was not money?—A. No, sir.

Q. You did not get enough from Mr. Crawford, of the World, to pay you a day's wages hardly for what you did for him, did you?—A. Oh, I don't know, sir. There are about three columns of the article in the World, and Mr. Crawford paid me, I think, \$85 or \$90. I usually get \$20 or \$25 a column for my writing.

Q. Is that your estimate of the value of your genius in writing such reports?—A. I usually get about \$25; from \$15 to \$25 usually, from the newspapers.

Q. You have been in the habit of writing a good deal, have you not?—A. I have written a good deal for the newspapers, and that is what I get when I get anything. I write a great deal gratuitously, I desire to say.

Q. You wrote in the interests of your friends?—A. Yes, sir.

Q. And the party?—A. Yes, sir; and my party.

Q. Did you take pains to go to your life long friend, Attorney-General Garland, on this matter, to ascertain the truth of what you had written?—A. No, sir.

Q. After he came back?—A. No, sir; I did not. I have not seen Attorney-General Garland, sir, since that article was written, and I have not seen him since he became Attorney-General but twice, and I called on business on each of those times. I have seen him once or twice on the street since.

Q. Can you tell the source of any other information that you imparted in this history, omitting for the present what your unknown friend told you; can you tell the source of one single fact as to which inquiry has been made?

The WITNESS. May I see a copy of the history?

Mr. RANNEY. It is on page 772 of the record.

The WITNESS (after examining the article). I can answer that question now. Most of this information I did not have from my knowledge of the affairs of the company. I got out of the newspapers, generally.

Q. Did you get any of it from Gen. Sypher?—A. Gen. Sypher and I talked over those matters a good deal, and I don't know but what he handed me newspapers with some information in them. You will have to excuse me from talking any louder. I am afraid you don't hear me, but I am very weak.

Q. I hear you better than you do me, I think. Don't you know anything more about this matter?

The WITNESS. In regard to what?

Mr. RANNEY. Anything connected with this company. We are not presumed to know anything about it, except by inquiry.

A. Well, sir, I think I have told in that history everything that I knew of my own knowledge, and what I had collected from others. I think I have told it all.

Q. Do you know Marcus J. Wright, in the War Department?—A. I do, sir; very well.

Q. Did he have anything to say to you about it?—A. I have talked with him frequently about it.

Q. He is the man who has charge of the compilation of the Confederate records?—A. Yes, sir.

Q. Did you talk to him about it before you wrote that article?—A. Oh, yes, sir; because I met Gen. Wright very often and we frequently talked about this matter; about his interest in the Pan-Electric Telephone Company.

Q. Do you know how much stock he held?—A. I think he had \$30,000 at one time. He gave me a thousand of it, or loaned it to me once, and I used it.

Q. He loaned you the certificate?—A. Yes, sir.

Q. To raise money on?—A. Yes, sir.

Q. How much did you raise on it?—A. Well, Mr. Ranney, is that a competent question?

Q. How did you raise money on it?—A. I sold it, sir, to a party who was buying the stock.

Q. You sold it for Mr. Wright?—A. I sold it for myself. He loaned it to me.

Q. Did he give it to you as a present?—A. No, sir; he loaned it to me with the understanding that I was to return it to him, or give him the money, in due time.

Q. The value of the stock is in issue here. How much did you get for it?—A. It is not a matter I care anything about. I sold it for \$90; 9 cents on the dollar.

Q. \$30,000 worth?—A. \$1,000.

Q. General Wright had \$30,000 worth?—A. I think that was what he had.

Q. Are you willing to name the man who purchased it?—A. I have no objection in the world to doing so.

Q. Who was he?—A. I will try and remember his name. I know he was a clerk in the Treasury Department. I can't recollect his name now. I will get it for you if you desire it.

Q. If you can recall it, I would like to have you do so?—A. I cannot recall it now.

Q. Will you be kind enough to state the date of the sale as near as you can?—A. I don't remember it, sir.

Q. Approximate it as nearly as you can?—A. I think it was some time in the fall of 1885, probably in September or October. I can't state positively, though, sir.

Q. You cannot give us the name of that man?—A. I can't recollect it. I can get it.

Q. Did you ever sell any of the stock to anybody in the Department of Justice?—A. I never sold to anybody else, sir. I never had a piece of the stock except that one. I never had any of the stock in my possession.

Q. I see in some of the papers a statement that Mr. Goode or others in the Department of Justice were interested in Pan-Electric stock. I do not assert it. Do you know anything about it?—A. Not a thing. If he is the owner of any of it I do not know it. I have seen it in the papers. I have seen such assertions and seen such statements, but I know nothing about it in the world.

Q. When did you hear of the Government suit being ordered?—A. When it was announced in the papers.

Q. Did you know of the movements in connection with the bringing of the Government suit?—A. I did not.

Q. Did Casey Young, during your intimacy, tell you anything about it?—A. No, sir.

Q. I believe in your article you did not say anything about an alliance between Casey Young and Van Benthuyzen?—A. I am not certain whether I said anything about it or not.

Q. Did you hear anything about it?—A. I never did until I saw it in the papers, or in the proceedings of this committee. I think I first saw it there.

Q. Had you any knowledge of his having gone to Pittsburgh to see Mr. Van Benthuyzen?—A. I think Mr. Young told me that he was going to Pittsburgh to attend that suit.

Q. He did?—A. I think so; though I am not positive about that; I think he told me so.

Mr. HALL. Did he tell you that he, Young, was going, or somebody else?

The WITNESS. I think he told me that he and Col. Gantt were going. I met him and Col. Gantt, and I think he told me, though I am not positive. I knew he was here through the public press, though, I think. I saw notices of it, if he did not tell me, and it may be that is the way I learned of it instead of his having told me of it.

Q. Did he tell you he was going to get Mr. Van Benthuyzen to bring a Government suit in his interest?—A. No, sir; he never did.

Q. Did you have any knowledge of Dr. Rogers having applied on the 24th of May, 1885, for a Government suit?—A. I did not, sir.

Q. Mr. Young did not talk over those matters with you?—A. No, sir.

Q. Do you know a man by the name of Rees Edmonston?—A. Yes, sir.

Q. Where is he now?—A. I saw him here yesterday, sir.

Q. In the room here?—A. Yes, sir.

Q. While you were testifying?—A. Yes, sir.

Q. Does he live in Washington?—A. Yes, sir.

Q. Was not he the man who told you about Mr. Garland?—A. No, sir.

Q. What?—A. No, sir.

Q. Are you sure?—A. I am very positive, sir.

Q. You know him intimately, do you not?—A. I know him very well, sir.

Q. Why will you not tell us who that man is? It is no professional matter.—A. I have given you my reasons. If anybody had told you a thing confidentially I am confident there is no court or committee on earth that would make you tell it.

Q. You cannot be a very good lawyer to assert that as the law?—A. I do not say it is the law. I say you wouldn't tell it.

Q. Have you got any letters from him?—A. No, sir.

Q. It was a voluntary communication?—A. I don't recollect the circumstances under which the matter came up.

Q. Do you recollect where you were when he told you?—A. No; I am not positive; I think I was in my office.

Q. Was anybody else present?—A. No, sir.

Q. Did he know you were writing a history of this transaction?—A. Yes, sir.

Q. At that time?—A. Yes, sir.

Q. How do you know he knew that?—A. Because he saw me writing it.

Q. Did you read him what you had written?—A. I did not. I read him extracts from it, possibly.

Q. How much of it had you got written at that time?—A. I cannot tell you, sir.

Q. Where were you writing when he saw you?—A. In my office, sir.

Q. Was anybody else present?—A. I do not know.

Q. Was General Sypher there?—A. I don't think he was. I don't think there was anybody present.

Q. Was he an intimate friend of yours?—A. Yes, sir.

Q. Have you talked with him since about it?—A. Well, I don't know that I have. I don't think we have ever mentioned the subject. I tried to see him yesterday, as I answered to the chairman, but failed to do it.

Q. He has never told you he was mistaken, has he?—A. I have never talked with him on the subject.

Q. You have never withdrawn that statement in the paper?—A. I very distinctly withdrew it in my letter to Mr. Dana, and I had intended to make the same withdrawal to Mr. Crawford, but it was an oversight if I did not. I am not positive that I did or did not, but I know I intended to do so.

Q. The only withdrawal was that you said it was hearsay and not personal knowledge?—A. Yes, sir.

Q. I believe you said it was not General Sypher that told you?—A. Yes, sir.

Q. Was the man who told you here in the room yesterday?—A. No, sir.

Q. Do you think the man who told you is living?—A. Yes, sir; he is living.

Q. He has not gone out of the city or out of the country that you know of?—A. No, sir.

Q. Is he a resident of the city?—A. Yes, sir.

Q. What part of the city?—A. Now, Mr. Ranney, that is asking me a question upon a subject which I have declined to answer upon, and I don't see that it will amount to anything.

Mr. RANNEY. I want to see how near we can come to it. I have no further questions, reserving the right of proceeding in the House hereafter.

By Mr. EDEN:

Q. Where was it you had the conversation with this gentleman whose name you

will not give, who gave you the information about Attorney-General Garland?—A. In my office.

Q. When was it?—A. I don't recollect the date.

Q. How long ago?—A. It was about the time that I was preparing that article, and I don't even recollect when I prepared that article. It was sometime in August or September, perhaps.

Q. Of what year?—A. 1885.

Q. Was that in Gen. Sypher's office?—A. Yes, sir; I had a desk in Gen. Sypher's office.

Q. Was Gen. Sypher present when the conversation took place?—A. No, sir; there was no one present except the gentleman and myself.

Q. Does he occupy any official position?—A. No, sir.

Q. Has he any relation to any of these telephone companies?—A. Not a particle, sir.

Q. How did the conversation come up between you and him?—A. He was a friend of mine, and I was reading him some things that I had written, and he said he happened to know of this fact, and told me about it.

Q. You were then engaged in writing this article?—A. I was, sir.

Q. Was he in the habit of calling on you?—A. Oh, he was in the office occasionally, and I met him often on the street.

Q. When did you see him last?—A. Well, within a week; no, not within a week, because I haven't been out of my house for twenty-five days until yesterday, except to walk to the corner, perhaps.

Q. Did you tell him you were writing that article for publication?—A. I did not, sir.

Q. Did he tell you that you must not use his name?—A. No, sir; he did not tell me I must not give his name at the time; but after the article was published he then told me I must not use his name.

Q. In the article as published there was nothing to indicate that you got this knowledge from any other person?—A. He and I knew it, sir.

Q. You stated it as a fact in your article, I believe?—A. Yes, sir.

Q. How soon after the article was published did he tell you you must not give his name?—A. Directly afterwards; the first time I saw him afterwards.

Q. Did he come immediately to you after the publication of the article?—A. Well, the first time we met after that he told me so.

Q. Then, when he made the communication to you, he did not do it in confidence?—A. Why of course he did. It was confidential.

Q. He did not say it was in confidence?—A. Oh, yes sir; it was so considered at the time it was made.

Q. He did not say so?—A. We were talking confidentially, sir, in my office.

Q. This article was first published in the World, I believe?—A. Yes, sir.

Q. Were portions of it afterwards published in the Tribune?—A. I don't know, sir.

Q. Did you not read the article in the New York papers that were published in reference to this Pan-Electric matter?—A. I read most of them, sir.

Q. Is it not true that the articles published in the World and in the Tribune were based upon information which you had given in this article?—A. That I do not know, sir. The first part of the article that was published in the Tribune I wrote myself, as I stated yesterday, and gave it to Major Clark, and I wrote the entire article that was published in the World. I don't know where the newspapers of New York get their information from.

Q. So far as you read those papers, you could tell whether they were based upon the articles you furnished?—A. I think they were generally, sir. I think they were, so far as I noticed.

Q. Some of those matters contained in that article you stated from your own knowledge?—A. Yes, sir.

Q. And some on information from others?—A. Yes, sir.

Q. Did General Sypher give you a good deal of information about it?—A. I can't tell whether General Sypher gave me any information or not. He and I talked over those matters. He had a very accurate knowledge of what was in the newspapers. I don't know. He might sometimes have told me things that he had learned in the newspapers or learned from some one else, and given me the authority for it, and in that way I might have written something from information furnished by General Sypher.

Q. But you cannot tell what portion of the article was based upon information from General Sypher?—A. I cannot, sir.

Q. And you cannot tell what part of it was based upon your own knowledge?—A. Oh, I can tell you that, sir.

Q. I will call your attention to one particular item and inquire how you got that information:

"All these gentlemen agreed to take an interest in the organization of the company, and as this was to be an enterprise appealing to the South for its political aid

it was no wonly necessary to secure a distinguished Confederate general to put at the head of it."

Who gave you that information?—A. Well, sir, I don't think that that is information at all; I think that was an inference of my own.

Q. Nobody told you these gentlemen had agreed to do what you state here they had agreed to do?—A. I think that is an inference of mine. Possibly some one may have said that to me, but I could not say positively.

Q. And nobody told you that these gentlemen had secured the services of Gen. Joseph E. Johnston in order to accomplish that purpose?—A. No, sir; that was probably patent on its face.

Q. You acquired the knowledge of the fact about the organization of the company from having access to the papers at Col. Young's office, I suppose?—A. Some of them only, sir.

Q. Did you get some of this information from Dr. J. W. Rogers?—A. I don't know, sir, what information I got from him. I have talked with Dr. Rogers a great deal about the company; very often, indeed.

Q. I am asking now about the information that you embodied in this article.—A. Yes; I suppose I got a great deal of that information from Dr. Rogers, because he and I were on very intimate terms, and we very frequently talked about it.

Q. Can you tell any particular fact stated in this article that Dr. Rogers told you?—A. No, sir, I could not.

Q. I believe you stated on yesterday that one of the purposes of preparing this article was to defend Attorney-General Garland.—A. I thought, sir, as there was going to be an attack made upon Attorney-General Garland it would be well that the truth should be told about the whole matter at the beginning. That was one of the reasons why I wrote that article.

Q. You stated yesterday that one of the reasons was that you wished to defend the Attorney-General.—A. Well, it was a defence to tell the truth in regard to him.

Q. You regarded the article then as a defence of the Attorney-General?—A. Well, I know that in giving the article to Mr. Crawford, he, I think, suggested that the Attorney-General had been—that it was, at least, improper conduct, and I think—

Mr. EDEN. I don't care about the conversation between you and Mr. Crawford.

The WITNESS. I said I couldn't see anything improper in it; that I didn't think he intended anything improper.

Q. The first information you furnished for a newspaper was for the Tribune, was it not?—A. Yes, sir.

Q. Was the Tribune engaged vigorously in defending the Attorney-General at that time?—A. I don't know that it was, sir. I think it was attacking him, as it generally does. I gave it to the Tribune because I could always give the Tribune articles, and they generally printed what I gave them.

Q. You say you are a practicing attorney?—A. I am an attorney, sir.

Q. In what courts do you practice?—A. I have some cases in the Court of Claims; in the Departments mostly.

Q. Anywhere else?—A. I do not practice in the local courts.

Q. Do you practice in the common-law courts in the city?—A. I do not practice in the common-law courts at all.

Q. How long have you been living here in the city?—A. Since 1876.

Q. Did you come from Arkansas here?—A. Yes, sir.

Q. When did you have a case in the Court of Claims?—A. I have some there now, sir.

Q. You say you practice also before committees of Congress?—A. I have cases in Congress.

Q. Are you the same Mr. Hill that was the attorney to get an appropriation for the Jeffersonville, Indiana, levee?—A. Yes, sir.

Q. Are you the same gentleman that is referred to by the report of the Committee on Reform in the Civil Service that investigated that matter?—A. I am, sir.

Q. Is that the only case that you have had before a committee of Congress?—A. Oh, no, sir. They asked me if I had had cases, and I mentioned one or two. I have had, in the course of the last six or eight years, not less than thirty or forty cases.

Q. Before committees of Congress?—A. Yes, sir; cases that have gone to the committees of Congress; I never went before a committee of Congress in my life to make an argument; I have my cases referred to them, and sometimes have written briefs.

Q. What do you do when you are employed as an attorney for a case before a committee of Congress, if you don't go before the committee and argue it?—A. When I am employed as an attorney I write a bill and have it introduced in Congress and submit the evidence to the committee. As a rule my cases go before the War Claims Committee, and they don't permit attorneys to come before that committee. They are generally war claims from the South. They don't permit attorneys to come before that committee to argue cases. Their rules don't allow it. They don't even allow an attorney to know to whom—

Q. Did you argue the Jeffersonville case before the Committee on Rivers and Har-

bors?—A. No, sir; I did not. I stated in my examination before that committee exactly what I did. I advised Mr. Warder what he ought to do in that case.

Q. You never spoke to the committee about it or any member of it?—A. No, sir.

Q. Nor prepared any bill or brief?—A. I prepared a statement for Mr. Warder, which he used, I suppose.

Q. Have you been engaged in this business of practicing in the Court of Claims and before committees of Congress ever since you came here from Arkansas?—A. Not all the time; most of the time.

Q. What other business have you been engaged in?—A. Writing, sir.

Q. Writing for what?—A. The newspapers.

Q. Are you the regular correspondent of any newspaper?—A. No, sir.

Q. Have you ever been the regular correspondent of any newspaper?—A. No, sir. Oh, yes; I was at one time.

Q. Since you came to Washington?—A. Since I came to Washington; yes, sir. I was at one time the regular correspondent of quite a number of papers.

Q. When was that?—A. That was in 1876.

Q. Have you been the regular correspondent of any newspaper since 1876?—A. No, sir.

Q. In what way did you get compensation for your services in writing for the newspapers?—A. The newspapers are always very willing to pay for articles that are well written and upon pertinent subjects.

Q. Is that the way you got your pay?—A. Yes, sir; of course, like a great many other newspaper men.

Q. How much did the Tribune pay you for the information that you gave to them?—A. I did not ask them for a cent of pay.

Q. I did not ask you about that; but how much did they give you?—A. I don't think they ever paid me a cent. The Tribune paid me for some other matter I furnished to them, some small items, but I don't think the Tribune ever paid me a cent for that article.

Q. Did you continue to furnish information to these newspapers after you furnished this article that is called the history?—A. I don't think I have since that time. I don't think I have said a word or talked to any one about it.

Q. Have you given the Tribune any information since the first information that you gave them?—A. Well, for a few days afterwards I gave Mr. Clark some items, but not lately.

Q. Do you say the Tribune folks did not pay you anything for it?—A. I did not ask them for any pay. They would have paid me if I had asked them, doubtless.

Q. Did anybody else give you any pay for the information you furnished to the Tribune?—A. No, sir.

Q. You were doing that as a labor of love, were you, or was it for the purpose of defending the Attorney-General?—A. Well, sir; it was to put a correct statement of the fact before the public; if it was a defence, as I think it was, it was for that purpose. I did not make any attack upon the Attorney-General.

Q. You sent to the Sun the same article that was published in the World, did you not?—A. Yes, sir.

Q. Did you send that article to the Sun before the World got it?—A. Yes, sir.

Q. Did you set any price on it when you sent it to the Sun?—A. I did not, sir.

Q. Did the Sun return it to you?—A. They did not, sir.

Q. Then you kept a copy?—A. Yes, sir; when I wrote the article I took three copies of it.

Q. You kept three copies?—A. I took three copies.

Q. And you sent one to the Sun?—A. Yes, sir.

Q. What did you do with the other two?—A. I sent one of them to the World.

Q. What did you do with the other?—A. I gave the other one to Gen. Sypher.

Q. When you gave it to him, for what purpose did you give it to him?—A. I didn't ask him.

Q. Did he ask you for it or did you voluntarily give it to him?—A. I wrote it with the understanding that he was to have a copy of it.

Q. Did he tell you he was going to furnish it to Mr. Bell of the Bell Telephone Company?—A. I am not certain whether he did before he sent it or not.

Q. Think about it and see if you can remember.—A. I cannot tell, sir. I have tried to think whether he told me before or afterwards. I am not positive.

Q. Did he not tell you at the time you gave him the article that he was going to furnish it to Mr. Bell?—A. It is possible he may have told me that, sir.

Q. Did you not give it to him for the purpose of having it placed in the hands of Mr. Bell?—A. I do not know that I did.

Q. What is your recollection of it?—A. I don't think he told me beforehand that he was going to send it to Mr. Bell, though I am not positive. It was not a matter that I considered of any great importance. I didn't know that I was going to have an investigation by Congress, or I should have tried probably to put the facts in my

memory a little closer. I don't think he told me before that he was going to give it to Mr. Bell, but I am not positive of that.

Q. Your name did not appear in the proceedings until after the investigation commenced, did it?—A. No, sir; not that I know of. I signed the article that I gave to Mr. Crawford. My name was to the article when Mr. Crawford got it.

Q. Did you ask him when he published it to publish it with your name?—A. I told him he could do it if he chose to do so.

Q. But he published it without your name?—A. Yes, sir.

Mr. RANNEY. Mr. Crawford says when he sent it to the World it was specified to be Mr. Hill's history.

Mr. HALL. They probably took his name off. They didn't want it to be authentic.

Q. You do not know why they did not leave your name on it?—A. I didn't make any inquiry about it.

Q. Did you ask Mr. Crawford why they had not published it over your signature?—A. I never did.

Q. You were very well acquainted with Mr. Crawford, were you not?—A. Very slightly acquainted with him, sir.

Q. Did you go to him to furnish him the article, or did he come to you for it?—A. I went to him. I saw an account published in the World, and directly afterwards, a day or two afterwards, I went to Mr. Crawford and told him if he wanted a correct history that I had one written that he could have.

Q. Did you tell him how much you wanted him to pay you for it?—A. I did not.

Q. Was there any negotiation between you and him about the consideration?—A. No, sir; I left that entirely to him.

Q. Was the agreement between you and him that you should leave entirely to him the question of what he should pay you?—A. That is the way I have always done with the newspapers.

Q. Did he pay you before the article was published or afterwards?—A. Before, sir.

Q. How much do you say he paid you?—A. I think it was \$85.

Q. Did he pay it all at one payment, or in instalments?—A. He paid it at different times.

Q. Was it all paid before the article was published?—A. All of it, sir.

Q. You have never made any inquiry to ascertain why it was they did not publish the article over your name?—A. I did not care, sir.

Mr. EDEN. That is all

By Mr. HALL:

Q. When was it you first began to occupy rooms with Col. Casey Young?—A. I think in January or February of 1884.

Q. Were those rooms sleeping apartments or did they constitute an office?—A. They were sleeping apartments and his parlor or sitting-room.

Q. How long did you continue to sustain those relations to Col. Young in the rooms?—A. For four or five months, during the time my wife was absent in Baltimore; about five months, was it not, Col. Young?

Mr. YOUNG. Yes.

Q. Was it during that same period you were occupying a desk in Gen. Sypher's office?—A. No, sir; I had a desk then at 1305 E street, with Col. Gilbert Moyer.

Q. When did you retain a desk in Gen. Sypher's office?—A. I think in July, probable. I am pretty certain it was about the 1st of July, 1884.

Q. Are you still occupying a desk there?—A. Yes, sir.

Q. You have been there ever since?—A. Yes, sir.

Q. Did you cease to frequent Col. Young's rooms after the time that you began to have this desk in Gen. Sypher's office?—A. When Congress adjourned in July and when Col. Casey Young came back in the latter part of November or the 1st of December to the short session of Congress I was in his rooms occasionally only. I did not go there at all after that probably more than once a week.

Q. That, you say, was in the year 1884?—A. Yes, sir.

Q. Did you have access to his rooms in 1885?—A. I did not, sir.

Q. Were you ever in his rooms in 1885?—A. I have called on him occasionally, but very seldom. He was not here having rooms in 1885 that I know of. Yes, he was, too.

Q. I understand you to state that much of the foundation for this article that you call the authentic history of the Pan-Electric Telephone Company was from information received in casual conversation with Col. Young?—A. With Col. Young and other members of the company; Dr. Rogers and Mr. Harris Rogers.

Q. Was that information derived from conversations occurring before or after Congress adjourned, and after you had ceased to frequent Col. Young's rooms?—A. During the time.

Q. During that time?—A. Yes, sir.

Q. Did you at any time whilst you were occupying the office or rooms of Col. Young, or subsequently, make any copies of any books relating to the Pan-Electric

Telephone Company?—A. I did some copying for Col. Young in his office; and I stated yesterday in my testimony that in doing some of his work some of his papers accidentally got mixed with mine, which I had in his room, and carried to my office. One of them was a transcript of the account current of the company. I didn't know I had that paper until some time when I was in Col. Moyer's office, and they wanted to use the desk I had been using there, and it had a great number of my papers piled up on it, and in moving the papers from that desk it was accidentally found. I gave that paper to Mr. Crawford, of the New York World, as evidence of the fact that what I had stated to him was true.

Q. Do you remember the date of the last item of that account?—A. I do not, sir.

Q. Are you sure that item is not later than the removal of your books? Are you sure there are not items on that account later than the removal of your books?—A. I am very sure there are none there that I put there later than that, sir. It was the very same time, as I stated yesterday, and as Col. Young knows, for I asked him after he returned, that one or two of my papers got mixed up with his papers and were carried to Memphis.

Q. Is that the only transcript of the books of the Pan-Electric Telephone Company that you ever had?—A. That is the only one I ever had in my possession, and I simply gave that to Mr. Crawford to show him that what I had stated of my knowledge of the company was true.

Q. You do not remember the date of the last items of the account?—A. I do not, sir.

Q. Do you say that transcript was made for Col. Young?—A. It was made in making out his account with the company. He asked me to make it out, and I made it out, and it was incorrect, so that there was a second copy made, and that copy was thrown among my papers, and accidentally came into my possession that way.

Q. Did you make copies of any correspondence?—A. I never did, sir.

Q. Did you furnish Mr. Crawford any letters or copies of correspondence?—A. No, sir.

Q. Have you any?—A. I have not.

Q. When did you first form the idea of preparing a statement or correspondence for the newspapers relating to this Pan-Electric Company?—A. I think it was in July, 1885. I stated it yesterday. There were numbers of newspaper reporters and newspaper men trying to find out some of these facts. I saw articles published in the New Orleans Times-Democrat, and one in the Baltimore Sun calling attention to these things, and Gen. Sypher returned from New York some time in the latter part of July or August and told me what had occurred between Major Cahoon and himself, and some papers were sent to me from Wisconsin, I think, from Milwaukee or St. Paul or somewhere, with a number of articles in them. I think it was in July or August, as I just said, that I determined that I would write out a correct history of it, and I did write the first article at that time.

Q. Did you write it on your own motion or at the request and suggestion of Gen. Sypher?—A. I wrote it on my own motion, sir. We talked the matter over beforehand.

Q. I understood you to say yesterday that you had one purpose in preparing the article that you declined to state?—A. I think not, sir.

Q. Did you not say something to that effect?—A. I think not, sir.

Q. That originally in preparing that article you had one motive or purpose that you thought was your own matter, and you declined to state it?—A. Possibly, I may have said so, sir.

Q. I will ask you now whether there was not one motive or purpose in its preparation?—A. I did say that yesterday. I recollect now. Yes, sir; there was.

Q. Was that the prime and principal motive?—A. Well, it had some influence in my preparing it, sir.

Q. Do I understand you to decline to state what that motive and purpose was?—A. Yes, sir.

Q. Upon what ground?—A. Well, upon the ground that the motives that actuated me in doing anything are not a proper subject for the committee or any one else except myself.

Q. How long were you occupied in preparing that first paper for the Tribune?—A. Probably a couple of hours; I don't know how long.

Q. Did you send it to the paper at once after its preparation?—A. I carried it to Major Clark and told him not to print it—I think that was my statement to him—unless he found that other papers were going to print something and then he could print it. Is not that what I said, Major Clark, or about what I said? Oh, Major Clark is not here; I thought he was.

Q. Had you at that time begun the preparation of this more extended article?—A. I began it as soon as that was printed, sir.

Q. Having printed the first article you then took a second thought, or formed a second purpose of preparing something a little more extended and complete. Is that

so?—A. I concluded I would prepare a complete and extended article, and I took what was published in the papers, what I saw in the other journals and what I believed to be correct, and used that in preparing the second article.

Q. Did you not state yesterday that originally in the preparation of this article your purpose was not to have it published?—A. I did say so, sir. I did not originally prepare it for publication.

Q. You prepared the Tribune article for publication?—A. I prepared that for publication; yes, sir.

Q. Was it the same motive, this secret motive, which operated on you in preparing both those papers?—A. I can't tell sir. As I stated before, sometimes men do things when they don't even know their own motives.

Q. You are not certain that there was not some unconscious motive operating?—A. I am not certain, sir. No man can be certain of that fact.

Q. Whether there was a motive or no motive, you went forward and prepared this article that has been introduced in evidence without any purpose of its publication?—A. I did, sir, without any purpose of its publication.

Q. When did you complete it?—A. I can't tell you, sir.

Q. I see that General Sypher's letter to Mr. Bell—A. That probably fixes about the time I concluded it.

Q. The letter in which he sent one of these copies to Mr. Bell is dated October 26.—A. It was completed before that.

Q. How long before that?—A. I couldn't tell you, sir, how long before that.

Q. A month?—A. Possibly. I don't know how long it was before that, because I didn't pay any attention to the time.

Q. How long long do you think you were occupied in preparing it?—A. Well, I didn't work at it at all continuously, sir. I wrote when I felt like it. Probably four or five days, at different times, I was writing on it, either at home or at the office, for I wrote at both places, just as the humor happened to strike me and I had nothing else to do.

Q. As soon as you had prepared the manuscript, were these copies made?—A. I think not, sir, for some time afterwards.

Q. What was the reason for the delay?—A. I don't know, sir. I hadn't prepared it for any particular use.

Q. Was not that manuscript that you prepared submitted to somebody else?—A. No, sir.

Q. Do you swear it was not out of your hands?—A. I would not swear to that, sir, because it was on my desk.

Q. Don't you know that manuscript was taken out of your office for the purpose of being submitted to somebody else?—A. I do not know any such thing.

Q. Do you swear it was not?—A. If it was, it was done without my knowledge.

Q. Don't you know that Gen. Sypher took that manuscript?—A. I don't know any such thing.

Q. For the purpose of submitting it to somebody else?—A. I don't know any such thing, and I don't believe any such thing.

Q. I would like to have you refresh your memory, and see if you cannot state about how long after that article was completed it was before those copies were made.—A. I cannot. It might have been a week, or it might have been two weeks, or it might have been four weeks.

Q. Then, I understand you to say no use whatever was made of the manuscript from the time it was completed until those copies were made?—A. So far as I know, there was not. That is my recollection, sir.

Q. When the copies were made a copy was sent to the Sun?—A. No, no; not until long afterwards.

Q. When was it sent to the Sun?—A. The date of the letter in Col. Dana's testimony will tell you.

Q. About what time was it?—A. I do not know, sir. I don't recollect. I will find it.

Q. These copies were made on the 26th of October. What did you do with the other copies after they were made. You say three copies were made, one of which was sent to Mr. Bell on the 26th of October. What became of the other copies?—A. I sent one of them to the Sun, and gave one of them—

Q. Immediately; at the same time?—A. No, sir.

Q. Then they were kept in your office?—A. Yes, sir.

Q. Now, I ask you the same question about those copies; whether they were submitted to anybody?—A. No, sir; they were locked up in my desk.

Q. Then there was a period after Mr. Bell had been furnished with a copy of this statement in which you took no further action?—A. I did not, sir.

Q. And that seems to have been about a month?—A. I don't know how long it was. It was whatever time it might have been.

Q. Why did you not send those copies to the newspaper's sooner?—A. I did not write them for publication, as I stated in the beginning. I stated yesterday the reason I published the article was because I had seen something in other papers that probably did not give an entirely correct statement, in numbers of papers, and I then sent it to Mr. Dana for publication.

Q. You and Gen. Sypher were on very intimate terms, were you not?—A. Yes, sir.

Q. And consulted each other about what was to be done with that manuscript that you prepared?—A. I don't know, sir, that we consulted each other about what was to be done with it. We talked over the matter a great deal.

Q. He showed you the note he sent to Mr. Bell with the copy of the manuscript, did he not?—A. I don't know that he did, sir.

Q. I will read it to you:

"I hand you herewith an authentic statement of facts compiled by my associate, Col. E. N. Hill. It may be of interest to you. The scheme to destroy your patents was tolerably well matured, and it remains to be seen whether this reform Administration will lend itself for its consummation."

A. I did not see that letter, sir.

Q. Do you pretend to say that you and Gen. Sypher did not understand what each was doing about that thing?—A. I pretend to say, sir, that there was no understanding at all as to what we were doing about it. I wrote the article originally for the reasons that I have stated. Gen. Sypher said he would send one of the copies to Mr. Bell, and he took a copy of it and sent it to him. I never saw that letter, and never heard it read.

Q. Don't you know that you prepared that article in conjunction with Gen. Sypher with the idea of giving expression in some way to what was found in this letter:

"The scheme to destroy your patents was tolerably well matured, and it remains to be seen whether this reform Administration will lend itself for its consummation."

A. I don't know whether I did, sir.

Q. Don't you know that this motive that you are talking about, and which governed you in the preparation of these articles, was to assist the Bell Company against this new company, and to do it by making an attack on certain members of the Administration?—A. No, sir; I don't know any such thing.

Q. Do you say it was not?—A. I say I was not governed by any such motives.

Q. But I understand you to say you never attempted to make any other use of the manuscript than first to send it to Mr. Bell, and next—A. I didn't send it to Mr. Bell.

Q. And then to send it to the papers?—A. I didn't send it to Mr. Bell. I don't know Mr. Bell.

Q. You knew it was sent to him?—A. I knew it was sent to him.

Q. You were cognizant of it at the time?—A. I don't know I knew it until after it was sent.

Q. It was your brain work and property, was it not?—A. Yes, sir.

Q. And you assented to its being sent?—A. Yes, sir.

Q. You made no objection to it?—A. No objection.

Q. Do you pretend to say you are not the author of it in the sense of sending it to him?—A. I didn't send it to him.

Q. How about the way it went to the papers; did you send it to the papers?—A. Yes, sir.

Q. You became the instrumentality there?—A. Yes, sir.

Q. I ask you again whether you ever attempted to make any other use of the manuscript than to give it publicity in the papers?—A. I don't think I ever did, sir.

Q. Do you pretend to tell the committee you had any other motive in preparing it than giving it publicity?—A. I do, sir.

Q. But you decline to state what it was?—A. Yes, sir.

Q. I will ask you the further question, whether you did not delay sending this manuscript to the papers from the time that the first copy was sent to Bell, expecting it would get into the papers through that copy?—A. No, sir, I did not.

Q. What did you wait for?—A. Because I had not determined to publish it. That was the simple reason I waited.

Q. Had you asked anybody to pay you anything for it?—A. No, sir.

Q. You did not ask anybody for compensation for it until you offered it to the World?—A. No, sir.

Q. I think you stated you received the money from Mr. Crawford before it was published?—A. Yes, sir.

Q. At different times?—A. Yes, sir; at different times.

Q. Have you ever tendered any other manuscript on the subject?—A. I have not had any other.

Q. You have not prepared anything else?—A. No, sir. That was all I knew.

Q. Did you make any division with anybody of the money paid by Mr. Crawford?—A. I did not.

Q. Did you pay anything to Gen. Sypher?—A. No, sir.

Q. If I understand you correctly, the probabilities are that you began the preparation of this article before the meeting occurred at 1327 G street?—A. I think I did, sir. I am not positive about that, sir. I had written the article for the Tribune, I think, previous to that. I am pretty certain I had. I was writing about it.

Q. And it was whilst you were in the course of preparing the article that this unknown person came and gave you the information about that meeting?—A. Yes, sir.

Mr. RANNEY. The undisclosed person; not the unknown person.

The WITNESS. The undisclosed person.

Mr. HALL. Unknown in a general sense.

Mr. EDEN. Unknown to us.

Q. Was there any person assisting, either by your suggestion or that of Gen. Sypher, to get information to enable you to perfect and complete the statement?—A. I do not know what Gen. Sypher may have done; I don't think there was; I don't think he required any assistance or that he thought I did.

Q. Did you or he employ a detective?—A. No, sir.

Q. Were you aware at the time that that meeting was being held that those gentlemen were here?—A. I saw that from the book of the Ebbitt House.

Q. Did you at that time know that Mr. Van Benthuyzen had any interest in this matter?—A. I did not know he had any interest, and don't know now he has any in the Pan Electric Company; I knew he was interested in the National Improved Company; at least, I knew that through the papers.

Q. Then you got the information of his presence from your personal inspection of the register?—A. I think I did, sir.

Mr. HALL. I don't think of anything else to ask.

By Mr. HANBACK:

Q. You say you had a second motive which you decline to disclose?—A. Yes, sir.

Q. Did you attempt to carry it out?—A. No, sir.

By Mr. MOFFATT:

Q. I understood you to say that the first information you had of the ordering of the Government suit was after it was ordered and published in the papers?—A. I think that was the first information I had of it.

Q. You are sure of that, are you?—A. I am pretty sure.

Q. Have you read the testimony of Gen. Sypher given before the committee?—A. I have not, sir.

Q. Gen. Sypher stated that he was informed some nine or ten days previous, and that he got his information from you.—A. Well, possibly I may have known it then, but I have forgotten it if I did.

Q. That statement does not refresh your recollection.—A. It does not, sir.

Q. Have you any idea where you got that information?—A. The first article that I ever saw on the subject of the Government suit was in the Baltimore Sun, I think.

Q. Was that before the suit was ordered?—A. I think it was, sir.

Q. What was the purport of the article?—A. There was something in there to the effect that there was going to be a Government suit; and, possibly, in the New Orleans Times-Democrat. I don't know whether that could be counted as information that I could testify to at all.

Q. Was it stated that the suit was going to be ordered, or that application was going to be made?—A. That suit was going to be ordered, or application made, or something. I don't recollect now what the article was I read in the newspapers at the time. I did not pretend to charge my memory with it.

Q. You have no recollection of being informed that the suit was going to be ordered?—A. I have no recollection of being informed by any one that the suit was going to be ordered. The only information I could possibly have had would have been from what I might have read in the newspapers.

By Mr. RANNEY:

Q. While you were associated intimately with Mr. Young, do you know whether he kept files of the letters received from his associates in the Pan-Electric Company?—A. I do not, sir. I never saw one of the letters from any of his associates in the Pan-Electric Company.

Q. You say his papers and yours got mixed up. Have you looked to see whether some of his correspondence did not get mixed up with your papers, too?—A. That was the only paper of Col. Young's that was with mine. I know that, because I examined the papers when they were moved.

Q. We have not been able to get any of that correspondence. You don't know where we can find any of it, do you?—A. No, sir.

By Mr. OATES:

Q. What paper of Col. Young's did you say it was that got mixed up with yours?—

A. It was an account current of Col. Young's with the company as secretary and treasurer; a cash account, you might call it.

Q. One you had drawn for him?—A. I originally drew it; yes, sir.

Q. And when you found it you say you took it to Mr. Crawford?—A. I took it to Mr. Crawford as a verification of the statements that were contained in my letter.

Q. Why did you not take it to Col. Young?—A. It was a matter of no value.

Q. Why?—A. Because it was an incorrect statement and had been corrected.

Q. (Showing paper to witness.) Is that the paper?—A. Yes, sir; that is the paper.

Mr. RANNEY. I suppose it is unnecessary to put that into the record.

Mr. OATES. I just want it identified.

Q. At what date did you furnish to Mr. Crawford this article called the history of of the Pan-Electric Company?—A. I don't recollect.

Q. What is your best memory about it?—A. I haven't the slightest idea about the date. Possibly Mr. Crawford can tell you. I cannot. I don't know whether it was in November or December.

Mr. CRAWFORD. It was furnished on Thanksgiving Day. I think it was the 24th of November.

The WITNESS. I know it was after the letter had been written to Col. Dana.

Q. You say that you wrote this paper I have just shown you?—A. Oh, no, sir; I did not. That is not in my handwriting. I say I originally made up the account. That was a copy.

Q. Why was this of no value?—A. It was of no value because it was incorrect.

Q. And it was a copy from what you had made?—A. It was a copy from what I had made and was found to be incorrect, and I then made a correct statement, which Col. Young has.

Q. In this statement which you furnished and was published I find the following paragraph:

"It might make an interesting newspaper article if the names of the parties who went before this Committee on Patents to advocate the passage of this bill could be given."

How and where did you get that information?—A. Well, sir, I don't know. I don't think it is information at all. I think it is a simple inference that it might make an interesting article, and I think it would.

Q. Did you not get a good deal of the information on which you based your article from a detective?—A. No, sir.

Q. You did not?—A. No, sir.

Q. Again you state:

"Attorney-General Garland left for Arkansas on the 27th of August. Promptly on the 1st of September Col. Young arrived in this city and stopped at Wormley's. *Private rooms were not needed on this occasion.*"

What do you mean by that?—A. I don't know, sir, what I meant by that. The statement that Attorney-General Garland left was published in all the papers. I knew that from them. The statement that Col. Young arrived was published in the papers, and I called to see him and he was not in when I called.

Q. You do not know what you meant by "private rooms were not needed on this occasion"?—A. No, sir.

Q. You just wrote that in order to see how you could write?—A. Yes, sir. I am called a pretty good writer.

Mr. EDEN. It was a rhetorical flourish?

The WITNESS. That is a very good name for it.

Mr. RANNEY. A conjecture. He had a private room before on G street.

Q. What time did you say it was he took a room at 1327 G street?—A. I don't know, sir; I think the history states when he took it.

Q. Does the history state it correctly?—A. So far as I know, sir. I don't know that he ever had a room there.

Q. You never were there?—A. I never was there.

Q. You stated that only on information?—A. That is all, sir.

Q. Do you know, of your own knowledge, that any meeting or conference was ever held there?—A. I do not know, sir; and I so stated yesterday.

Q. You got that from this unmentionable individual?—A. Yes, sir; I so stated yesterday.

Q. Did you not get the major portion of your facts from that same person?—A. No, sir.

Q. How did you know about the action by the Solicitor-General?—A. I think I saw it in the newspapers.

Q. About his prompt action?—A. I think I saw it in the newspapers.

Q. You say here:

"In less than one working day he passed on the whole thing and ordered the suit."

How did you know that?—A. I knew the application had been made on one day, according to the statements, and that the order for the suit was made on the next day.

That was less than a working day, because the mail arrives from the South about 11 o'clock in the morning, from nine to eleven, and the papers couldn't have gotten to him before twelve o'clock that day. I made a little calculation myself at the time as to its being less than a working day.

Mr. RANNEY. Mr. Goode confirmed all that, I think.

Q. Were you a lawyer before you came to Washington to live?—A. Yes, sir.

Q. When were you first licensed?—A. I think it was 1857. I read law in 1848 and 1849, and was under age and could not get a license and didn't apply for it until some time afterwards.

Q. What court licensed you first?—A. The circuit court.

Q. Where?—In the judicial district where I resided, in Camden, in Arkansas.

Q. You say in this history:

"On the 29th of August Mr. Van Benthuyssen and Mr. C. P. Huntington, representing the lately defeated National Company, registered at the Ebbitt House at Washington."

Was that true?—A. Yes, sir; I saw their names there. I met Mr. Huntington and was introduced to him on the street that day.

Q. On the 29th of August?—A. I think it was on the 29th. The register shows what day it was.

Mr. RANNEY. They arrived in the afternoon.

Q. You say:

"On the next day Col. Casey Young and Col. Gantt, representing the Pan Company, stopped at the same place, as did Mr. Bradley T. Johnson, the president of the local Pan Company in Baltimore."

A. Yes, sir.

Q. That was then the 30th of August. You say it was the next day—

"That these gentlemen were in consultation together, is well known. On the 1st of September Col. Casey Young secured private apartments at 1327 G street, a most central locality, within two squares of the Ebbitt, Riggs, and Willard's."

How did you know about that?—A. That was the information that was given to me by that undiscovered person. I did not know it.

Mr. RANNEY. I have examined the record, and the record shows it to be a fact.

Mr. HALL. I think there is no dispute about it.

Q. That was the first of September?—A. Yes, sir.

Q. You say:

"At these rooms a number of conferences were held amongst the parties named above, and among the callers upon Col. Young while these conferences were being held was Attorney-General Garland."

You wrote that?—A. Yes, sir; I wrote it.

Q. Did you not know when you wrote it that it was a falsehood?—A. No, I did not; and I don't now know whether it is or not.

Q. Let us look a little further at your own language and see:

"Shortly after the conferences closed it was announced that the Attorney-General would soon start for a visit to his country place in Arkansas, and he did leave on August 27, burying himself in the woods away from all postal or telegraphic communication."

You wrote that, did you?—A. That must be a misprint, sir.

Mr. OATES. Ah, a misprint?

Mr. RANNEY. That is exactly a fact, is it not?

Mr. HALL. Let the examination go on.

Mr. RANNEY. Mr. Garland says it was announced in the newspapers.

Mr. OATES. Hold on, Mr. Ranney.

Mr. HALL. Give the witness a chance.

Q. You said you wrote that history, did you?—A. Yes, sir; I did write it.

Q. In the history you say Col. Young took those rooms on the 1st day of September, and you say that Garland left on the 27th of August preceding, and yet you say Garland was at the conferences which followed immediately after the 1st of September; how can you reconcile that?—A. I did not state it as a matter of my own knowledge, sir.

Q. Is it not false on its face?—A. It seems to be, sir; but it is not a matter of my own knowledge, and I have distinctly disclaimed any knowledge of it all the way through.

Mr. OATES. It is the plainest thing in the world. He says Young took the rooms where the conferences were held, on the 1st of September, and that Garland was at the conferences, and yet he states that Garland had left on the 27th of August. It is false on its face.

Mr. HALL. It is a small case of *felo de se*.

The WITNESS. I do not know what time Mr. Garland did leave.

Mr. OATES. It was stated in all the papers.

The WITNESS. Well, whatever time he left. I wrote that upon the information of another person, and I did not pay much attention to it either.

Q. It doesn't make any difference who stated it; from those facts in that shape, couldn't you see that it was false?—A. I never noticed that it was in that shape. This is the first time it has ever been called to my attention.

Q. You knew and stated that Mr. Garland had left for Arkansas on the 27th of August, and that that suit was ordered on the 2nd of September; that Colonel Young took the rooms on the 1st of September, which was after the time when Mr. Garland left.—A. Yes, sir. I never noticed that statement before.

Q. That escaped your memory?—A. It escaped my notice.

Mr. HALL. To begin at the first paragraph on this subject; it says, "On the 29th of August Mr. Van Benthuyson and Mr. C. P. Huntington, representing the lately defeated National Company, registered at the Ebbitt House in Washington."

Mr. RANNEY. That is true; go on.

Mr. OATES. It shows that the statement about Mr. Garland's being there is a falsehood.

Mr. RANNEY. I want to find that.

Mr. OATES. It is at the bottom of the page. It says, "At these rooms a number of conferences were held amongst the parties named above, and among the callers upon Colonel Young while these conferences were being held, was Attorney-General Garland. Shortly after the conferences closed it was announced that the Attorney-General would soon start for a visit to his country place in Arkansas."

Mr. RANNEY. That is all right.

Mr. OATES. "Shortly after the conferences closed." They began on the 1st of September.

Mr. RANNEY. No; those were the conferences of the 29th of July.

Mr. OATES. But the witness says the conferences were held at Colonel Young's rooms, which he took on the 1st of September.

Mr. RANNEY. Colonel Young did not have any rooms then; he was stopping at Wormley's, and, as this article says, "private rooms were not needed on this occasion."

Mr. OATES. No, that was on a different occasion. Read it; it is in print.

Mr. RANNEY. Read the fourth paragraph from the top on page 776. Then, that must refer and relate to the 29th of July and the beginning of August.

Mr. OATES. There it is; it speaks for itself. He begins the paragraph by saying, "On the 29th of August Mr. Van Benthuyson and Mr. C. P. Huntington, representing the lately defeated National Company, registered at the Ebbitt House, in Washington."

The WITNESS. I think, Mr. Chairman, that this is a bad print in that book. I think it is, or should be, the 29th of July.

Mr. RANNEY. And the 1st of September should be the 1st of August?

Mr. HALL. If you change that you have to make two corrections.

Mr. RANNEY. That is August; that is the time when he secured those rooms.

The WITNESS. I think that should be the 29th of July; that it is misprinted.

Mr. RANNEY. Then on page 776 it says distinctly that when he came on the 1st of September he did not need any private rooms.

Mr. HALL. Then there will have to be two mistakes corrected. Have you a copy of the World article to compare and show that date? This "August" has got to be changed to "July," and then the word "September" will have to be changed to "August."

Mr. RANNEY. But, taking the paragraph altogether, it is a manifest typographical error in printing September for August.

Mr. OATES. We will compare it and see.

Mr. RANNEY. It is a typographical error, or an error of that sort. It is published in the World as September, but the whole article together shows manifestly that it was the first of August.

Mr. HALL. We are not dealing with the fact, but we are dealing with this statement.

Mr. OATES. Mr. Clerk, you will secure from the printer the copy furnished by Mr. Bell, the type-written copy, and bring it before the committee. If all of them read that way it is pretty conclusive.

Mr. RANNEY. Not at all. You take the three paragraphs together and the article states conclusively that he had these rooms and this conference on the last of July and the first of August. It says distinctly and unequivocally that he came here and stopped at Wormley's, and that private rooms were not needed, and that is italicized.

The WITNESS. If it states the other way, and it seems that it does, it seems to me to be a mistake in writing, because the records of the Ebbitt House show that the registering of Col. Young, Mr. Van Benthuyson, and all these parties, was on the 29th and 30th of July.

Mr. OATES. If there is a mistake in writing that is your responsibility.

Mr. RANNEY. But the third paragraph on this page shows exactly that it referred to the 1st of August, and not September. It is unmistakable, if you read them both.

Mr. HALL. With regard to the correctness of that statement, it is not unmistakable at all, because we have a case where this information about this meeting which is charged to have been on a given date is, I think, very doubtful, and we cannot get the name of the person who furnished the information. We can correct other dates, but not that one, because there is no foundation for correction.

Mr. RANNEY. If you, as a man of intelligence, will read those four paragraphs and say that the meaning of them is that the man represented that they had a meeting when Mr. Garland was present on the 1st of September, I will not discuss it.

Mr. HALL. That is not the question at all. This witness has testified that this information, as stated in this paper, of a meeting on the 1st of September, was furnished to him by a certain person. Now he testifies that the information came to him—when? That has not been corrected.

Mr. RANNEY. It does not need to be.

Mr. HALL. No, if you do not want it to be; if you are in a state of mind that you do not want a correction.

Mr. RANNEY. But I do. I want to do justice to this witness, and when it is stated that he has said a thing falsely in that communication, when it is perfectly apparent in the communication itself that whatever he wrote, whenever he wrote September he meant August, and that it applies to it, I do not think it is fair to say that the intention was to falsify.

Mr. OATES. The witness may state what was the case. I ask him to say if he does not know that it shows on the face of the statement here that it could not have been so, but was a falsehood.

The WITNESS. I do not know it, for I did not know that that statement was there in that way. I do not think I ever read that article until now. I know I did not read it in the World.

Mr. OATES. I did not enter into an argument with the witness; I was putting a question.

Mr. RANNEY. You said with a good deal of emphasis, that the article, on the face of it, was false.

Mr. OATES. I asked him the question whether it was not, on the face of it, a falsehood. I will let him answer that question now.

The WITNESS. It could not be possible for Mr. Garland to be at a meeting held on the 1st of September if he had left on the 27th of August and was on his way to Little Rock.

Q. Then on the face of it, it is not true?—A. It would certainly be untrue on the face of it as it reads now. But as I stated—

By Mr. HALL:

Q. I want to ask you to tell this committee what this unnamed individual told you about any meeting.—A. Well, sir, he told me that Colonel Young had taken these rooms—I did not know it—and that these gentlemen had been there to meet him, and that Mr. Garland was there. That is the substance of his statement.

Q. Did he tell you when that happened?—A. It was at the time these rooms were taken.

Q. Did he tell you that it was on the 1st of September?—A. No, sir; he told me at the time the rooms were taken, whenever that was.

Q. Then the date that is put in there was a date put there by yourself?—A. It seems to be a mistake, that is all. I may have written it, and it may have appeared August and September when it should have been July and August.

Q. And you think the mistake is in the month of August in the first instance, and in the month of September in the next?—A. Yes, sir.

Q. You answered me a little while ago, if I remember correctly, that you were in the very process of preparing this article at that time?—A. Yes, sir.

Q. How could you make a mistake of that kind?—A. Well, a man frequently writes a word wrong when he is writing a great deal and overlooks it, and the printers overlook it, and it gets into print in that way wrong. I have done it myself a hundred times—written the wrong date.

Q. When you are writing about an event that has transpired you often put it as occurring in the month before that?—A. I might do it.

Mr. RANNEY. Let me see. I do not want any assumption that is wrong. Your article says: "On the 29th of August, Mr. Van Benthuyzen and Mr. C. P. Huntington, representing the lately defeated National Company, registered at the Ebbitt House in Washington. On the next day Colonel Casey Young and Colonel Gantt, representing the Pan Company, stopped at the same place, as did Mr. Bradley T. Johnson, the president of the local Pan Company in Baltimore. That these gentle-

men were in consultation together is well known." Then you say, "On the 1st of September, Colonel Casey Young secured private apartments at 1327 G street, a most central locality, within two squares of the Ebbitt, Riggs, and Willards." And you do not say that time was the time the Attorney-General visited them. Then you say, in the next paragraph, "In a few days all the parties to these conferences, Messrs. Young, Gantt, Van Benthuyzen, Huntington, and Johnson went to their respective homes." Then it is, and subsequently, you speak about the Attorney-General visiting there. These together show exactly when these men left. They left after the conferences following immediately the "29th of August," you got it. That is, July instead of August. But you go on afterwards to say, "Promptly on the 1st of September Colonel Young arrived in this city and stopped at Wormley's. Private rooms were not needed on this occasion." So that he had no private rooms, then. And you state also that Mr. Garland left on the 27th of August.

The WITNESS. That was directly after what you have read there.

Mr. RANNEY. There is no question about that, reading the whole article, that you got August instead of July, and September instead of August. It is a mere verbal error, that is all. Take the whole article together, supposing you are right in your dates. You recorded facts; there were no errors of intention. The error is in the interest of Mr. Garland and the Pan-Electric people, and not in the interest of any opposite theory.

Mr. OATES. I will make my comments on it hereafter, not now.

Mr. RANNEY. I am not commenting on it, but I am explaining what the newspapers themselves show, because it says further, "Attorney-General Garland left for Arkansas on the 27th of August." Then you say that on the 1st of September Colonel Young arrived and stopped at Wormley's and no rooms were needed on that occasion. Then you say, "On the 2nd, Colonel Casey Young and Senator Harris called upon the Solicitor General, finding there the application which had arrived that morning."

Mr. OATES. If you are through, Mr. Ranney, on that point, the examination of the witness may be resumed.

By Mr. RANNEY:

Q. When did you learn of these interviews with the Attorney-General?

The WITNESS. Which interviews?

Mr. RANNEY. About their calling on the Attorney-General?—A. I think I saw it in the papers.

Mr. RANNEY. That is all.

Mr. OATES. I believe the next thing before the committee is to take some action upon Mr. Ranney's motion to report the witness to the House for refusing to answer the question put to him.

Mr. HALL. I desire to ask this one question. [To the witness:] When did you first learn that the Bell Company did not want to have anything to do with the publication of these articles?—A. I never learned it. I did not know whether they were published or not. I never had any communication with the Bell Company.

Q. Did you not understand while engaged in the preparation of this article that the Bell Company would not have anything to do with the publication of it?—A. I had no communication with the Bell Company.

Q. I did not ask you that. Did you not understand that the Bell Company would not have anything to do with the publishing of it?—A. I did not understand any such thing, because I could not possibly have had any communication about it.

Q. Didn't you get that information from General Sypher?—A. No, sir.

Mr. OATES. Mr. Clerk, will you call the roll of the committee?—As many as are in favor of the motion of Mr. Ranney that we report this witness to the House to be dealt with for contempt in refusing to answer the question put to him, will, as their names are called, say aye, and those opposed, no.

Mr. RANNEY. I think before you put that motion, a formal resolution should be prepared stating the point involved and then the question put, and have the witness decline to answer it. Perhaps the question had better be reserved for the present as the witness says he will see the party and ask him to allow his name to be used, and in the mean time we can prepare the resolution.

The WITNESS. Are you through with me to-day?

Mr. RANNEY. Yes, until you see that man, to see whether he will allow you to give as his name.

The WITNESS. I am not going to run away.

Mr. OATES. Wait a moment.

Mr. RANNEY. I believe the proper way is to prepare a formal resolution.

Mr. OATES. It seemed to me that the committee might act, and if they voted an instruction to any member of it, that then there could be the preparation of a report of the fact to the House showing the point in the case, and the questions put, which we can consider.

Mr. RANNEY. I withdraw my motion for the present until the proper resolution is prepared.

Mr. HALL. I think we had better have an executive session on the subject.

Mr. RANNEY. I will withdraw my motion for the present, to be followed by a formal resolution if the witness does not get permission to give the name of the party.

Mr. OATES. Will you prepare the resolution, Mr. Ranney?

Mr. RANNEY. Some of us will. Perhaps there will be no occasion if he gets the permission of the person. I think he ought to give us the name. I see no reasonable excuse for a refusal.

Mr. OATES (to the witness). Mr. Hill, you can leave until the next meeting of the committee, when the matter will be put in due form.

The WITNESS. Will the committee notify me when they are ready to proceed?

Mr. OATES. I do not know; I have not taken the sense of the committee as to when we shall meet again.

Mr. RANNEY. I do not find in this article where it is stated that the Attorney-General attended this interview.

Mr. EDEN. The statement is that among the callers on Colonel Young while these conferences were being held was the Attorney-General. He was a visitor. It does not state that he attended the conferences.

Mr. RANNEY. It does not state that he called on them on G st.

Mr. EDEN. It says, "At these rooms a number of conferences were held amongst the parties named above, and among the callers upon Colonel Young while these conferences were being held, was Attorney-General Garland."

Mr. RANNEY. The conferences with these gentlemen were not here. He says they left immediately.

The WITNESS. This article does not state that the Attorney-General attended them at all?

Mr. OATES. It states: "At these rooms a number of conferences were held amongst the parties named above, and among the callers upon Colonel Young while these conferences were being held was Attorney-General Garland."

The WITNESS. The article in the World does not state that.

Mr. RANNEY. Let me see that article in the World.

Mr. HALL. That paper is not in evidence.

The WITNESS. I make the same corrections that I made to Mr. Dana; that I could not verify the fact.

Mr. RANNEY. That statement is not published in the World article at all.

Mr. HALL. But it was contained in the original manuscript.

The WITNESS. Yes, and I stated to Mr. Dana that I could not verify the fact, and therefore I suppose he took it out of the article.

Mr. RANNEY. I observe that it was not published in the World, and I want that fact noted in the record.

Mr. OATES. I do not think we had better note any fact until we compare it and see what it is.

Mr. RANNEY. I think we had better have the article as printed in the World go into the record, and then we will all have a chance to see what the paper itself shows. That sentence is not in the article as published in the World. This copy of the World article was handed to me by the reporter of the World. He handed it to me, and I think Mr. Boyle has one likewise.

Mr. OATES. Put it in evidence; that is the best way. Let it go in evidence.

The article in question is as follows:

SPECULATIVE STATESMEN.

THE TRUE HISTORY OF THE PAN-ELECTRIC TELEPHONE COMPANY—MOST CURIOUS ORGANIZATION OF CONGRESSMEN AND POLITICIANS—MILLIONS OF STOCK GIVEN AWAY FOR "MORAL" INFLUENCE OR "SERVICES"—ATTORNEY-GENERAL GARLAND'S GREAT INTEREST IN THE SCHEME—OTHER SENATORS AND HEADS OF DEPARTMENTS WHO HOLD FUTURE FORTUNES IN STOCK—SINGULAR IDENTITY OF POLITICIANS, OFFICE-HOLDERS, AND STOCKHOLDERS.

[Special to the World.]

WASHINGTON, January 27.

The Pan-Electric Telephone Company is founded upon inventions and patents issued to J. Harris Rogers, formerly of Memphis, Tenn., but now a resident of Washington City, and it will, therefore, be not amiss before commencing its history to say a few words as to its antecedents. The Hon. Casey Young was elected to represent the Tenth Tennessee district as a Representative to the Forty-fourth Congress. After taking his seat, in December, 1875, he succeeded in having Mr. J. Harris Rogers ap-

pointed electrician of the House of Representatives. Whilst in that position Mr. Rogers claims to have made a number of discoveries in telephony and telegraphy, which, after his retirement from office, he patented. These patents were transferred to an organization known as the "Secret Telephone Company," and this company, after the lapse of some years, transferred its patents to the National Improved Telephone Company.

After the sale of his patents, Mr. Rogers continued his experiments in electrical matters, and after a time secured other patents. Upon these latter patents a company was formed by Mr. Rogers and his father, Dr. J. Webb Rogers, called the "Pan-Electric Company," which was located in the city of New York.

The management of the "Pan-Electric" failed to attract capitalists as investors in its stock, and the Messrs. Rogers bethought them of the old patron of the inventor, Col. Casey Young, who was again in Congress.

In the spring and summer of 1883 the organization of a new company was determined on. Dr. J. Webb Rogers, a gentleman of ability, standing, and culture, and an enthusiastic believer in the genius of his son, J. Harris Rogers, saw the advantages that a company controlled by men of high political position and character would have over any other in the event a postal telegraph bill should become a law. He knew Senators Harris, of Tennessee, and Garland, of Arkansas, two Senators than whom none stood higher in the South, and also Col. J. D. C. Atkins, one of the leading Democratic Representatives from the South, who had for years been chairman of the Appropriation Committee. All these gentlemen agreed to take an interest in the organization of the company, and as this was to be an enterprise appealing to the South for its political aid, it was now only necessary to secure a distinguished general to put at the head of it. This was done by getting Gen. Joseph E. Johnston, and the combination was complete.

It was determined to divide the telegraphic and telephonic inventions and form two companies, and accordingly there was organized in the spring of 1883 "The Pan-Electric Telephone Company" and "The Pan-Electric Telegraph Company."

These companies were identical in their stock, stockholders, organization, and officers, so that a statement as to the one covers the other.

The Pan-Electric Telephone Company has \$5,000,000 capital stock, divided into shares of \$1,000 each; these shares were held originally by the following named persons:

J. E. Johnston.....	\$500, 000
Isham G. Harris.....	500, 000
A. H. Garland	500, 000
Casey Young.....	500, 000
J. D. C. Atkins	500, 000
J. Harris Rogers	2, 000, 000
The Company.....	500, 000

It will be observed that these five gentlemen each held one-tenth of the stock, but knowing the vagaries of inventors, they required that another tenth, making a majority, should be put under their control, so that they could have the business in their own hands. This \$500,000 worth of company stock belonged to the holders of the other shares in proportion to their holdings, but was controlled by the board of directors and could be used in any way it saw fit. These directors were old politicians and had not forgotten that notable saying of Oakes Ames as to "placing stock where it would do most good."

The board of directors of the company was composed of Joseph E. Johnston, Isham G. Harris, A. H. Garland, Casey Young, J. D. C. Atkins, and J. Harris Rogers. The officers were: Joseph E. Johnston, president; Isham G. Harris, vice-president; Casey Young, secretary and treasurer; A. H. Garland, attorney; J. Harris Rogers, electrician.

Messrs. Johnston, Harris, and Young were made an executive committee with all the powers of the full board.

The telephone company was chartered by the State of Tennessee, with its principal office in Memphis and another in Washington City. Under the laws of that State as to corporations, all that was necessary to be paid in of the five millions capital stock was the fee to the secretary of state for using his seal, amounting in this case to \$4.50.

The agreement by which these gentlemen became the owners of the Rogers patents was that they should put up what money was necessary to take out patents, manufacture telephonic instruments, and to put up experimental wires.

All this work was done in the summer of 1883.

In November, 1883, the incorporators of the Pan Company were assembled in Washington, and as the experiments had been pronounced successful, the directors determined to commence operations. In the mean time Mr. Rogers had disposed of one-third of his interest, \$333,333, to Col. Robert F. Looney, a lawyer and speculator, of

Memphis, Tenn., and he was added to the board of directors, and took an active part in its management. The directors determined to issue licenses to local companies; that is, sell territory in which the Pan Electric instruments were to be used.

The terms upon which these sales were to be made were agreed upon and are as follows: "Forty per cent. of the capital stock of the local company to be held by the Pan Company; all instruments to be furnished by the Pan Company at a stated price. A royalty of \$10 per annum to be paid by the local company on each instrument; a bonus in cash to be paid by each local company."

Under these conditions eight local companies were formed; one for Pennsylvania, with the Hon. Robert Klotz, formerly in Congress, as the principal promoter, General Frank Armstrong, now Indian Inspector, being the secretary; one in Baltimore, the Hon. Eli J. Henkle, formerly in Congress, being the promoter, to which the States of Maryland, Virginia, and the District of Columbia was sold; one in Saint Louis for Missouri; one in Wisconsin; one in Tennessee; one in Alabama, of which Gen. Upshur, now chief clerk of the Indian Bureau, was the promoter; one in Texas, and one in Louisiana. The two first-named companies were not required to pay any bonus, but in all their contracts the Pan Company agreed to defend the validity of its patents at its own expense.

An opinion was asked for and given by the attorney of the company, Senator Garland, as to the validity of the patents, which reads as follows:

NATIONAL HOTEL,
Washington, D. C., January 4, 1884.

Hon. A. H. GARLAND:

DEAR SIR: My attention has been called to the stock of the Pan-Electric Telephone Company as an investment. I therefore desire your opinion as to whether the telephone owned by said company or any part of it is an infringement on what is known as the Bell Telephone?

Respectfully,

D. E. MEYERS.

WASHINGTON, D. C., January 5, 1884.

DEAR SIR: In reply to your question propounded in the note hereto attached, I beg to say I have given the subject referred to much attention and have closely examined several opinions delivered by different courts in controversies between the Bell Telephone Company, Dolbear, Spencer Ghegan, and others, and I am clearly of opinion that the Pan-Electric, named by you, in no wise infringes the Bell Telephone. From the earliest decisions of our courts to the present, although inventions may in their general principles be alike, yet if in their operation and working there is an essential or material difference, there is no conflict to amount to an infringement. This is recognized in the historic case of *O'Reilly vs. Norse*, 15 How., U. S. Rep., 62, and in numerous decisions since that; but more clearly, and with more direct application to the matter now in hand, in *Clough vs. Manufacturing Company*, 106 U. S. Reps., 178 (October term United States Supreme Court, 1882).

Without attempting any minute detail touching the inventions in question, I am satisfied—thoroughly so—that the difference between them is wider and more distinct than that recognized by the court in the case 106 U. S. Reps., Sup.

The courts hold that a "substantial departure" from a former invention is patentable without infringing. (*Duff vs. Sterling Pump Company*, 107 U. S. Reps., 636.)

This, in my judgment, is more than enough to insure the Pan-Electric Telephone from any charge of infringement of the Bell Telephone. Very truly, &c.,

A. H. GARLAND.

D. E. MYERS, Esq.

When the first local company paid its bonus of \$10,000, the directors proceeded to pay back the sums expended by themselves in paying for patents, experiments, &c. This amounted to \$275 for each of the five, showing that of the \$5,000,000 capital stock, there never was paid in but \$1,375, being a little more than one-fortieth of 1 per cent.

After this money was paid back the directors next proceeded to divide the remainder of the \$10,000 as a dividend to the stockholders; the amount received by each holder of one-tenth of the stock being little less than \$600.

The \$500,000 of company stock had in the mean time been partially distributed, one hundred shares going to ex-Gov. John C. Brown, of Tennessee, now resident in St. Louis, and principal attorney for what is known as "the Gould system of Southwestern railways." Other sums were given or sold to other parties, having, or supposed to have, either local or national influence, Senators Vest, of Missouri, and Vance, of North Carolina, each getting a portion.

Mr. Rogers, for reasons not necessary to explain, was removed from the position of electrician, and Dr. J. E. Harlan was given that place.

At the beginning of the first session of the Forty-eighth Congress a brother of Senator Vance, Mr. R. B. Vance, then a Representative from North Carolina, introduced a bill in the House of Representatives giving the Attorney-General power to bring suit upon application to vacate patents. This bill was referred to a committee which reported in favor of its passage, saying in its report that since 1836 the Attorney-General had not been intrusted with this power. The bill passed the House of Representatives almost unnoticed, but was never reported from the Senate Committee on Patents.

It might make an interesting newspaper article if the names of the parties who went before this Committee on Patents to advocate the passage of this bill could be given.

At the same time with the bill above spoken of there were introduced into the House several postal-telegraph bills, all of which were referred to the Committee on Post-Offices and Post-Roads, of which the Hon. H. D. Money, of Mississippi, was chairman. These bills created a vigorous fight, and the result was no legislation. The interest of the Pan Company in this fight can best be told by Dr. J. Webb Rogers himself. In the winter of 1883, in a conversation with a gentleman whom he was trying to get interested in the Pan companies, and who asked why so many politicians had been put into the companies instead of well-known business men, Dr. Rogers said: "You do not understand our idea; we intend to get a postal telegraph established and political influence will give us the control of that. Then we will have the grandest monopoly in the world."

But to return to the movements of the Pan directors in a business way. Contracts continued to be made in the spring of 1884 until eight local companies, as before stated, were organized. As these companies paid in the required bonus, the money was paid out to the stockholders as dividends, two being declared in July of \$1.50 per share, giving each of the original promoters, Garland, Johnston, Harris, Young, and Atkins \$750 at each division, or \$1,500 in that month. Another dividend of the same size was declared later, aggregating about \$3,000 profit to each of these gentlemen within eighteen months upon an investment of \$275 each.

The Pennsylvania Company, under the energetic handling of Mr. Klotz, had gotten so far along that the Bell Company interfered and asked for an injunction, upon the ground that the Rogers patents were an infringement upon the Bell patents. Under its contract the Pan Company had to defend this suit, and its attorneys commenced preparation to do so.

In the mean time an episode had occurred in New Orleans. A nephew of Col. Looney had gone to that place to promote a local company to work under the Pan-Electric. A Mr. Van Benthuyzen had been suggested as "the most fit and proper" person to manage the business, but it seemed that he, in connection with Mr. C. P. Huntington, of Mississippi, and other parties had become the owners of the first patents of Rogers, sold by him to the "Secret Telephone Company," and that a company was organized to work these and other patents under the name of the "National Improved Telephone Company." This company claims that it owned by prior purchase all the inventions of J. Harris Rogers and that the Pan Company was using what belonged to them. There was a bitter fight, which resulted in driving the Pan Company out of New Orleans.

The stopping of the Pennsylvania Company by legal process acted as a damper upon purchasers, and there were no more victims coming forward with their bonuses, so that dividends in the Pan Company ceased.

When all that could be had been done towards securing high places for its members, the Pan Company could once more look after its local interests.

The case in Philadelphia had been allowed to go by default, and various efforts had been made to get a case at Saint Louis or Memphis, but had failed.

Just at this juncture an occasion was offered which was eagerly seized upon by the shrewd politicians who controlled the Pan Company.

The National Improved Telephone Company had established itself in Pittsburg and had been promptly enjoined by the Bell Company. At once the Pan Company proposed to aid it in defending the suit. After some conferences this proposal was accepted. The terms of compromise between the two companies are not known, but the fact is known that instead of fighting each other as before, these companies had joined forces to fight the Bell Company. All the preparations made by the attorneys of the Pan Company were given to the National for its fight at Pittsburg. Col. Young, with Col. George Gantt, of Memphis, one of the leading lawyers of that city, came to Washington and after a meeting of the Pan directors, went to Pittsburg to attend the trial on the 6th, 7th, and 8th of July. The decision of the court that it would not hear arguments, but would follow the precedent established by the courts and grant the injunction, destroyed the well-laid plans of the two companies and left them adrift.

The leading spirits in the Pan-Electric Company are Senator Isham G. Harris and Col. Casey Young, of Tennessee. Both these gentlemen are bold and fearless. They

had a great stake at interest, and it was doubtless through their advice that the next card was played. They knew nothing of the Fabian policy, which as a general the president of the company understood so well, but they knew how to make a downright attack.

Dr. Rogers says that he called on Attorney-General Garland and asked him to commence proceedings against the Bell Company to vacate its patents, and the Attorney-General refused because of his interest in the Pan Company.

This has not been denied. Mr. Garland himself tells of the call made by Senator Harris, Col. Young and others, and of his refusal to act.

If the laws of the country justified such a suit the refusal of the Attorney-General to bring it because Mr. Garland held stock in a rival company is absolutely unjustifiable. His duty—his sworn duty—was to execute the law as he understood it. If the Bell Telephone Company was, as alleged, using a patent fraudulently issued, no personal consideration should have kept the Attorney-General of the United States from moving to set that patent aside if there was any statute authorizing such a suit.

But he refused to bring the suit.

It will be remembered by every one who reads the daily papers that when plans were being published of how the President and members of the Cabinet were going to spend their vacations, the facts being obtained directly from the parties, that it was announced that Attorney-General Garland would take no vacation, remaining in or near Washington.

On the 29th of August Mr. Van Benthuyzen and Mr. C. P. Huntington, representing the lately defeated National Company, registered at the Ebbitt House in Washington. On the next day Col. Casey Young and Col. Gantt, representing the Pan Company, stopped at the same place, as did Mr. Bradley T. Johnson, the president of the local Pan Company in Baltimore. That these gentlemen were in consultation together is well known. On the 1st of September Col. Casey Young secured private apartments at 1327 G street, a most central locality, within two squares of the Ebbitt, Riggs, and Willards.

In a few days all the parties to these conferences, Messrs. Young, Gantt, Van Benthuyzen, Huntington, and Johnson, went to their respective homes.

The Bell Telephone Company of Boston commenced suit in Baltimore against the local Pan Company for infringement of its patents. Immediately the local Pan Company of Memphis, Tenn., commenced suit against the local Bell Company of the same place for infringement of its patents. In the one instance the parent company brought the suit for the benefit of its licensees; in the other instance the local company brought the suit.

In his letter published in the New York Tribune of Sept. 30, in defense of the Attorney-General, Dr. Rogers says: "Col. Young informed me and my son that the Attorney-General had agreed that a suit should be brought by the Solicitor-General against the Bell Telephone Company at the instance of the National Improved Company." That statement has never been denied by any of the parties.

Attorney-General Garland left for Arkansas on the 27th of August. Promptly on the first of September Col. Young arrived in this city and stopped at Wormley's. Private rooms were not needed on this occasion. On the second, Col. Casey Young and Senator Harris called upon the Solicitor-General, finding there the application which had arrived that morning, made by the district attorney for the western district of Tennessee, to bring suit in Memphis to vacate the Bell patents. This application was granted at once, and without reference or consideration, for Solicitor-General Goode informed Col. Young the next morning that the order had been forwarded to commence the suit. Mr. Goode was acting Attorney-General on the 2d day of September, and had all the routine work of the Department of Justice to perform; had to receive visitors who came on business to see the Attorney-General, and yet he had time to consider (?) a question involving millions, examine the papers in the case, determine upon the propriety of the suit, see that authority existed to bring it, and order the commencement of it, all within one working day of seven hours. Such prompt action has hardly ever been paralleled in a Government office. And Mr. Goode by his action showed that he was not afraid to assume responsibility. A committee of Congress, composed of lawyers, had reported little more than a year before that the Attorney-General had no power to bring such suit, as Mr. McCorry, district attorney for Tennessee, had requested authority to bring. Mr. Goode probably did not know that such a report was in existence, or, if he did, assumed to know more as to the powers of the Attorney-General than Congress did.

But to return to our narrative.

Each one of the companies holding under the Pan Company, except the Pennsylvania and Baltimore, paid a bonus for its privilege and besides paid \$10 each for all the telephone instruments it used in its "plants." In addition these companies paid all the expenses of "a plant." All this was an actual cash outlay, varying in amount according to the size of the "plant" and the number of instruments purchased. The bonus in each case was the same, \$10,000. Then 40 per cent. of the capital stock of

each of these companies was reserved for the Pan Company, and it paid no part of the "bonus" or the cost of the "plant" and instruments.

For this expenditure the local companies received a license to use the Pan-Electric telephones and a guarantee of protection in using them.

To fully understand the interest which Attorney-General Garland had in breaking down the Bell patent it will be necessary to recapitulate a little.

First, there was his \$500,000 stock in the Pan Telephone Company—one-tenth of the whole company was his. Then there is the \$40,000,000 capital stock of the license companies, of which 40 per cent., or \$16,000,000, belongs to the Pan Company—of this one-tenth, or \$1,600,000, belongs to Attorney-General Garland. But this is not all, nor even a small part of what would result from the breaking down of the Bell patents. In that event there would not be eight, but at least fifty companies, with capital stocks averaging \$5,000,000 each, that would seek licenses from the Pan-Electric Company. Two hundred and fifty million dollars is an exceedingly small estimate of the amount at which the companies using the Pan-Electric telephones would be capitalized if the Bell patent was invalidated. Forty per cent., or \$100,000,000 of this stock, would belong to the Pan Company—one-tenth of that, or \$10,000,000, would be the property of Attorney-General Garland. Paying only 5 per cent., and this is a small allowance, he would have an income of over \$500,000, and that without being out one dollar.

Senator Harris and Col. Young, Gen. Johnston and Commissioner Atkins, Dr. Rogers and Col. Looney would each have as much or more.

There was another potent reason working upon these parties one and all. The laws of the country are particularly severe on bogus corporations which obtain money without giving an equivalent, and though corporations are without souls or bodies, the men who compose them are not, and hence, unless the Bell patents could be broken down and declared invalid, the men who had invested their money in the 60 per cent. of the local companies which had been licensed by the Pan Company, which had paid bonuses, built plants, bought telephones which were without value, would be apt to call upon the parties who had induced and profited by these expenditures; made upon false statements as to law and facts, to make good the losses.

There was ruin both in fortune and fame upon the one side and almost unbounded wealth upon the other. It was worth stretching the law and the power of the Government to secure the one and prevent the other.

In the formation of the local companies, particularly in the East, where it was to be expected that the Bell Company would first assert its rights, particular care was had by the Pan Company to secure local political strength. Dr. Eli J. Henkle, an ex-member of Congress and a leading Democrat of Baltimore, was intrusted with the formation of the company that was to control the cities of Baltimore and Washington. Gen. Bradley T. Johnston, one of the most popular of the Southern leaders in Maryland, was made president of the company.

In the Pennsylvania company, Mr. Robert Klotz, a leading German citizen and an ex-member of Congress, was selected to organize the company. In the South and West the political magnates who controlled the parent company knew their power was supreme and only required money from their licenses, furnishing the political influence themselves.

The list of the names of the leading stockholders and officers in this company reads almost like a page from the Government Blue Book :

A. H. Garland, Attorney-General.
Joseph E. Johnston, Railroad Commissioner.
J. D. C. Atkins, Indian Commissioner.
Isham G. Harris, U. S. S., Tennessee.
George G. Vest, U. S. S., Missouri.
Zebulon G. Vance, U. S. S., North Carolina.
Robert Klotz, ex-M. C., Pennsylvania.
Eli J. Henkle, ex-M. C., Maryland.
Casey Young, ex-M. C., Tennessee.
Mr. Upshaw, Chief Clerk, Indian Bureau.
Frank Armstrong, Indian Inspector.
John C. Brown, ex-gov., Tennessee.

Mr. HALL. I want to ask one question about whether this paper has been identified in the evidence in any way—I mean this transcript from the books of the telephone company.

Mr. RANNEY. Yes, I think it has been.

Mr. HALL (to the witness). I understand this is a transcript from the books of the telephone company which you alluded to in your testimony.

The WITNESS (Mr. HILL). It is the paper that I alluded to, but it is not a transcript from the books. It is an incorrect paper which I made a mistake in, and found out afterwards and it was thrown among my papers.

Q. Did you produce it before the committee?—A. I gave it to Mr. Crawford as a verification of the statement I had made of the amount of stock held by the parties.
Mr. RANNEY. It was so stated by Mr. Crawford when he gave it to the chairman.

Hon. CASEY YOUNG was then recalled and further examined.

By Mr. OATES :

Q. Did you ever occupy rooms at No. 1327 G street, in this city?

The WITNESS. Mr. Chairman, I prefer not to be examined on that subject until the committee gets through with the prosecution of the line of inquiry it is on; I did occupy the rooms.

Mr. OATES. The committee desires to inquire into the matter at this point.

Mr. RANNEY. It seems to me that the committee should be the judge of that.

The WITNESS. I have already answered the question that I occupied the rooms.

Q. When did you take those rooms?—A. I took those rooms first in November, 1875, and I occupied them at intervals from that time up to some time after that period there.

Q. November, 1875?—A. Yes, sir; when I first came on to the Forty-fourth Congress I occupied those rooms, and I occupied them for two years, and occasionally at intervals after that time.

Q. Did you occupy them last year?—A. Yes, sir; at the time stated there in that article.

Q. It is stated here that you took them on the 1st day of September.—A. I could not state that that was the exact date when I took them or not, but it was some time about that time.

Q. Do you know whether it was the 1st of August or September?—A. It was the 1st of August, I am inclined to think. That is my recollection now.

Q. While you occupied those rooms, did Colonel Gantt, Mr. Huntington, Mr. Van Benthuyzen, and General Bradley T. Johnson visit you at your rooms and have conferences with you touching these matters?—A. Neither Mr. Van Benthuyzen, Colonel Gantt, nor Mr. Huntington had their foot in those rooms while I was there, and my present recollection is that I did not occupy the rooms until all of them had left the city. It is my best recollection that General Bradley T. Johnson was not there, but I could not say that positively. I do not think he was there, but he may have been.

Q. Do you know at what date Mr. Garland left Washington to go to Arkansas?—A. I only know from what I saw in the newspapers. It was some time in the latter part of August. As I was on my way here in August I saw in a newspaper in Cincinnati that he had left. I did not know anything about it, definitely.

Q. You went there the 1st of August, you think?—A. I am not certain about the exact date.

Q. You think that is the date?—A. I think it was a little after that. I think it was probably about the 2nd or 3rd of August.

Q. From the time of your occupancy of the rooms there from the 1st of August up to the 27th of that month, did Attorney-General Garland visit you at any conference held there?—A. Attorney-General Garland never had his foot in my room but once that I am aware of.

Q. And was that time you speak of while you were at No. 1327 G street?—A. No, sir; it was not. I never saw him there. It was at 515 14th street.

Q. He never did visit you at your rooms there?—A. No, sir; he never did, and I do not think a single one of the parties mention in that article came near that room while I was there. My recollection is that I staid at the hotel, the Ebbitt House, until all those gentlemen returned home, and, having been in the habit of occupying that room, it being less expense than the Ebbitt House, I went there. General Bradley T. Johnson lives at Baltimore, and he may have come over here during the time I stayed at that room, and possibly called to see me.

Q. Did you return here the 1st of September?—A. I returned here—I do not recollect the date. I had a memorandum when I was testifying before. I think it was about that time. But then I stopped at Wormley's.

Q. You say you stopped at Wormley's then?—A. Yes, sir; my recollection is that I only stayed there three or four days, I don't recollect.

By Mr. RANNEY :

Q. This is true, is it not: That when you left the Ebbitt House and gave up your room, you went to this room on G street?

The WITNESS. When I gave up what room?

Mr. RANNEY. Your room at the Ebbitt House.

A. Yes, when I left the Ebbitt I went there.

Q. You went to this room. Where did you take your meals after that while you were at these rooms?—A. I don't recollect whether I took them at some restaurant, or in the house, or at the Ebbitt House. I rather think I took them in the house there; I am not certain about that.

Q. How many rooms did you have there on G street?—A. I had two, a sleeping room and a parlor.

Q. So that you did have a parlor where you could receive persons if you wanted to?—A. Oh, yes, sir.

Q. Have you looked at the Ebbitt House books to see when you left there?—A. No, sir.

Q. I find in the books (I had the clerk look it up for me) that you left the Ebbitt House on the 1st of August.—A. It is possible.

Q. If that is so, you went there.—A. I don't recollect that I went anywhere else.

Q. I understand you to have said that you left Washington after that on the 2d of August, if I recollect your previous testimony.—A. What I stated before was about correct. I had a memorandum before me then.

Q. Mr. Van Benthuyzen says that he left on the 4th of August, so that he was here three days after you took the room on G street.—A. That may be, but it is my recollection that I did not go there until they all had left. Of course, my recollection is not distinct now, within a day or two.

Q. The dates on the Ebbitt House register will show that he left on the 4th of August.—A. That may be. It is my recollection that Colonel Gantt and Mr. Huntington had gone before I left. It is possible they may not have gone for a day or two. I feel quite certain that Colonel Gantt did, because the night I went around there I think I settled his bill at the Ebbitt House. Perhaps I may have been misled into supposing that they all left at the same time.

Q. You may be right about it. I do not know when Colonel Gantt left, as shown by the books.—A. I have not examined the books.

Q. Mr. Van Benthuyzen testifies that he left on the 4th of August.—A. I remember now that he says he left on the 4th.

Q. Where was he when he gave you that agreement of the 4th of August?—A. I think it was handed to me in the Ebbitt House.

Q. Who did visit you while you were living in G street?—A. I could not tell you now; I do not remember anybody. Of course, I cannot remember who visited me during the time I was there.

Q. You did not have a parlor and bed-room without having somebody come to see you?—A. I might have done it. I might have had the whole building without anybody coming to see me. I did not take it for the purpose of receiving visitors.

Q. What is your recollection about it?

The WITNESS. About what?

Mr. RANNEY. About anybody visiting you.

A. I have not any recollection about it at all.

Q. You have no recollection of General Bradley T. Johnson visiting you?—A. No. He may have come there; I do not remember.

Q. He may or may not. You have no recollection whether he did or did not come?—A. No; I have not.

Q. Why, then, should you have recollected whether Mr. Van Benthuyzen did or did not come there during the three or four days that he remained here?—A. I have no distinct recollection; I could not swear that he did. I have no recollection of his coming, and do not think that he did.

Q. Are you able to swear that Colonel Gantt did not come there?—A. I will not swear that anybody did not come there. I say I have no recollection of it or of a single one of those persons entering the room while I was there.

Q. And you have no recollection of Mr. Huntington's coming there?—A. I answer about Mr. Huntington the same as in regard to the balance of them.

Q. During those three days, while you were here in Washington, were you engaged in the preparation for the defense of the suit at Baltimore to occur on the 15th of September?

The WITNESS. The defense of the suit?

Mr. RANNEY. Yes.

A. No, I cannot say that I did anything about the defense of that suit. My recollection is that it had been deferred in some way or other. I did very little about the defense of that suit. I never was there but once, and I think that was in October.

Q. What were you doing during those six days that you remained here in August?—A. I could not tell you to save my life all I was doing here; I don't remember.

Q. You do not know anything you were doing?—A. I do not remember anything in particular that I was doing. I remember that I would have started home a day before I did, or one or two days before, but I missed a sleeping-car, and probably remained one day longer on that account, and I cannot call to mind now any particular thing I was engaged in then.

Q. Can't you remember anything you did in the way of business during those six days?—A. Will you allow me to ask you a question, and then I will answer yours?

Q. I am not under examination.—A. I know, but I want to give an illustration. I want to ask you if you remember—

Mr. RANNEY. If you will pardon me, with all respect—

The WITNESS. I will pardon you, of course.

Mr. RANNEY. I would like the fact then.

The WITNESS. Let me ask you a question to illustrate the absurdity of your question that I could remember everything I did in six days a year ago. No, I cannot remember any such thing as that.

Q. You remember what occurred at the Attorney-General's office?—A. Oh, yes.

Q. If you did anything more, any business in which you were engaged in those six days, why shouldn't you remember that just as well?—A. If I had gone back to his office and attended to any business there I presume I should have remembered it.

Q. If you had attended to any business with General Bradley T. Johnson would you not have remembered it too?—A. I think if I had attended to anything of any great importance I should have remembered it, but I do not.

Q. You cannot remember, so as to state to the committee, any business that you did or attended to from the 1st of August until you went away on the 7th?—A. No, sir; I will not try to answer that question. If you will call my attention to any particular thing I will answer, but I won't answer any such question as that.

By Mr. OATES:

Q. Let me ask you a question. Was there any conference held at your room about the business of the Pan Electric Company or the National Improved Company, or both, during that time?—A. There was no conference unless some one of those gentlemen may have dropped in there and incidentally talked about it. There was no conference had there.

By Mr. RANNEY:

Q. Did Dr. Rogers and his son come to your room on G street?—A. I could not remember.

Q. You will not swear that they did or did not?—A. No, sir; I will not.

Q. Don't you remember their coming there and your going out when they had a buggy at the door and riding down to Mr. Marble's?—A. I remember either going in a buggy with him from my room or from his house to Mr. Marble's; I don't remember which.

Q. Didn't you start from your door?—A. I cannot remember whether I started from his house or mine, but I do remember very distinctly going to Mr. Marble's office with Harry Rogers; and now, since you have called my attention to it, that was one of the things I was attending to. It was about a patent that he had applied for. That was one of the things I was looking after during that six days.

Q. Didn't they see you in your room about it?

The WITNESS. Didn't who see me?

Mr. RANNEY. The Rogerses.

A. I presume he came in when he came down there; I don't remember whether he drove up to the door and I went out, or whether he came in.

Q. If you are not able to state as to these individuals with more positiveness, why are you able to state that Mr. Van Benthuyzen, Mr. Huntington, and Colonel Gannt did not come there?—A. Your question is absurd. I will not answer as to what I did in general. If you will ask me about any particular thing I will answer it. I had forgotten he had come until you had called my attention to it.

Q. You may have forgotten about the others?—A. Yes, sir, possibly; I do not think I am mistaken about their coming there and having conferences; they may have dropped in.

Q. Did Mr. Van Benthuyzen come and bring the agreement of the 4th of August?—A. I cannot remember whether he came there and handed it me, or handed it to me at the hotel. I think he handed it to me at the Ebbitt House, but I cannot remember.

Q. Were you present at the conference at the Ebbitt House after the interview with the Attorney-General of the 31st of July?—A. Yes, sir.

Q. How long did that interview last?—A. Oh, I was there all day. I could not say it was an interview, particularly. The gentlemen all had rooms near by, and they were together most of the time in Mr. Van Benthuyzen's room and parlors.

Q. Did you hear Mr. Von Briesen's statement of that conference?—A. Yesterday? Yes, sir.

Q. And of the talk you had then in regard to the place where the Government suit should be brought?

Mr. EDEN. I would suggest, Mr. Chairman, that the witness was examined very fully in reference to the conferences at the Ebbitt House when he testified before, and I supposed that the members of the committee asked all the questions that they thought were necessary. It does not occur to me that it is necessary to take up time by going over that same thing again, if we are ever going to have an end to this investigation.

Mr. RANNEY. This is a particular conference which I did not bring out, and upon which I did not interrogate the witness before.

Mr. EDEN. This is about a conference which was not held at the Ebbitt House at all.

Mr. RANNEY. This is a conference about which I did not interrogate him. As to the remark of the gentleman as to when this investigation is coming to an end, I will say that I desire to bring it to an end as soon as any body, but I do not mean to have it come to an end, if I can help it, until I get through with it. I wait for the ruling of the chair.

Mr. OATES. Whenever there is any specific objection there will a ruling by the chair.

Mr. RANNEY. It is about this specific interview which was testified to by Mr. Von Briesen that I want to inquire.

The WITNESS. I think I stated all about it in my testimony in my examination-in-chief.

Mr. RANNEY. You do remember that interview, the one Mr. Von Briesen testified to yesterday?

The WITNESS. I will not testify to anything that I have already testified about. I do not wish to testify again about it. I do not want to be interrogated forty times about one thing. I think I gave an account of that interview in my former testimony.

Mr. RANNEY. You have testified generally as to conferences, but not as to this specific one.

The WITNESS. If I did not tell all about that in my testimony, I am perfectly willing to tell all about it now.

Mr. RANNEY. It will take less time to answer my question than to discuss it.

The WITNESS. Go on; let me see what it is.

Q. Did you in that interview or conference discuss the matter as to where the Government suit should be brought?—A. Yes, sir; at least it was discussed; I cannot say that I discussed it.

Q. Mr. Von Briesen stated that something was said there which he declined to repeat to us. Will you state what it was?—A. I heard his statement. I have no idea what it was. I think he answered everything that he could have answered. I have no idea of anything which occurred that he could not have told with equal propriety.

Q. Is your memory distinct as to what did occur?—A. Oh, no, not in every detail. As I remember, it was about as Mr. Von Briesen stated. The conversation was general, and each one was giving his views about the legal aspect of this matter, and the proper place to bring the suit, &c. Mr. Von Briesen, as he stated, urged against the propriety, as I understood, of bringing it in any of these circuits where the cases had already been heard.

Q. Do you know where Mr. Huntington was between the 20th of August and the 1st of September?—A. I think he was in Memphis part of the time. I do not know whether he was there all the time or not.

Q. Was he not here part of the time?—A. He came here with me.

Q. Was he not here before the 20th of September?—A. Not that I know of, except on the 1st of August.

Q. Has he not been here during this investigation?—A. Yes, I have seen him here.

Q. How many times?—A. Only once. He was here a day or two.

Q. Did he come into this room where the investigation is going on?—A. No, sir. I did not see him in this room; I saw him at the hotel.

Q. Did you inform the chairman of the committee that he was here in town, so that he could be called?—A. I did not know the committee wanted him. I wanted him myself.

Q. Did you inform any member of the committee that he was here?—A. No, sir; not that I am aware of; perhaps I did.

Q. How long since you have heard from him, if at all?—A. I have not heard from him since he left here, except through that telegram you read yesterday.

Q. Do you know how long ago it was that he was here?—A. I could not tell you the exact date. It is probably four or five weeks ago.

Q. Do you know where he stopped when he was here, at what hotel?—A. I do not know where he stopped. I think I met him at the Ebbitt House. He was at my room once.

Mr. RANNEY. I understand that you do not desire at this time to go into the other examination. There are some other questions I desire to put to you when you come before the committee again.

Mr. OATES. That is all for the present.

The WITNESS. I want to say, in explanation, that the reason I intimated a desire not to be examined now was because I want to introduce some rebutting testimony after awhile, and I dislike to go on the witness stand every day.

Mr. RANNEY. I think that suggestion will aid the committee hereafter.

Mr. OATES. I think you had better be ready with your rebutting testimony. I do not think this committee will run a great while longer; I think it will come to a close soon; we have been at it over two months now.

Colonel YOUNG. If the committee will indicate a day when they will be through with such witnesses as they may want to examine, I can take measures to have these other witnesses here. It might take some little time to get the witnesses here.

Mr. OATES. Well, submit to us what you want to prove by your witnesses, on what point you desire to bring them, and when you can get them here we shall be ready to see them at any time.

Colonel YOUNG. The examination has been very thorough so far as it has gone, and I want to make it thorough in a direction in which it has not yet gone, in order to bring out all the facts, and I think in justice to myself and the other gentlemen who have been attacked along with me, we have a right to do that.

Mr. OATES. Can you have the witnesses here that you want to examine by day after to-morrow?

Colonel YOUNG. Not all of them. I wish to recall some of the witnesses already examined.

Mr. OATES. Whom do you wish to recall?

Colonel YOUNG. I cannot say at present. Other gentlemen are interested in this matter besides myself, and I want to consult with them. If the committee thinks it will adjourn soon I will try and hurry them up. I want some witnesses from St. Louis and some from Memphis.

Mr. OATES. You had better submit to the committee what points you want to examine them on.

Colonel YOUNG. I shall have to consult with other gentlemen before I can do that.

Mr. OATES. I will state to you that the committee considered the matter in executive session, and it has been decided to require a vote of the committee upon the question of subpoenaing witnesses. We have taken that course, and you will have to submit your list and state the points on which you desire them called.

Colonel YOUNG. I will state that all the gentlemen who have been referred to as interested in the matter will be here in a day or two—Mr. Van Benthuyzen and the officers of the Globe Company, and the other gentlemen who have been attacked will be here—and I do not feel authorized to do anything until they come here. They are not here now.

Mr. OATES. The committee has decided already not to subpoena any more witnesses; that has been agreed upon in committee, and you will have to submit your list to us.

Colonel YOUNG. I understand. But some of them are from New Orleans.

Mr. OATES. We are through with you as a witness.

Gentlemen of the committee, here is a letter which the Sergeant-at-Arms handed to me this morning from Mr. Huntington, inclosing the certificate of one Walker, signing himself M. D., certifying that he is not able to come here at present, and requesting me to call the matter to the attention of the committee, and for this reason I have done so.

Mr. RANNEY. I desire to have Mr. Talcott, Senator Platt, and the clerk of the Ebbitt House give their evidence before the committee.

Mr. OATES. Can you give the name of the clerk?

Mr. RANNEY. No, I do not know his name; but I will request him to come to-morrow.

Mr. OATES. Mr. Talcott is here in the House.

Col. CASEY YOUNG. The committee has inquired once or twice about my various clerks. If it is desired, I will give the names of all of them and their present addresses, and the committee can summon them if they see fit. Mrs. Mary Bryan is the name of the lady where I roomed.

Mr. HALL. I move that the committee adjourn until 12 o'clock to-morrow.

The motion was agreed to, and the committee adjourned until May 13, 1886, 12 o'clock m.

WASHINGTON, D. C., *Thursday, May 13, 1886.*

The committee was called to order at 12.20 p. m.

CECIL CLAY was recalled and further examined.

By Mr. OATES (in the chair):

Question. Have you the original letter of Mr. Van Benthuyzen's which has been referred to heretofore?—A. Yes, sir; I have it with me. [The witness submitted the letter to the committee.]

Q. This is the original letter or application of Mr. Van Benthuyzen's?—A. Yes, sir; this is the original letter.

Q. Addressed to the Department of Justice, and which you have stated heretofore was referred by the Attorney-General to the Interior Department?—A. It was sent

to the Interior Department with an accompanying letter, and Mr. Van Benthuyzen was informed that it had been so sent.

Q. Did you write the letter referring it?—A. Yes, sir; I wrote both the letters.

Q. There is no indorsement upon this, I see, except some marks.—A. No, sir. The original paper was sent and was noted on our file jacket.

Q. And the letter of the Attorney-General was on a separate piece of paper?—A. Yes, sir; it was a separate letter.

Q. How long have you been chief clerk in the Department of Justice?—A. Since December, 1883.

Q. Were you at the Department of Justice on the 1st and 2d of September last, at the time when the papers of District Attorney McCorry came to the Department?—A. Yes, sir; I was there.

Q. Did you receive those papers?—A. My recollection is that I got them in the ordinary course of the mail. There was nothing about them to call my attention particularly to those papers any more than to any others.

Q. Do you recollect that the Solicitor-General was Acting Attorney-General at that time, the Attorney-General being absent?—A. Yes, sir; he was Acting Attorney-General at that time.

Q. Do you recollect how many papers, business applications, came to him the day that he received those?—A. There were but two other papers that were referred to him on that day. That I happen to know, because, as a matter of curiosity, for my own amusement or edification, I looked at the records of the Department to see how many papers had been referred to him that day, and I remember the papers, because one of them was an amusing one, a telegram from one of the marshals out West about certain Chinamen. Those two papers and two telegrams, other than the McCorry letter that was referred to him that day, he disposed of in two minutes.

Q. Did you have any knowledge or information that the Attorney-General was going away before he did leave?—A. I knew it probably six weeks before he went away.

Q. Six weeks before he did go away?—A. I think about that long, possibly longer, or possibly not quite so long. It was some time in July, I think it was, I was speaking to him one morning about the adjustment of the leaves of absence throughout the Department, and suggesting how I thought they ought to be made, and whether he thought it was proper, so as to suit the work, and he asked me when I would like to take my own leave, and I replied that if I went moose hunting in Canada, as I had been doing for several years, I would like to go in September, but that I would go whenever it suited his convenience. He said that would suit him exactly, because he intended to go away during the last week of August, and he said that the only true way of getting a leave of absence was to go out into the woods and camp out and get away from everybody, from the world and business, and that was what he intended to do.

Q. Do you know whether that was generally known or made public; was it made known in the Department?—A. He said he did not wish anybody to know it. He said, "Don't say anything about this to anybody in or out of the Department." I said I would not, and I did not make it known.

Q. Did you see any publication in the newspapers about it preceding the time of his leaving?—A. No, sir. I noticed publications about other members of the cabinet leaving, but I do not think I saw anything about his going away. So far as I am aware nobody in the Department or out of it knew it.

Mr. OATES. Does any member of the committee desire to ask any questions?

By Mr. RANNEY:

Q. The original application of Mr. Van Benthuyzen was inclosed in what you call a jacket, was it not?—A. Yes, sir; this is the paper [exhibiting].

Q. So that the indorsements on it were on the jacket?—A. Yes, sir.

Q. Will you hand that to the reporter and allow him to put into the record what the indorsements on the jacket are.

The indorsements referred to are as follows:

So. N. Y.

Depart. of Justice.

6921. Rec'd July 14, 1885.

Dated July 12, 1885.

From W. Van Benthuyzen, of N. Orleans, La.

Sub.—Says A. G. Bell is not the inventor of the telephone.

Action.—Ans. and original to Sec. Int., July 14, '85. Orig. ret'd to D. of J. with letters of Sec. of Int., Jan. 14, '86. See copy of receipt which accompt. Sect's letter.

Q. Do you remember who wrote the letter of the Attorney-General to the Secretary of the Interior?—A. I wrote it.

Q. By whose direction?—A. By his direction. I either handed him this letter of Mr. Van Benthuyzen's and stood there while he dictated his reply, or he may possi-

bly have had the letter in his possession and called me into his room and dictated the reply. At all events I stood by his table and handed it to him and he said "This is a matter that does not belong——"

Q. The reply was dictated?

Mr. HALL. Let the witness complete his answer. He was going to say something.

The WITNESS. He said this is a matter that does not belong to the Department at all, and it ought to come here, if anywhere, from the Interior Department. Just write to this man and tell him so, and send the letter down to the Secretary. Thereupon I wrote the letters—they are both very short—one informing Mr. Van Benthuyzen that his letter had been so referred.

Q. He told you that and dictated the letter of reference?—A. He dictated it in so far as to say write to the Secretary a letter to let us know what he thinks about it, and write to this man that this letter has been sent. It was a mere formal letter.

Q. I am not speaking of the letter of Mr. Van Benthuyzen now; I am coming to that; but the letter of reference to the Interior Department. You wrote that under his dictation?—A. Yes, I say he dictated it, in so far as to give me the substance of it; I did not take it down in short-hand; I simply went into the other room and wrote the letter.

Q. You signed it?—A. Yes, sir; I signed it.

Q. I notice at the end of the application that he was requested to acknowledge the receipt of it to the attorneys, Briesen and Steele, in New York. How happened it to be written to Mr. Van Benthuyzen himself?—A. I do not know. Possibly the Attorney-General may never have read the letter through. I don't know whether he ever looked beyond the first page of the letter. I have just said I don't remember whether I handed in the letter and stood there and told him what the contents were while he took my say so for what was in it, or whether he took the letter and actually read it through. It was treated as purely a formal matter.

Q. How long after it was received was it referred to the Secretary of the Interior?—A. Immediately; on the same day, I think.

Q. Was it done right off when it was opened?—A. That is the point where I say my memory is defective. Whether I took the letter in and said here is a letter from so and so, as is my habit, and he said what I had to do without reading it, or whether he took it in his hand and read it, I cannot say. He may have had it in his possession half an hour or so; I could not say.

Q. You did not look at the statutes, I take it?—A. No, sir; no one looked at anything, so far as I am aware.

Q. No search was made, to your knowledge, to see whether there had been an act of Congress passed on the subject, was there?—A. I do not know about that. He may have had the letter in his possession from early in the morning until three o'clock in the afternoon, for all I can remember now.

Q. You have no memory about it?—A. No, sir.

Q. Did you write the letter to Mr. Van Benthuyzen yourself?—A. I wrote that letter; yes, sir.

Q. Under his dictation?—A. Under his dictation; yes, sir.

Q. I see he says in that letter that it ought to have gone to the Secretary of the Interior to start with?—A. He did not dictate the actual words, as one would dictate a letter in having it taken down in short-hand, but he simply said, write to him, and I went out and wrote to him.

Q. You do not recall why the letter was sent to him when the request in the application was that it should be sent to the attorneys, Messrs. Briesen and Steele?—A. No, sir; I do not know. It is possible I may simply have read him the first page of the letter and said, "he mentions some act," and the Attorney-General said "if he does, send it down there and see what they know about it," or the Attorney-General may have had it all day and examined fifty authorities for all I can tell.

Q. Do you know whether it was known in the office on the 1st of August at what time Mr. Goode would get back, or whether it was uncertain when he would return?—A. My impression is—I cannot say when we received information of his return—that we did not know when he was coming back until shortly before he arrived, possibly just a few days before he left.

Q. The time when the Attorney-General spoke to you about going off you say was in July?—A. I think in July, and it is my impression that it was the early part of July.

Q. It was a working administration that did not take a vacation. Was it not in July when that was announced?—A. That is a matter outside of our Department. I do not know.

Q. I understood the Attorney-General himself to say that it was about the time that he went to General Grant's funeral. By the way, do you remember the date of that?—A. I do not. It was some time in the beginning of August, I think; I did not pay any attention to it.

Q. It was the 8th of August. It was before that that the Cabinet all arranged the time when the vacation should be had?—A. I do not know what action the cabinet took in regard to a vacation.

Q. The Attorney-General testified in regard to that.—A. All I know is what the Attorney-General told me when I was bringing up the general subject of apportioning the leaves of absence in my Department, which falls to the chief clerk's duty, and that was early in July.

Q. I do not care about that. You do not know of an arrangement made in August, before they went to the funeral of General Grant?—A. I do not know what arrangement was made then. The Attorney-General simply said that he intended to take his leave in one body, and should go away in the latter part of August, and would be back in September, and that if I took my leave in September it would suit him.

Q. When did you take your vacation?—A. I did not take my vacation until the 14th of September, on account of the sickness of my daughter, and I remained away about two weeks. I got back here about one day after the Attorney-General returned.

Q. Were you present when Mr. Goode and the Attorney-General met, before the Attorney-General left? Did you hear any interviews between them between the 19th of August, 1885, and the 27th of August, when the Attorney-General left on his vacation?—A. The Attorney-General sent up stairs for Mr. Goode on the morning of the day, I think it was, he was going away, and told him that he was going away that evening, a fact which Mr. Goode had not previously been apprised of apparently, and Mr. Goode asked him about what was to be done, &c., and what he told him I do not know, except from hearsay. I know that he sent up stairs for him and had him come down.

Q. You know they had an interview as to what was to be done in his absence?—A. I do not know except from hearsay whether the interview was as to what was to be done in his absence or not. I presumed that he had sent up for Mr. Goode in order to let him know he was going away, and to give him any directions that he might have.

Q. How long an interview did they have?—A. I cannot tell; I mean by that I do not know.

Q. Probably you were not present when they had that interview?—A. No, sir; I was not present; I think I either went out or sent a messenger up after the Solicitor-General.

Q. Did he ask Mr. Goode to come down or did the Attorney-General go to him?—A. I think he sent up for Mr. Goode to come down. The object, I understood, was to tell him he was going away.

Q. Was the interview between them in your presence or were they alone?—A. I cannot say whether they were alone. I do not think I was there.

Q. But Mr. Goode came down into the Attorney-General's room that day and they were together some time, and you do not know what occurred?—A. My impression is that he was down there for a few minutes probably.

Q. Were you there on the 2d of September?—A. Yes, sir; I was there on the 2d of September.

Q. Were you there when Senator Harris came in?—A. I do not remember Senator Harris's coming in; I have no particular recollection of his coming in.

Q. Have you any personal knowledge of a document coming from District Attorney McCorry, the attorney for the western district of Tennessee?—A. I remember the fact of those papers coming there from McCorry with a request for the institution of a suit. I remember that.

Q. Did you open them?—A. All the mail that comes into the Department is opened in the morning by a messenger, generally in my presence, on one end of my desk, and the accounts and letters, those that do not need jacketing and going on the general files, I simply put in the boxes belonging to the different persons to whom they ought to go. Letters of a character that require jacketing and putting on the general files are laid in a pile by themselves, and I go over them and mark the disposition to be made of them. Letters frequently come accompanied by big bundles of papers. I do not remember how large this bundle was that Mr. McCorry sent us.

Q. I do not know whether you have the jacket of those papers or not.—A. The papers would not come in a jacket. The letter would be jacketed and would then be tied with tape or something to the bundle, and the bundle of papers would be sent up with the letter to whoever they belonged to.

Q. Don't you make a jacket of your own?—A. Yes; there is no jacket when they come. The letters are jacketed there. The letters are put in a separate pile, and I mark the disposition to be made of them, and they are then briefed and jacketed.

Q. Do you know anything about the jacket for these papers?—A. Oh, yes, sir; we have the jacket of the McCorry matter there in the Department, showing the reference to the Solicitor-General.

Q. The reference by whom?—A. When I say the reference of them I mean the reference to whoever the papers go to. When they come into the Department they are

placed on my desk and I have them briefed and jacketed, and then I have them marked "Solicitor-General" or wherever they go.

By Mr. HALL:

Q. For the subordinates in the same Department?—A. Yes, sir.

By Mr. RANNEY:

Q. He was not a subordinate then; he was Acting Attorney-General?—A. Yes, sir. When I say "a reference" I mean the one to whom they are given in the Department.

Q. You mean who they are delivered to?—A. Yes, sir; who they are delivered to—who they go to, as we use the expression.

Q. Your expression might imply that the Attorney-General himself referred them to somebody?—A. I do not mean that. I mean who the papers go to in the Department. I mark on the paper who it goes to, to the Attorney-General or Solicitor-General, or whoever it may be, knowing who has the case in charge.

Q. Have you that jacket?—A. It is in the Department, I think.

Q. I am sorry to trouble you so much, but I should like to see that. Did you see Senator Harris in there on the 2d of September, or about that time?—A. I do not remember whether he was there or not. He may possibly have come in to ask whether any such papers had been received. People frequently come in.

Q. I do not mean to inquire about what may have been, but simply if you know.—A. I do not remember whether he was there or not.

Q. Do you remember Senator Harris and Casey Young coming in?—A. Oh, they have been there different times, but when, I have no idea at all. There is nothing to attach any importance to their coming in there whatever.

Q. Nothing especially to fix your attention?—A. No, sir; nothing especially. Senators are coming in and going out all the time.

Q. Were you there at any interviews on July 30 and 31?—A. Was I at the Department? I think so.

Q. Do you know Mr. Van Benthuyzen?—A. I never saw him that I know of.

Mr. OATES. The question was whether you were there at any interviews.

The WITNESS. Interviews with whom?

Mr. RANNEY. I do not mean personally present when the interviews occurred, but if you were in the office when certain interviews occurred with the Attorney-General.

The WITNESS. Interviews with whom?

Mr. RANNEY. Do not people going into the Attorney-General's room pass through your room?—A. No, sir. They frequently come in there; ask whether the Attorney-General is in, and I turn them over to his messenger, and sometimes go to his door and look in to see whether he is engaged, or ask him whether he will see certain people. Ordinarily they go into the ante-room and the messenger tells him. He might have a dozen interviews and I would not know it.

Q. If you have a separate room you would not be cognizant of people who did go in?—A. No, sir, unless I opened his door to go in with papers, and noticed that there were a number of people there.

Q. Have you looked to see whether you have in the Department any letters of Mr. Van Benthuyzen, written between the 16th of July, 1885, and the 30th of July of that year?

The WITNESS. Do you ask whether we have any; whether I know we have any?

Mr. RANNEY. Yes.

A. I do not without looking at the record; I cannot say without looking at the record. I do not depend at all upon my memory as to what papers are or are not in the Department.

Q. I didn't suppose you would remember them all. I thought you might have looked.—A. No, sir.

Q. Have you looked to see whether there is any correspondence in the Department between the Attorney-General and Mr. Van Benthuyzen between July 16 and July 30, 1885?—A. I presume that the matter has been looked up. All the papers in connection with this telephone business have been gotten together, and if there are any such letters they are no doubt with the rest of them.

Mr. RANNEY. I will not trouble you any more, Mr. Clay.

By Mr. HALL:

Q. You have been requested how many times to bring papers and copies of papers here?—A. I think about three times, probably, I have been up here.

Q. You have always attempted to bring everything that has been requested of you?—A. Yes, sir.

Q. You have not been called upon to examine whether there are any letters on file between Mr. Van Benthuyzen and the Attorney-General?—A. I do not think I have.

Mr. RANNEY. Nobody pretends that Mr. Clay has intentionally withheld anything. He has been very courteous, very kind, and very faithful.

Q. The office is open for inquiry to get any information of that kind?—A. Certainly.

Q. I notice on the jacket, which I understand you accompanies this letter of Mr. Van Benthuyzen's, there is a memorandum as to the action. I wish you would simply explain what that means.—A. Every letter that comes into the Department that requires to go on the general files has one of these jackets placed on it. It goes then to the Attorney-General, the Solicitor-General, or such officer of the Department as it is proper for it to go to, whoever has charge of the matter. When that officer takes any action upon it in the way of writing a letter in reply to it, or referring it to another Department, or doing anything at all with it, that action is then indicated under this head "Action."

Q. What does that jacket show with reference to the time when Mr. Van Benthuyzen's letter was received?—A. "Received July 14, 1885."

Q. Does it show its date?—A. "Dated July 12, 1885."

Q. Does it show what disposition; and, if so, what was it?—A. "Answered and original to the Secretary of the Interior July 14, 1885."

Q. That means that this letter was referred to the Secretary of the Interior on July 14, that date?—A. It was sent to him. We use the word "Refer" in a technical sense in the office. If we refer it we put it in the reference jacket and say, "Respectfully referred to the Secretary of the Interior" on such a date.

Q. And this was sent under the suggestion of the Attorney-General that it did not belong to his Department, and ought to have been sent to the other Department originally; is that correct?—A. Yes, sir.

Q. When does that show that it came back?—A. It came back on the 14th of January, 1886.

Q. From the Secretary of the Interior?—A. From the Interior Department, in company with a mass of papers relating to this telephone business.

Q. With reference to interviews, I wish you would state how your office is connected with that of the Attorney-General, in which any interview would be held.—A. There is a door immediately to the right of my desk, perhaps as far as that wall [indicating], going into the Attorney-General's room.

Q. So that when you are in your office, you would not be present at any interviews that might be held there unless you were called in?—A. Unless, in the ordinary course of business, I should open his door for the purpose of going in to see him, and notice there were parties there.

Mr. HALL. I suppose, Mr. Chairman, that it is not desired that the original Van Benthuyzen letter should be retained here any longer?

Mr. OATES (in the chair). No; only for inspection. It has already been put in evidence.

Mr. EDEN. It has been brought here three or four times, I think.

Mr. OATES. I will say to the committee that Mr. Ranney expressed a desire to see this original letter after the testimony of Mr. Von Bricsen the other day, in which he stated that his recollection was that the reference made by the Attorney General was indorsed on the original application or letter of Mr. Van Benthuyzen. I find by inspection of it that he was mistaken in that. It was written on a separate paper.

Mr. EDEN. It seems to me it does not make much difference what paper it was written on.

Mr. OATES. Perhaps not.

Mr. RANNEY. The indorsements put into the testimony the other day were on the letter of Mr. Muldrow to the Attorney-General.

Mr. OATES. Are there any other witnesses present to examine?

Mr. RANNEY. We had better send up and request Mr. Talcott to come in, and Senator Platt might be sent for also. I do not think the clerk at the Ebbitt House has been here yet.

Hon. O. H. PLATT then came before the committee and was duly sworn.

Mr. OATES (in the chair). Mr. Ranney, you may examine the witness.

By Mr. RANNEY:

Question. You have been in the Senate how many years?—Answer. Since March 4, 1879.

Q. You were in the Senate with Senator Garland, the present Attorney-General?—A. Yes, sir; he was there when I became a member, and continued until he was appointed Attorney-General. I was a member of the Senate all that time.

Q. You were chairman of the Committee on Patents in the Forty-eighth Congress?—A. Yes, sir.

Q. Do you remember anything about a bill which came before your committee, having passed the House prior, respecting the bringing of a suit by the Government, or authorizing the Attorney-General to bring a suit by the Government, for the purpose of vacating patents?—A. Such a bill was referred to the Committee on Patents after it passed the House, I think at the short session of the Forty-eighth Congress.

Q. Was it ever reported to the Senate?—A. It was not. The committee made no report upon it.

Q. While your committee had it, please state whether you had any interview with Senator Garland about it, and what Senator Garland had to do with it, so far as you remember?—A. To answer that question, perhaps I ought to state the circumstances which led up to a conversation between myself and Senator Garland.

Q. State the whole of it.—A. The first that I remember to have noticed that bill, Senator Garland, at his desk in the Senate, referred a letter which had been addressed to him by some one, I do not remember who, to me as chairman of the Committee on Patents, and sent it over by a page. I think I had not heard of the passage of the bill at that time, and then got the bill and examined it. Subsequently Senator Garland referred to me another letter which some one had written him on the subject, and I do not remember who wrote that letter, but my recollection is that that letter contained one or two suggested amendments to the bill, the character of which I do not now recall. He referred that in the same way, and I may say in the usual way in which Senators refer communications addressed to them to the committees having charge of the subject-matters to which they relate, and sent it over to me by a page.

My recollection then is that, receiving that second letter, I went over and had some conversation with him, and as the conversation lies in my mind it was substantially this: I asked him if he had any interest in that bill, and he said no, that he had no special interest in it; that he had referred those letters to me because they had been written to him. Then he went on to say that he had examined the subject somewhat, and that he thought that the Government might then, without the passage of any such act, maintain a suit for the cancellation of a patent if it had been obtained by fraud. I would not say that he expressed that as his decided opinion or conviction, but as his better judgment in the matter; and I think he said this, that if the bill was to pass there ought not to be any implication by the passage of the bill, or by anything that was in it, that the Government had not that right at that time. I then went back to my seat and had no more conversation with Senator Garland about it.

I think perhaps I ought to say that it was not the first time that Senator Garland had referred letters to me in the same way which were addressed to him relative to matters pending before the Patent Committee. I remember that there was a proposition before the Patent Committee to prevent the bringing of suits for the infringement of patents, against users merely of the patented invention, and Senator Garland referred some letters to me on that subject. I speak of it because I do not wish to imply, by anything I say, that there was anything unusual in his conduct.

Q. When he referred those letters, was there any written indorsement on them?—A. My recollection is that he put a little indorsement on the back of the letters in the usual way—"The within is respectfully referred to Senator Platt, chairman of the Committee on Patents."

Q. Do you know what has become of those two letters with the suggested amendments?—A. I do not. I have an impression, which is not very distinct, in relation to that matter. I do not think they ever went into the files of the miscellaneous papers of the committee, because those miscellaneous papers were at the conclusion of the session done up in a bundle by the clerk, and deposited in the office of the Secretary of the Senate, and were sealed, at least the bundle of such papers was brought to me by an officer connected with the Secretary's office, and it was sealed up, and I opened it and went through it, and I did not find those letters in the bundle. My impression, which I give for what it is worth, is that as that occurred in the Senate, I put the letters in my desk, and when the session closed, in cleaning out my desk, threw them away. The impression is not very distinct, but it is an impression nevertheless.

Q. I see by the papers that some of the reporters, when this matter came up and was canvassed, went to see you about it. Did you at that time, and have you since, searched for them?—A. I have searched for them, have made a pretty thorough search for them, and I am unable to find them, and the impression which I have stated grows upon my mind the more I think of it, that leaving them in my desk and not reporting the bill, why, when Congress was over, I cleaned out my desk and threw them into the waste basket.

Q. Have you been able to recall the writer of those letters?—A. I have not.

Q. Can you tell how it lies in your mind whether they were or not from any members of Congress, or whether they came from the outside?—A. I think if they had come from any member of Congress I should remember that fact.

Mr. RANNEY. That is all.

The WITNESS. As so much has been said about this matter, perhaps I ought, in justification of the Committee on Patents, to say a word.

Mr. OATES. I was going to ask you just there about it. There has been some report and there was some talk that a bill was stolen in this connection. Was there anything in that?—A. It seems to me that that was rather an unnecessary suspicion. Certainly any one knowing the order of business in the Senate, and the way bills

come to the Senate committees after having passed the House, would know it is in the form of a printed bill, simply. The bill is sent to the Senate, referred to a committee, and ordered printed, and what we get is not the engrossed House bill, but a printed bill, of which there are nineteen hundred copies printed, so that if a bill was stolen there would be 1,899 more copies of it in the document room of the Senate.

Mr. RANNEY. That was only in keeping with Mr. Van Benthuyzen's suspicions and charges which he has brought here.

The WITNESS. So that there would be no opportunity of stealing any such bill.

Mr. OATES. I have no idea that such a thing could be.

The WITNESS. If you will allow me to speak of a fact not within my knowledge, I will state that that particular bill went back to the Secretary of the Senate at the close of the session, and was by him returned to the House in the ordinary course of things. I would like to make this additional statement, if there is no objection—

Mr. EDEN. There is no objection to the Senator's making a statement I think?

Mr. RANNEY. Not at all.

The WITNESS. The reason the committee did not act upon the bill was, I think, that it was at the short session of Congress. If I remember, it did not come over until some time in January, and the committee was very busy. It was talked about informally in the committee at various times, and objections of a political character were made to it, that possibly it might prove an engine of oppression against poor patentees in the hands of the Government at the request of somebody who wished to carry on a contest at the expense of the Government; and later on it came to my knowledge that the Baltimore and Ohio Telegraph Company were very much interested in the passage of the bill, as they wanted to attack what is known as the Page patent, owned and used by the Western Union Telegraph Company, as having been unlawfully extended by the Commissioner of Patents by authority of Congress. Well, that made the committee hesitate about taking action, and so the session closed without action on the bill.

Mr. OATES. Does any member of the committee desire to ask any questions?

Mr. EDEN. I do not want to ask anything.

By Mr. HALL:

Q. I would like to ask a question. In the conversation between yourself and Senator Garland, when he spoke of having examined the question, did he speak of having examined it recently or before in the course of his practice?—A. I do not think he said when he had examined it. Of course I do not remember his exact language, but I know the substance of it. The impression it left on my mind was that he was sufficiently well acquainted with the subject to have formed the opinion that the Government could maintain it without the passage of the bill.

Q. And that such a bill, if it became a law, would be simply a sort of declaratory statute?—A. Yes.

By Mr. RANNEY:

Q. I am reminded by Mr. Moffatt of a fact I had forgotten, which is that that bill passed the House at the first session of the 48th Congress, in January. If that is so are you not mistaken in thinking it came in at the short session?—A. Very likely; I have not looked at the matter to determine it. I have seen somewhere a date in January, and I assumed perhaps that it was at the short session.

Mr. RANNEY. I had forgotten myself.

Mr. MOFFATT. It passed within ten days after the organization of the committees of the House.

The WITNESS. Then my supposition that it was at a short session could not have had very much influence with the committee.

Mr. RANNEY. It was laid over, perhaps, from the short session.

The WITNESS. There was another matter, perhaps, that influenced the matter somewhat when it was pending before the committee. Some case was decided in one of the circuits, which looked as if it was to be decided in court that the Government could make such a suit. I think it was the case of the United States against Gunning; I am not sure of the case. I know it was brought to the attention of the committee while the bill was pending before it.

Mr. RANNEY. Yes, Judge Wallace held adversely to Judge Shepley.

Mr. HALL. I want to ask another question when Judge Ranney is through.

Mr. OATES. You may proceed.

By Mr. HALL:

Q. I understand, then, that the expression of opinion by Senator Garland was, practically, that there was no necessity for a measure of this kind.—A. He expressed his opinion that there was not.

Q. You have referred to some considerations that probably operated on the minds of the committee in not acting. Do you remember whether the question was discussed

in that direction before or after you had this interview with Senator Garland?—A. I think afterwards, because my recollection about it is that I had not heard of the passage of the bill until Senator Garland referred to me the first letter of which I have spoken.

Q. Did you state to the committee the opinion that had been expressed to you by Senator Garland as to the want of necessity for such an enactment?—A. I do not remember. I doubt whether I stated to the committee that I had any conversation with him at the time, but I may have done so.

Q. I suppose his opinion would have been regarded as of some consideration on a subject of that kind?—A. Certainly. I think, perhaps, his suggestion induced me to look up the question, and looking it up I discovered this decision made about the time or during the time when it was under consideration.

Q. So that his opinion had something to do, then, directly or indirectly, in influencing the action of the committee?—A. It may have, remotely.

Q. There is one other question I would like to ask. You were asked how you happened to look up the papers, the files of the committee. I wish you would state more definitely, if you please, how you came to look them up—at whose instance?—A. In reading in the newspapers about this matter, I saw, of course, that there was talk made that the bill had been stolen or abstracted. That, of course, led me to investigate the whole matter, and I then asked my clerk what he did with the papers of the committee, and he said that he had carried them to the Secretary's office, and after I got back here I had them sent for, and at this session looked them over.

Q. Did anybody request you to do that?—A. I do not think any one did.

Q. Did anybody request you to try to find those two letters referred to you by Senator Garland?—A. No; I wanted to find them myself. I do not think anybody requested me.

Q. It was not at the instance of any reporters?—A. No.

By Mr. RANNEY:

Q. Do you remember being interviewed by a reporter?—A. I have been interviewed by a great many reporters.

Q. I mean on this subject—do you remember Major Clark or Mr. Crawford coming to see you?—A. I do not know about Mr. Crawford. I do not know that I should be able to recognize Mr. Crawford. I remember a reporter of the World coming to me, and I had an impression it was a Mr. Bayne whom I did know or supposed I knew, and I told each of those gentlemen, I suppose, substantially the same story I have told the committee.

A. B. TALCOTT then came before the committee and was duly sworn.

By Mr. RANNEY:

Question. You are the electrician of the House?—Answer. Yes, sir.

Q. How long have you been such?—A. Since February, 1881; five years; since the Forty-seventh Congress.

Q. You succeeded Mr. Rogers?—A. Yes, sir.

Q. I refer to J. Harris Rogers.—A. Yes.

Q. Were you aware of any efforts being made at the beginning of the Forty-ninth Congress to secure the appointment of J. Harris Rogers as electrician of the House?

The WITNESS. You mean the Forty-eighth Congress, do you not? This is the Forty-ninth Congress.

Mr. RANNEY. Yes, the Forty-ninth Congress.—A. I was aware of it; yes, sir.

Q. There were some papers handed in here the other day, a letter which you had some connection with.—A. I heard of a letter of that kind.

Q. What did you know of that matter?—A. Mr. Clark, the Architect, directed my attention to it, and asked me if I remembered giving him a certain letter.

Q. What do you remember about it?—A. If it is the letter I suppose it is, it was one handed me either by Mr. Campbell, of New York, or Mr. Cox, I do not know which. I turned it over to Mr. Clark and had forgotten all about it until my attention was recalled to it.

Mr. RANNEY. I believe that is the one I had in mind (handing letter to the witness).

The WITNESS. Of course I cannot identify this, but this is substantially the letter that I supposed it was.

Mr. RANNEY. It is a letter of the Rogerses—well, look at it.

Mr. HALL. Let him answer what it is.

The WITNESS. I suppose that is the letter.

Q. Did either one of the Rogerses see you personally about that appointment?—A. The elder, J. Webb Rogers, sent a note to me one day which said that he wanted to see me in relation to that matter, and I called on him.

Q. What did he say to you?—A. He said that Harry had revived his idea of being electrician of the Capitol, covering the whole building, with a salary sufficient to

pay a competent electrician, and that it would accommodate them if I would step down and out before Congress met; that we were going to have a Democratic Congress, and of course I would not expect to stay.

Q. State all that he said, if there was anything more.—A. And that they were willing to allow me the salary for December and January, and would add—

Mr. EDEN. Whose conversation is it that the witness is relating?

Mr. RANNEY. A conversation with Dr. J. W. Rogers.

The WITNESS. That they would allow me the salary for December and January and would allow me the extra month's pay that would probably be allowed to discharged employes before the 1st of February; that I could take time to think it over if I desired to, unless I was prepared to give them an answer then. I told him I would take time to think it over. When I came up to the Capitol I found that his messenger had got ahead of me and had filed an application with Mr. Clark for the appointment of the two sons.

Q. Who had got ahead of you?—A. His messenger; and for that reason I paid no more attention to it.

Q. Did you see him again?—A. No, sir; not on that subject. I have met him very often.

Q. Do you know anything about the resolution introduced by Mr. Robinson, of New York, looking to his appointment?—A. I recollect that Mr. Robinson introduced the resolution.

Q. Do you know at whose request?—A. I do not positively. At that time I was making a report of the House proceedings for the United Press Association. He came over and showed the resolution to Mr. McElhone, and Mr. McElhone said, "Why, that is our friend here," pointing to me. He said, "I did not know that."

Mr. HALL. Who said this?

The WITNESS. Mr. Robinson. He said "a gentleman asked me to introduce it"—he said "General Johnston wanted me to introduce it, and," he said, "I told him I would;" and he afterwards came back to me and said that he could not find the gentleman who gave it to him to return it to him, and he would have to introduce it, and I told him to do so of course, and he did so.

Q. Did you go before the committee to whom that resolution was referred?—A. No, sir.

Q. Did you have any Pan-Electric stock?—A. Not any.

Q. Was any offered to you?—A. No, sir.

Q. Dr. Rogers wanted you to receive that pay. How much did it amount to?—A. \$287.50.

Q. He did not offer you or send you any stock?—A. No, sir. In his note which he sent me he inclosed a circular of the Postal Telegraph and the Pan-Electric prospectus. I didn't consider that as an offer at all.

Q. He sent you the prospectus of the Postal Telegraph. What works have the Government got connected with the Capitol that Mr. Rogers could have utilized for the advantages of any association?—A. I do not know of anything except the dynamo engine.

Q. There are electrical works in the Capitol?—A. Simply for lighting; nothing else.

Q. Did he have a lighting apparatus among his claimed inventions?—A. I have seen the remnants of one about there; that is all I know about it. I have understood that he did have a light in the loft at one time.

Q. His prospectus had one for lighting the world, did it not?—A. I don't recollect.

Q. Was there anything embraced in his prospectus, any patent described for lighting purposes? Did his prospectus describe any patent for a lighting apparatus?—A. No, sir; I think not. I think it was one of the future inventions to be brought out, in the prospectus.

Q. I was thinking that I saw something of that kind in it; I may be mistaken. Do you know of anybody in Congress or in the House having any of that Pan-Electric stock?—A. No; I do not recollect now.

Q. See if you can recall any fact about it.—A. I suppose that Colonel Young was a stockholder; in fact, his name was connected with the prospectus.

Q. Yes; he was a stockholder, and in the Forty-eighth Congress. What do you know of his connection with it?—A. I only know it from the prospectus.

Q. Did he ever see you about the matter?

The WITNESS. Colonel Young?

Mr. RANNEY. Yes; about the electrician?

A. No, sir; never.

Q. That is, about getting Rogers appointed.—A. No, sir?

By Mr. OATES:

Q. Who appointed you electrician?—A. The law requires the appointment to be made by the Architect of the Capitol, subject to the approval of the Speaker. My appointment was practically and substantially made by the Speaker, Mr. Keifer.

Q. And you were not removed by that Democratic Forty-eighth Congress?—A. No, sir.

Q. And you are still the electrician of the House?—A. Yes, sir; I am still electrician.

By Mr. HALL:

Q. I do not think I understood exactly how you first came to know about this letter, or how it came into your possession.—A. It was handed me by one of those gentlemen.

Q. By one of what gentlemen?—A. Either Mr. Felix Campbell or Mr. Cox of New York.

Q. Who is Mr. Felix Campbell?—A. A member of the House from Brooklyn, New York.

Q. When was it handed to you?—A. Soon after the resolution was introduced. It bears date there, doesn't it?

Q. Whereabouts were you when it was handed to you?—A. That I could not say.

Q. What persons were present?—A. That I could not say. I presume no one.

Q. Was it handed to you here in the Capitol building or in the city?—A. About the House somewhere.

Q. But you don't remember where it was?—A. I could not state positively.

Q. Can't you remember whether it was Mr. Cox or Mr. Campbell?—A. I should guess —

Q. Do not give any guessing about it; I want the fact.—A. I cannot say positively, but I should rather think it was Mr. Campbell.

Q. Don't you know that Mr. Cox never handed you a note of this kind?—A. I am aware that Mr. Cox got a letter of that kind.

Q. I didn't ask you that. Why do you want to pursue it in that way; are you anxious to fix anything on Mr. Cox?—A. No, sir. I know them both intimately and talked with them frequently on this subject.

Q. I am not asking anything of that kind.—A. I only want to explain my position.

Q. There is nothing to explain just yet. You say that one of these gentlemen, and you rather think it was Mr. Campbell, handed you this letter?—A. Yes, sir.

Q. What did he say to you when he handed it to you?—A. I could not recollect.

Q. It is not addressed to you, is it?—A. No, sir.

Q. Are you sure that that letter was ever given to you by anybody?—A. That identical letter I could not swear to.

Q. We are talking about nothing but this identical letter.—A. The substance of that letter—

Q. I am not asking you about the substance of that letter. I doubt very much if you know what the substance of it is. I want to know if you pretend to swear to this committee that you ever saw that letter until it was shown to you here?—A. I told you, Mr. Hall, at the beginning, that I could not identify that individual letter.

Q. You cannot remember what was told you by the person in regard to the letter about which we have been talking?—A. It was not delivered in that way. It was simply handed over to me as a matter which was of interest to me.

Q. As a matter of curiosity?—A. No, sir; as a matter in which I was interested.

Q. Without any instructions?—A. Without any instructions.

Q. To whom was the letter addressed, that it came into your hands?—A. That I cannot tell.

Q. You do not know what you did with it—do you know?—A. I had forgotten entirely about it. I found it in the hands of Mr. Clark.

Q. Found what in the hands of Mr. Clark?—A. This letter.

Q. But you say you do not know that that is the letter?—A. No, sir; I do not.

Q. So that you do not know very much about it?—A. No, sir.

Q. And you do not know really what you did with the original letter that you say did come into your hands?—A. I think I gave it to Mr. Clark.

Q. But you don't remember, do you?—A. Not distinctly.

Q. All the reason why you talked about this letter is because Mr. Clark has produced a letter?—A. No, sir; I recollect the letter now that my memory is refreshed and called to it, a letter of that substance.

Q. A letter of what substance?—A. That letter there.

Q. Let us hear what the substance is, and what your memory of it is.—A. The only point in it that impressed itself on my mind was that they didn't want them as electricians, or any other Democrats, and also to be under the Speaker or any other Democratic officer of the House.

Q. That is the substance of the letter that you remember?—A. That is the main point of it that I remember.

Q. Has anything arisen to call your attention, or to awaken your memory about that transaction from the time it occurred until very recently?—A. No, sir.

Q. Who has called your attention to the matter lately?—A. Mr. Clark, the Architect, asked if I remembered giving him the letter.

Q. When was that?—A. I cannot give you the date. It is the date he testified here, or the day following.

Q. Did he show you this letter?—A. No, sir.

Q. Has anybody else spoken to you about it?—A. I think not.

Q. Has anybody else tried to refresh your memory besides Mr. Clark?—A. No, sir.

By Mr. RANNEY:

Q. You say you knew of Mr. Cox's having a letter of the kind; how did you know that?—A. He told me so.

Mr. HALL. Do you desire to put any other questions, Mr. Ranney?

Mr. RANNEY. I want to read this letter once more. I will put this letter into the record.

Mr. HALL. I think it is already in; it seems to be marked on the outside.

Mr. RANNEY. It was simply identified; it was not copied into the record.

The following is the letter:

315 4½ St., N. W., January 20, 1884.

HON. DEAR SIR: As citizens of N. York we sent to you yesterday a "resolution" concerning the electrical department in the House of Reps. If the N. York delegation should prefer other electricians than ourselves we would cheerfully acquiesce; but it seems preposterous that a Republican Architect should keep two Republicans in our places, vacated by us on notification of said Architect that we must bring to him Republican influences, which we declined to do, but instantly resigned. Please confer with our New York members and determine whether the resolution can be passed. In deference to the Speaker you may explain that we would prefer to be exclusively under him, or any Democratic officer of his preference.

Yours, respectfully,

J. H. AND J. C. ROGERS.

Mr. HALL. I supposed that where letters were marked they were regarded as in. [To the witness.] You say Mr. Cox told you that he had a letter; you answered Judge Ranney that he had a letter of that kind. Now, do you mean to say that?

The WITNESS. Yes, sir.

By Mr. HALL:

Q. Now tell the committee what Mr. Cox said to you, if you please.—A. Mr. Cox said that they had been after him.

Q. Who?—A. The Rogerses, and that he did not recognize them as New Yorkers.

Q. Did he tell you that they had sent him some stock in the letter?—A. No, sir; he never told me that.

Q. And then he did not explain to you what they had said in their letter to him?

Mr. RANNEY. I attribute that conduct of Mr. Cox as rather favorable to him than otherwise. It shows that he did not favor the scheme.

Mr. HALL. I have seen a great many people favor men. I want to save myself from that kind of favors.

Mr. RANNEY. What favors?

Mr. HALL. The favors you are speaking about. You say you think this thing rather favors Mr. Cox.

Mr. RANNEY. You remarked that it was putting something on to Mr. Cox that you did not want there. I thought it was relieving Mr. Cox, as showing that he would not yield to any scheme of that kind. He declined to take the stock, and then he hands the letter over to this electrician.

Mr. HALL. I am trying to find out just exactly what Mr. Cox did. I think Mr. Cox is entirely able to rest on anything that he has said or done when properly stated.

Mr. RANNEY. I should not have made the remark except for yours.

Q. You do not know whether Mr. Cox got a letter like that, do you, from the Rogerses?—A. Verbatim, I do not.

Q. He did not attempt to give you its contents?—A. Unless that is the letter.

Q. But you do not pretend to say that that is the letter?—A. I do not know whether I got it from him or Mr. Campbell.

Q. But Judge Ranney said, and you have sworn, that Mr. Cox told you he got a letter like that?—A. Yes, sir; in substance.

Q. Did he say that he had a letter like that, or did he simply tell you about what was in the letter?—A. He told me what was in the letter, unless he gave me the letter.

Q. Didn't he tell you at the same time about there being some stock or paper in the letter that was sent to him?—A. Not a word.

Q. Nothing of the kind?—A. No, sir.

The witness was then excused.

Mr. RANNEY. I understood that there had been a subpoena issued to men connected with the telegraph offices, summoning them to produce telegrams to-day. Was not this the day set?

Mr. OATES. A gentleman came and spoke to me about it, and showed me a rule of his office on the subject, and said that under that rule he should decline to furnish any telegrams to the committee. He said he had consulted the superintendent, and the superintendent had so instructed him. This was outside of the committee room, and I called Mr. Millard, who was standing near by, and told him what this man had said, and I left them talking together, and have not seen the man since.

Mr. RANNEY. Was he not summoned to appear to-day?

Mr. OATES. I think he was summoned to appear this day, or at an earlier day, perhaps.

Mr. RANNEY. I had an impression that this was the day set.

Mr. OATES. I looked at the book of rules of his office, which he showed me, but I did not look at the subpoena. If it is as he said, unless the law is different from the rule, I do not know whether we could compel him to answer. The subpoena, he stated to me, seemed to be for all telegrams passing between Casey Young and others within a certain stated time, and as I understand from an explanatory note to the rule which goes on to illustrate its meaning, it says that a subpoena served upon an employé of the company to produce all telegrams passing between C and D in a given time will be obeyed, but the particular telegram or telegrams must be described in the subpoena, so that they will know exactly what they are.

Mr. EDEN. This is merely a fishing net.

Mr. OATES. He went on to say that such a subpoena as that was regarded as a search warrant and would not be obeyed by the company.

Mr. RANNEY. Permit me to inquire whether the chairman said he need not produce them and need not come before the committee?

Mr. OATES. I stated to him that if that was true, if that was the character of the subpoena, I did not think he would be required to produce them. But I did not tell him that he need not pay any further attention to it. He asked me what I thought about it, and I told him. I said if it is as you state, that sort of a subpoena—I have not seen it—you would not be obliged to obey it, but that is a matter for the committee, and I called Mr. Millard, who had just gone to the outer door there, and left him talking to him.

Mr. RANNEY. I understand that you or Mr. Millard gave to the chairman a specific statement—

Mr. OATES. Have you the subpoena?

Mr. MOFFATT. I think the subpoena is about as Mr. Oates states it. It calls for telegrams between parties on certain dates.

Mr. RANNEY. Was there a subpoena issued for the Baltimore and Ohio Telegraph Office also?

The CLERK OF THE COMMITTEE. None that I know of.

Mr. RANNEY. When is Mr. Boyle, the chairman, expected to return?

Mr. OATES. The latter part of the week, he says.

Mr. RANNEY. It seems to me highly important to get those telegrams, and the law by which they are regulated is familiar, doubtless, to all. I have had a good deal of experience in getting telegrams from telegraph companies, and never have failed yet.

Mr. OATES. I do not know what the man finally said. I think if we notify him he will appear before the committee at our next meeting, and will probably give his reasons for not obeying the subpoena. Of course I am only giving my opinion upon the hypothesis. I could not speak for the whole committee; I speak for myself.

Mr. RANNEY. Of course I do not mean to intimate anything against you, but I think it is very important we should have them.

Mr. EDEN. If there are no further witnesses present to be examined, I move that we adjourn until to-morrow at 12 o'clock.

Mr. HALL. Have you heard anything further from Mr. Hill?

Mr. OATES. No, nothing.

Mr. RANNEY. Let us decide about this subpoena, this telegraph business first. I desire that these men be requested to come here and give their reasons for not complying with the subpoena, and if we find it requires a subpoena *duces tecum* let it be issued.

Mr. OATES. Mr. Clerk, go to the Sergeant-at-Arms and get him to return you the subpoena, and see if you can give the notice to the gentleman named to appear before the committee at the next meeting and show his reason why he does not wish to produce them, if such is his course.

Mr. MOFFATT. Should he not appear here in response to the subpoena in any event?

Mr. OATES. Yes; notify him to appear.

Mr. HALL. The rule of the company which has been spoken of does not excuse him from appearing.

Mr. EDEN. No; we have a right to have the attendance of the witness.

Mr. RANNEY. I know what the rules of telegraph companies are.

Mr. EDEN. If we have any more witnesses to examine, I am very anxious that we shall go on and examine them, for, so far as my connection with the committee is

concerned, I shall be compelled to get through before a great while. If there are any witnesses to be examined to-morrow, can we not go on with them? It is not necessary to wait for these telegrams.

Mr. OATES. I do not know of any witnesses to be examined.

Mr. EDEN. If there are any witnesses we can go on with them. We have not an intimation that there is anything in those telegrams bearing on this investigation, or that a single telegram passed between those men.

Mr. MOFFATT. The books introduced in evidence show telegrams between them.

Mr. RANNEY. It appears not only in oral testimony, but it appears by the books.

Mr. OATES. We can dispose of that when it comes up regularly. The man will come here, and, as he states to me, he will decline to produce the telegrams, and will give his reasons for declining.

Mr. RANNEY. Colonel Young has produced copies of some telegrams.

Mr. EDEN. I was not referring to those we have already had.

Mr. RANNEY. I am more anxious about those we have not got.

Mr. OATES. I am very anxious to close this investigation myself. I do not think we are going to get anything more of any importance, but it is for the committee to decide, and as we examined all the known witnesses that we hoped to examine that are within reach, I prefer that the committee should adjourn until Monday, when Mr. Boyle will be here and there will be a full committee. I am only chairman *pro tem.*, and do not care to assume any responsibility such as devolves necessarily on him during his absence.

Mr. EDEN. It was said that there were some witnesses who had already been before the committee that it was desired to have recalled. I suppose we might go on with them.

Mr. OATES. Not being chairman of the committee, I have not kept as strict an account of the proceedings and notes of the testimony as Mr. Boyle. All his papers and memoranda are here and before we enter upon a re-examination of any witnesses—for we ought not to go over the ground except where new matter has made it necessary—I would prefer his presence, unless the committee shall otherwise order, and I do not know any good that we can accomplish by sitting to-morrow or the next day, and probably we will get through very early next week.

Mr. EDEN. If we cannot do anything, I move that we adjourn until Monday.

Mr. OATES. I think that would be better.

Mr. RANNEY. As the inquiry is left open, why not leave that to him? There is one other branch we have gone into somewhat, as showing one reason why this Government suit should not be brought, the fact that all the issues involved in it are now pending in cases which are before the Supreme Court on appeal, which will be soon decided.

Mr. EDEN. If we have to go into the merits of one case, we will have to go into the merits on both sides.

Mr. RANNEY. That is a matter I want to discuss with the chairman.

Mr. OATES. It is a matter, too, that we can get at when we come to consider the question in executive session.

Mr. RANNEY. I will agree to adjourn, then. I would be better satisfied to adjourn until Tuesday. I am going to run home now.

Mr. OATES. I will say that Mr. Eden is very anxious, he says, to return to his home soon, and we can probably do something on Monday, I think.

Mr. EDEN. I want to get some matters through before I go.

Mr. RANNEY. When do you want to leave?

Mr. EDEN. I must go in the course of ten days.

Mr. RANNEY. Are you likely to be absent long?

Mr. EDEN. I may be gone two or three weeks.

Mr. OATES. Is the committee ready for the question? The motion is to adjourn until Monday at 12 o'clock.

The motion was put and agreed to, and the committee adjourned until Monday, May 17, 1886, at 12 m.

WASHINGTON, D. C., Monday, May 17, 1886.

The committee was called to order at 12.20 p. m.

Mr. OATES. I have here, Mr. Chairman, a response from Mr. Clay, the chief clerk of the Department of Justice, in the matter of these patent suits. He came here with about two bushels of papers and I would not undertake to put them in the record, but suggested to him that it would be well, if he could, to enlarge or amplify the statement that he had given before, so as to show the character of the patent in each case, and he said that he had furnished such papers as that, he thought, but the paper I got from you, Mr. Chairman, is not of that kind. Here is the paper which he has sent [Handing the paper in question to the chairman.]

The CHAIRMAN (Mr. Boyle). There were two papers furnished by the Department, and the one I had, I think, was the fuller of the two.

Mr. OATES. I did not see in the record where either one of them had been introduced in evidence.

The CHAIRMAN. Neither has been introduced. [After examining the paper in question.] I see this is a paper containing a list of applications in which suits were allowed. There was another paper containing a list of applications in which suits were refused.

Mr. MILLARD. Was that put into the case?

The CHAIRMAN. I think not; I have no recollection of its going in. Judge Ranney had it. [Addressing the committee.] Gentlemen, is there anything to be brought before the committee this morning?

Mr. MILLARD. There were certain witnesses subpoenaed for this morning.

Mr. OATES. Has any one seen Mr. Marean this morning?

Mr. MILLARD. He is present.

Mr. OATES. He might come before the committee. He informed me last week that he should object to furnishing the telegrams in answer to the subpoena.

The CHAIRMAN. Has he yet been called before the committee?

Mr. OATES. No; but he came to see me in person last week, and I referred him to Mr. Millard.

The CHAIRMAN. If he is present he may be sworn.

MORELL MAREAN then came before the committee and was duly sworn.

By the CHAIRMAN:

Question. Are you connected with the Western Union Telegraph Company?—Answer. Yes, sir.

Q. In what capacity?—A. I am manager of the office in this city.

Q. Have you been served with a subpoena or requested to produce certain telegrams?—A. Yes, sir.

Q. Have you brought them here?—A. I received one subpoena, I think, about a week ago, and I received a second subpoena on Saturday to appear at 12 o'clock to-day; and in response thereto I wish to say that I must respectfully decline to comply with the demands of that subpoena, for the reason that it is in the nature of a drag-net or search-warrant. It does not allege the existence of or describe any particular messages, but seeks to discover whether any messages sent or received by certain parties relating to a certain subject exist.

Q. Are you acting under the instructions of your company in declining to produce the messages?—A. Yes, sir; both under the instructions and the rules of my company.

Q. You say you decline to produce them because the messages asked for have not been described?—A. Yes, sir; because they have not been specifically described. The subpoena covers a period of about ten months, and it would require a search through our entire business during that time. It does not allege that any messages were sent or received, and we would be compelled to make a search to ascertain that fact.

Q. You say there is a rule of your company which would prevent the production of messages under a subpoena such as has been issued in this case?—A. Yes, sir.

Q. Have you any objection to stating what the rule of your company is?—A. I have not the rule with me; I could get a copy of the rule; I do not know that there is any objection to that. I would prefer, perhaps, to confer with our officers first. I presume there will be no objection. I would like to add that the use made of messages drawn out by the Senate committee nine years ago ought to satisfy this committee that no such drag-net subpoena ought to be obeyed.

Q. What committee was it?—A. I cannot give you the name of the committee, but it was the committee which examined into the election of 1876 and matters relating to that election.

Q. Have you anything further to say in respect to this matter?—A. Nothing further; no, sir.

The CHAIRMAN. Does any gentleman of the committee desire to question the witness?

By Mr. MILLARD:

Q. Have you the subpoena with you that was served upon you?—A. Yes, sir; I have.

Q. Won't you please read it—the one served upon you Saturday?—A. Yes, sir. [Reading.] "M. Marean, Manager Western Union Telegraph Company"—shall I read it entire?

The CHAIRMAN. Yes, read it.

Mr. MILLARD. Read it and let us see what it is.

The WITNESS (continuing): "To J. P. Leedom, Sergeant-at-Arms, or special messenger: You are hereby commanded to summon M. Marean, manager Western Union Telegraph Company, to be and appear before the Pan-Electric Select Investigating Committee of the House of Representatives of the United States, of which the Hon. C.

E. Boyle is chairman, to produce all dispatches to or from each of the following-named persons to or from each other: Hon. Casey Young, Hon. A. H. Garland, Hon. Isham G. Harris, Gen. Joseph E. Johnston, Wm. McCorry, W. Van Benthuyzen, Col. George Gantt, Gen. Bradley T. Johnson, H. O. Seixas, and Hon. John Goode, between July 8, 1885, and August 10, 1885; between August 10, 1885, and the 15th of September, 1885; between September 15, 1885, and the 1st of January, 1886; between January 1, 1886, and the 1st of May, 1886. Said dispatches sent to or from the following offices: Washington, D. C.; Memphis, Tenn.; Pittsburgh, Pa.; and New York, said dispatches relating to a Government suit or matters concerning the Pan-Electric Telephone Company and its subordinate companies." That is all, except the signatures.

Q. That is the subpoena that was served upon you?—A. Yes, sir; on Saturday.

Q. By whom was it served?—A. I do not know the gentleman's name; a deputy, I suppose, of the Sergeant-at-Arms.

Q. Have you the rule to which you refer, with you?—A. No, sir; I haven't it with me.

Q. It is a printed rule, is it not?—A. Yes, sir.

Q. Have you any objection to producing a copy of that rule?—A. I have none myself, but I should like to confer with our officers first.

Q. I should like to have the rule produced. It is the same rule you showed me last week, is it not?—A. Yes, sir.

Q. This subpoena served upon you specifies the parties, does it not?—A. Yes, it specifies the parties.

Q. And specifies the dates?—A. It specifies the dates for about ten months; continuous dates.

Q. It specifies dates from July 8 to August 10, does it not?

Mr. HALL. The subpoena has been read; that will show what it states.

Q. And it states also about the subject-matter, does it not?—A. Yes, sir.

Mr. MILLARD. I know the rule the witness refers to. It does not prohibit the introduction of this evidence, and I would like to have the rule presented and become a part of the case. [To the witness.] What did you do after the subpoenas were served upon you?

The WITNESS. This subpoena?

Mr. MILLARD. Yes.

A. I immediately communicated the contents of it to my superior officer.

Q. Who is he?—A. He is in New York, the superior officer there of the law department.

Q. What is his name?—A. Mr. Feron.

Q. Who did you communicate with in New York?—A. Directly with the law officer.

Q. Give us the name of the gentleman you communicated with.—A. Can I have the privilege of consulting our people before answering that? Must I answer it? I do not know that there is any objection to it, but I would like to have that privilege.

Mr. HANBACK. You stated it was the law officer in New York?

Mr. MOFFATT. You can certainly give the name of the man, I should think.

Mr. MILLARD. You object to producing the telegrams called for on the ground that you have some rule, or if not a rule, then by authority of the company. I want to get at the authority, and for that purpose I ask you this question; you say you communicated with some gentleman in New York; I ask you his name.

The CHAIRMAN. I understand the witness to say that he would like to communicate with the officers of the company before making known the name.

The WITNESS. I do not know that there would be any objection, but I would like that privilege.

Mr. HANBACK. I have no objection so far as I am concerned.

Mr. MOFFATT. I do not see what objection there is to answering the question. He says it is the law officer of the company; what is the objection to his giving his name? I cannot see any earthly objection. If he had said he did not want to indicate the person at all, it would be different. But he has said with whom he communicated; now what is his name? There is no necessity of his making any refusal about that.

Mr. MILLARD. It would be very strange if he could injure himself in any way by giving the name of the party with whom he communicated.

Mr. HALL. I think the request of the witness is entirely reasonable. I think the inquiry is tending towards private affairs, and it is highly proper for a subordinate agent, if he desires, to be allowed to make an inquiry of that kind.

Mr. MILLARD. If he has any superior officer in this matter, I think we ought to know it for the purpose of subpoenaing him, or if this gentleman is acting under the advice of somebody else who outranks him, we ought to know who he is. I insist on my question.

Mr. EDEN. I did not understand the request that the witness made.

The CHAIRMAN. He was asked to name the officer of the company with whom he communicated.

Mr. OATES. And the witness asked an opportunity to confer with the officers of his company before giving the name of the officer with whom he conferred.

The WITNESS. I should have said to confer with my proper superior officers.

Mr. OATES. It seems to me, Mr. Chairman, that if it is desired that he should produce the printed rule under which he acted, together with the instruction, that we should lose nothing, as he would have to go to his office to get that, and he could ask in a minute if he could give the information called for about the officer in New York, and would answer at once whether the disclosure is made or not. Of course, being an employé of this corporation, he wants to keep within due bounds, and I do not blame him for it.

Mr. MOFFATT. Can you conceive of any objection to it?

Mr. OATES. I do not see any objection to it, but still as he makes the request, and as he has to go to his office for the printed rule, we will lose no time over it.

By Mr. HALE:

Q. Where is the superior officer to whom you refer, in this city or in New York?—
A. In New York.

By Mr. MOFFATT:

Q. I understood you to say it was the law officer of your company?—A. I presume it comes from the law officer.

Q. You said you communicated with some man there who is the law officer of your company?—A. I communicated directly to my superintendent, and I suppose it goes through that channel.

Q. You said in answer to the question (you may have misunderstood it) that you communicated with the law officer of your company?

Mr. MILLARD. Never mind; let us pass that. (To the witness.) Have you been instructed by anybody connected with the Western Union Telegraph Company that you must not furnish these dispatches?—A. Yes, sir.

By Mr. MILLARD:

Q. You have been ordered by some person connected with the Western Union Telegraph Company not to produce those dispatches?—A. Yes; that I must decline to comply with the demand of the subpoena.

Q. Where does that person live?—A. My instructions come from the general officers of the company.

Q. But you are not instructed not to answer this question: I ask you where the gentleman lives?—A. I say in New York.

Q. Have you sent him the subpoena?—A. I sent him the contents of the subpoena.

Q. You sent him the contents of the subpoena; when did you do that?—A. Saturday; immediately on receipt of it.

Q. When did he answer you?—A. The same day.

Q. In what manner?—A. In the manner in which I have stated.

Q. Did he answer by telegraphic dispatch?—A. Yes, sir.

Q. And he did it on Saturday?—A. Yes, sir.

Q. And he instructed you not to obey the subpoena?—A. To follow the rules and decline.

Q. That is what I want to get at. What was his answer?—A. I have not got it with me.

Q. Give us the substance of it.—A. The substance of it I gave in my answer to the committee.

Q. Now give the committee the substance of the dispatch.

The CHAIRMAN. Is it desirable to go into that matter?

Mr. MILLARD. I think so, and I will tell you why—

Mr. OATES. Have you the dispatch in writing?

The WITNESS. I have in the office.

Mr. OATES. It seems to me that the best way would be for him to go and get that and get a copy of his rule and bring them both to the committee.

The CHAIRMAN. Is not the committee in this position? The committee has called for the production of certain telegrams, and a subpoena has been served on the proper officer, a gentleman supposed to have custody of them. Is it material for the committee to go beyond that and inquire what the several officers of the company have said in their consultations? We are dealing with a responsible man, and the question for us to determine is, in the first place, as to whether we have the power to compel the production of the papers.

Mr. OATES. I do not think, Mr. Chairman, you take in the point I made, which was this: This witness declines to obey the subpoena, and the committee have a right to know his reasons for declining. Now, merely as giving his reasons for declining he can show his printed rule of instructions and state what the superintendent has said

to him. I do not propose to go any further. I saw the rule that Mr. Millard saw, and my recollection is quite different from that of Mr. Millard about it, or at least I put a different construction on it. I would like to see the rule again.

Mr. MILLARD. So would I. [To the witness.] Have you been instructed by anybody else not to produce those papers?

The WITNESS. No, sir.

Q. Who have you talked with on this subject?—A. No one outside of the persons connected with our office.

Mr. MILLARD. I think he ought to bring the rule and let us see it.

The WITNESS. I presume I can get a copy of the rule at our branch office upstairs.

By Mr. MOFFATT:

Q. You have had no conversation with any parties except people connected with your own office?—A. I don't remember that I have; I think not.

Q. Wouldn't you remember it if you had?—A. Unless it might have been at my house with my family, or something of that sort; no one else.

By Mr. MILLARD:

Q. After you had been served with the first subpoena you came to the committee to see whether you should comply with it?—A. I came up here, and I think I saw you, and also the chairman as well.

Mr. OATES. You saw me as acting chairman; you did not see Mr. Boyle.

The WITNESS. I beg your pardon; I thought you were the chairman.

Q. Have you done anything with reference to looking up the dispatches?—A. No, sir.

Mr. MILLARD. The witness says he can get a copy of this rule up-stairs. I think we ought to go on with the investigation.

The CHAIRMAN. Are you willing to produce a copy of that rule, Mr. Marean?

The WITNESS. I do not think there is any objection to that.

The CHAIRMAN. Will you bring us a copy of it?

Mr. MOFFATT. And while you are gone, I wish you would think over the fact as to what objection there can be to your telling to whom you telegraphed in New York for instructions.

The witness then left the committee-room for the purpose of obtaining a copy of the rule referred to.

Mr. W. VAN BENTHUYSEN. Mr. Chairman, I have noticed since I left here that testimony has been given in some particulars conflicting with the testimony given by myself, and some other matters have been shown here which I desire to ask your permission to reply to.

The CHAIRMAN. Do you wish to be recalled as a witness?

Mr. VAN BENTHUYSEN. Yes; afterwards. I will state in a few minutes what I desire. It has been shown here or charged that I entered into a conspiracy at a certain time. I propose to show in regard to testimony given here by certain individuals that those individuals are unworthy of credence and would not be believed under oath. I mention among those—

Mr. MOFFATT. I object to all this sort of business. If we are to have Mr. Van Benthuyesen here again—

Mr. MILLARD. If he wants to go back to the witness stand and testify, I have no objection.

Mr. MOFFATT. I do not know that I have any objection to that if he is called by the committee. He has refused to testify here, has refused to answer important questions in my judgment, and I do not think we should allow him to come in here on his own motion to clear himself. I do not wish to allow that until he consents to answer the questions put.

Mr. OATES. I think we should instruct the stenographer not to take his statement down; but I think we ought to hear it, so as to know what his point is.

Mr. MOFFATT. I think there ought to be then an executive session.

Mr. OATES. Oh, no; just let the statement be made; let us hear it; but instruct the stenographer not to take it down.

Mr. MOFFATT. It is understood, then, that it is not to go into the record.

The CHAIRMAN. If that is so, I submit that neither stenographer should take it down.

Mr. VAN BENTHUYSEN. Probably it would be well for me to state what I wish to show, and then you can decide about it.

The CHAIRMAN. What is the sense of the committee?

Mr. MOFFATT. I have no objection to it, with the understanding that it does not go into the record.

The CHAIRMAN. I believe it is the desire of the committee that the statement of Mr. Van Benthuyesen shall not be reported at all.

Mr. OATES. After we hear his statement then we can see what it is.

Mr. HALL. What is the reason for its not going on the record?

Mr. OATES. Because we do not know what it is.

Mr. MOFFATT. He has not been requested to come before the committee.

Mr. OATES. He is not testifying now. He is going to make a motion, as I understand it.

Mr. VAN BENTHUYSEN. I think as counsel for myself I have a right to appear here and refute this testimony that has been given already by certain witnesses.

Mr. MILLARD. You are not a defendant at all. This is not a prosecution. You are not upon trial in any way.

Mr. VAN BENTHUYSEN. It seems that some of you have made me appear so, whether it is so or not.

Mr. MILLARD. Oh, no.

Mr. VAN BENTHUYSEN. I beg your pardon. There have been things stated here which are absolutely false, and by people who are not worthy of credence.

Mr. MILLARD. I presume a great many things have been testified to falsely. I agree with you in some respects, that a good deal of it is not true.

The CHAIRMAN. Is there any objection to hearing a request from Mr. Van Benthuisen?

Mr. OATES. Our witness is back now and we can go on with him.

Mr. EDEN. I think if there is any testimony in conflict with that which Mr. Van Benthuisen gave, he has a right to be heard. He has a right to show that he is correct.

The CHAIRMAN. We will take that matter up after awhile.

Mr. MORELL MAREAN then resumed the witness stand.

The CHAIRMAN. Have you the rule of your company about which you have spoken?

The WITNESS. Yes, sir.

The CHAIRMAN. Will you produce it?

The WITNESS. Do you wish me to read it?

The CHAIRMAN. You may read it.

The WITNESS reading:

"RULE 100. Whenever a manager or other employé is subpœnaed on the part of the sender or addressee of a message to produce it before a court or other legal tribunal, he will comply with the subpœna and afterwards return the message to the files; but whenever a manager or other employé is subpœnaed on the part of any person other than the sender or addressee to produce a message or testify in relation thereto before a court or other legal tribunal, he will take the message into court and then submit to the judge that he ought not to produce it or testify in relation thereto, and that he cannot do so unless a rule or order of the court be entered requiring it, for the reason that telegraphic messages are of a confidential nature, and that the communication is claimed to be privileged. If such order be made and entered it will be obeyed, and the clerk of the court will then be requested to furnish a copy of the order, which, together with the subpœna, will be filed with the message to which it relates.

"NOTE.—A subpœna to be regular and valid must describe the desired messages by such specific reference to the names, dates, or subject-matter concerned as will enable such messages to be readily found and identified in the files; but a subpœna which only calls in general terms for such messages as may be found after a search through the files [for example: "All messages passing between John Smith and Richard Brown between the 1st day of July and the 5th day of August," &c.] is irregular and an unlawful subpœna in the nature of a search-warrant, and not founded upon messages known to have existed. It is the policy of the company to contest subpœnas of the latter character, especially where the production of the messages concerned is likely to create public scandal or excitement. On receipt of subpœnas of this class managers will bring the same to the attention of their superintendents, stating particularly the language of that part of the subpœna which calls for the messages."

By Mr. MOFFATT:

Q. Did you communicate fully this subpœna to your superior officer?—A. Yes, sir.

Q. Did you tell him that the subpœna set forth what was supposed to be contained in the messages?—A. I communicated the subpœna in full.

Mr. MILLARD. This is what the rule says: "A subpœna to be regular and valid must describe the desired messages by such specific reference to the names, dates, or subject-matter concerned as would enable such messages to be readily found and identified on the files." Now the point I make is this: That this subpœna specifies the persons, the senders and the receivers of the messages in the first place; in the second place it specifies the dates, and in the third place it specifies the subject-matter.

Mr. OATES. Let me see that subpœna.

The witness produced the subpœna and handed it to Mr. Oates.

Mr. MILLARD. It does not call for any confidential communications or dispatches—to relieve the company of that embarrassment—but it relates to the subject of “a Government suit or matters concerning the Pan-Electric Telephone Company.” I make the further point that this witness has exactly violated the rule in a single respect. The rule says, “Whenever a manager or other employé is subpoenaed on the part of any person other than the sender or addressee to produce a message or testify in relation thereto before a court or legal tribunal, he will take the message into court and then submit to the judge that he ought not to produce it or testify in relation thereto.”

Mr. EDEN. I suppose if the subpoena had identified some particular message he would have taken that course.

Mr. OATES. Mr. Chairman, this subpoena reads as follows: “and produce all dispatches to or from each of the following-named persons to or from each other: Hon. Casey Young, Hon. A. H. Garland, Hon. Isham G. Harris, Gen. Joseph E. Johnston, Wm. McCorry, W. Van Benthuyzen, Col. George Gantt, Gen. Bradley T. Johnson, H. O. Seixas, and John Goode, between July 8, 1885, and August 10, 1885, between August 10, 1885, and the 15th day of September, 1885, between September 15, 1885, and the 1st day of January, 1886, and between January 1, 1886, and the 1st day of May, 1886; said dispatches sent to or from the following offices: Washington, D. C., Memphis, Tenn., Pittsburgh, Pa., and New York, said dispatches relating to a Government suit or matters concerning the Pan-Electric Telephone Company or its subordinate companies.”

I respectfully submit that this subpoena, mentioning the date as between a certain date and another date, covering a large space of time, does not come within the rule at all, because if that was a compliance with the rule you could in a subpoena call for all dispatches passing between two people or any number of people for a space of ten years, or twenty years, or fifty years, by just chopping up the time, by concluding on one day and beginning on the next day, and so on through. So that does not obviate the difficulty, or at least it does not bring it within the rule at all, as I understand it. This subpoena calling for all dispatches relating to two or three matters, broadly stated, is not such a definite description. Now, I will tell you what, in my judgment, that rule means. If the subpoena directed the witness to produce a telegram or telegrams sent by or passing between—to illustrate—Isham G. Harris and Joseph E. Johnston on the 1st, 2d, or 3d days of a month, or coming within some reasonable limit, said dispatches relating to a particular matter, a matter sufficiently described to enable the keeper of the dispatches to easily identify them, as a rule, to find them, it would come within it. But here is a general spread. If there is anything in the shape of a search warrant or drag-net it cannot be broader or more effectual than the language of this subpoena, and the mere fact, as I repeat, that dates are mentioned between certain times, amounts to nothing. For instance, four months at a period are embraced within some of the dates mentioned—dispatches all along through that space of time. Why, it is too general and too indefinite, and it seems to me that the rule is founded in reason and good sense. In the first place, these communications are all of a privileged character; they are private. While the law will not exempt them from being brought into court, it is the duty of a corporation to keep them private and not to produce them, or a batch of them, so that the court or legal tribunal may run over the list and examine the correspondence between the parties and select from it what they want, and reject, it may be, what they do not want, for in that way it would be impossible for any man to inspect the correspondence and select from it such as might be legal evidence, and it would be an exposure, perhaps, of messages that were not at all relevant and whose production could not be enforced. So I think unless there can be a more definite description of the messages desired, that we have not the power to compel their production.

Mr. MILLARD. Can you make a subpoena more specific?

Mr. OATES. I could if I had the information. I presume you could.

Mr. MILLARD. That is the precise point.

Mr. OATES. If you have not got the information, that is your misfortune. It is no reason why we should violate the rule because of our ignorance and want of information.

The CHAIRMAN. Is there anything pending before the committee at this time?

Mr. OATES. I understood the subject was whether the witness should be compelled to answer a question.

The CHAIRMAN. There is no motion of that kind.

Mr. MILLARD. I insist on his answering the question.

Mr. HALE. What question?

Mr. MILLARD. The question I put awhile ago, that he should give us the name of the gentleman who instructed him not to obey the subpoena.

Mr. OATES. I do not see any objection to his answering that.

Mr. MILLARD. I believe Congress has the power to get this information, and that it is the duty of the committee to get it if we have the power to get it, and if we are

authorized, without a violation of the rule that he has read. We should know who is the obstacle to furnishing the information.

Mr. HALL. I do not believe that any corporation in the country has a right to adopt a rule which would preclude a committee from securing a dispatch that can be described with ordinary accuracy. I do not believe that that rule requires us to give the exact date of a dispatch.

Mr. OATES. And no one else does.

Mr. HALL. I think that the ordinary form of a subpoena *duces tecum*, which describes the thing to be produced with ordinary accuracy, would be sufficient.

Mr. MILLARD. How could you make it more specific?

Mr. HALL. You make a wholesale description there. You practically compel them to bring up all the telegrams between certain individuals that you may inspect and examine them. That is the difficulty.

Mr. MILLARD. My answer to that is this: Here was this Government suit brought on the 2d of September. We certainly have a right under that rule to every dispatch sent in the months of July, August, and September. For instance, I can have issued separate subpoenas for every day in August, which this witness would have to comply with. I call for a dispatch between these parties, we will say, for the 2d of September relating to the Government suit or relating to the Pan-Electric Telephone Company. Now, he can come in here and produce, say, dispatches for the month of July (that is not the case now, for we have only covered one month) and he can produce the dispatches for August or for September, or we will say from January 1, 1886, to May, 1886. That covers four months, suppose; that will cover too much time. He said to me this, and I say it to the committee, "It will take us some time to go over this work and look up these dispatches, and we must be paid for the extra trouble." I brought that before the committee and was authorized to say to him that he should be paid for the extra trouble.

The WITNESS. I would like to explain to the committee this additional fact, that I had not then examined this rule particularly. I never have been called before a court to produce messages since I have been manager. I was familiar with the first part of the rule read, and presumed that covered that case; but when I saw the note attached to it, I saw that it applied to this subpoena. At that time I said to you that I did not think it was right for us to give so much labor and trouble without compensation.

Mr. MILLARD. Now, as to the action the committee should take in disposing of this matter, let me say that the books of the Pan-Electric Telephone Company show that dispatches did pass between these corresponding parties, most of them within the dates specified in the subpoena, and I think this committee ought, as a matter of self-protection from outside and just criticism, if they should neglect it, to insist upon the production of these dispatches.

Mr. EDEN. What do you say shows that the dispatches passed?

Mr. OATES. If the books show that any dispatches have passed, then you can describe them sufficiently.

Mr. MILLARD. The books do not show sufficient for that, but they show that the Pan-Electric Telephone Company paid for dispatches received and sent between these parties.

Mr. EDEN. Between what parties?

Mr. MILLARD. Between most of the parties specified here.

Mr. EDEN. I should like to see that.

Mr. MILLARD. Between the district attorney at Memphis and Casey Young, between Senator Harris and Casey Young, and a good many of the parties. That is in evidence.

Mr. EDEN. I do not know that there would be any difficulty in getting those dispatches.

Mr. MILLARD. I should like a vote on the question I put to the witness asking him to give the name of the person from whom he received his instructions.

Mr. EDEN. No court would allow the production of papers on such a subpoena as that, in my judgment.

The CHAIRMAN. I do not understand the witness to decline to give the name. He only desires to communicate with the officers of the company as to whether the name shall be disclosed.

The WITNESS. That is the case.

Mr. HALE. I understand the witness to say that he received this instruction from the main office, from those having charge of the office. I think that is a sufficient answer.

Mr. OATES. I suppose it is a matter of public notoriety as to the names of the officers?

Mr. MOFFATT. Do you mean the name of the man who communicated that instruction?

Mr. HALL. Are their names published?

The WITNESS. I do not know whether they are or not.

Mr. HALE. Do you mean the head officer in New York?

The WITNESS. I suppose the general manager in New York.

Mr. MOFFATT. You say you "suppose." Don't you know whom you telegraphed to?

The WITNESS. Yes, sir. But as this instruction came from my superior officers, I think I should have an opportunity to consult with them.

Mr. HALE. Who is the head man in New York, of your company?

The WITNESS. The general manager of the company is Thomas B. Eckert.

By Mr. MOFFATT:

Q. Did you telegraph to him?—A. No, sir. He is not my direct superior officer.

By Mr. HALE:

Q. Who is your direct superintendent?—A. Mr. Gill, in Philadelphia, and Mr. Tinker, in New York.

Q. Who is your direct superintendent?—A. Mr. Gill, in Philadelphia.

By Mr. MOFFATT:

Q. Is he the man you telegraphed to?—A. I would not like to answer.

Mr. HANBACK. The way I feel about it is this: This is a fair man who is employed by a great corporation, and it is a matter of bread and butter with him to a certain extent, and I do not believe if he thinks he had better not answer that question that he should be compelled to, but he should be allowed to go to the office and make the inquiry, and come back here and say.

Mr. HALE. I think it is a very unimportant question and I dislike to waste time in waiting.

Mr. HALL. I do not know who the attorney is.

Mr. HANBACK. That is for the witness to say.

The CHAIRMAN. I understood him to say a moment ago who gave this direction. We are dealing with a responsible man who is the custodian of these papers, and in any event we will not go beyond him. It does not make any difference who advised him to do it or not to do it, if he takes the responsibility of acting on that advice. It is wholly immaterial to the matter now before the committee.

Mr. OATES. It is a matter of law as to whether he is compellable to answer or not, no matter from whom he got his instructions.

The WITNESS. If you desire, I will now say that my instructions came from Mr. Ferons, the attorney of the company.

Mr. EDEN. I make the suggestion to Mr. Millard that we can examine the books—

Mr. HALE. The witness has already answered the question.

By Mr. MOFFATT:

Q. Do you mean that you communicated with him?—A. Yes, sir; my first communication did not go to him direct, but went through the proper channel.

By Mr. HANBACK:

Q. Whatever dispatches have been received here are all filed away in your Department, so that there would be no difficulty in getting them—that is your custom, is it not?—A. We retain the dispatches for six months, and then they are shipped away and destroyed.

By Mr. MOFFATT:

Q. Have you any dispatches later than six months preceding this time?—A. The last dispatches we have go back to October.

By the CHAIRMAN:

Q. I understand you, then, to say that there are some of the telegrams named in the subpoena which you do not have?—A. Yes, sir.

Q. You only have them back to last October?—A. Yes, sir.

By Mr. MILLARD:

Q. What have you done with the others?—A. They were shipped to New York to the agent of the company, by whom they are destroyed.

Q. You do not know of your own personal knowledge of their destruction, do you?—A. No, sir; I could not tell you in regard to that.

Q. To whom do you ship them?—A. They are shipped to the storekeeper of the Western Union Telegraph Company.

Q. Can you give us his name?—A. I do not know his name. I could obtain it for you.

Q. Did you ship them yourself?—A. No, sir; but I forwarded the memorandum of their shipment and the dates to the superintendent, for each one.

Q. Have you a record of them?—A. We have a record of the shipment—that is, of the dates.

Q. And of the months they were shipped?—A. Yes, sir.

By Mr. MOFFATT:

Q. When were they shipped?—A. The last shipment was made on the 23d of April.

By Mr. HALL:

Q. This last April?—A. Yes, sir.

By Mr. HANBACK:

Q. That was up to October last, you say, and you have the dispatches from October 1st down to date?—A. Yes, sir.

By the CHAIRMAN:

Q. Would a compliance with this subpoena require an examination at all the offices named, New Orleans, Memphis, Washington, and Baltimore?—A. I do not so understand it. I understand it only applies to my own office. I would have no direction over those offices.

Q. I will repeat my question to you. You are required to produce dispatches sent to and from certain persons named, between certain dates, "said dispatches sent to or from the following offices, Washington, D. C., Memphis, Tenn., Pittsburgh, Pa., and New York." Now, I want to know if in order to find the dispatches sent within the last six months to any of those offices it would require an examination of the files of that particular office?—A. Not if the dispatch was sent from this office.

Q. But supposing it was a dispatch sent from Memphis to Pittsburgh?—A. Then it would require a search to be made at the Memphis or Pittsburgh office or both.

Q. Then you could find here only the dispatches sent to or from this office?—A. Yes, sir.

Mr. MILLARD. To each of those offices?

The CHAIRMAN. To each of those offices, and as to those between the other offices named you would have to examine those offices?

Mr. MILLARD. Certainly, but that is not the intention.

The CHAIRMAN. This is the way the subpoena reads: "Sent to or from the following offices?"

Mr. HALE. You could only find such as were sent to or from this office?

The WITNESS. Yes, sir.

Mr. OATES. It was intended to reach only those sent from or received at this office?

Mr. MILLARD. Yes; from the other offices.

By Mr. EDEN:

Q. The other dispatches for the previous time to the last six months you could not produce, because you have not the dispatches here?—A. No, sir.

Q. They are sent off by a general rule of the company?—A. Yes, sir; they are shipped away at the end of the month; at the expiration of about six or seven months.

Q. Does not the same rule which you have read apply to a subpoena to produce a dispatch in court?—A. I understand it does.

The CHAIRMAN. Does any other member of the committee desire to ask any questions?

Mr. MILLARD. I understand that the witness refuses to produce the dispatches called for.

The CHAIRMAN. Yes, for the reasons stated.

Mr. HALE. (To Mr. Millard.) Have you any other questions you wish to put to the witness before this matter is passed on?

Mr. MILLARD. No; not now.

Mr. HALE. I submit that we ought to have an executive session.

The CHAIRMAN (to the witness). We will dismiss you for the present, Mr. Marean.

Mr. OATES. I do not understand that the motion is made to take action upon this matter at present.

Mr. MILLARD. As I understand the law, I think the company is obliged to produce the messages, but I think the committee should take a little time to examine the question so as to act upon it understandingly. I do not think we should act on this question at present.

Mr. OATES. But there seems to be a motion to the effect that we should go into executive session to consider it.

Mr. MILLARD. I should prefer to have the full committee here on such a question as that. Judge Ranney is detained by sickness.

Mr. OATES. I think we can get along without Judge Ranney. If it is a question of voting we can pair without waiting for him.

The CHAIRMAN. There is nothing before the committee, I believe. This gentleman is still on the witness stand, and if any member desires to ask him any questions he may proceed; otherwise I will dismiss the witness.

The WITNESS. One of the gentlemen a few minutes ago spoke as though it was a matter of bread and butter with me; I wish to say in reply to that, that when I cannot comply with the rules of the company I think it will be my duty to resign and let them appoint some one in my place.

Mr. HANBACK. You misunderstood me entirely on that point.

Mr. HALE. I understand Mr. Millard insists upon his question.

Mr. MILLARD. Yes; I insist on his answering the main question.

Mr. HALL. I understand you insist on his producing the telegrams called for in the subpoena.

Mr. EDEN. To produce the telegrams called for in the subpoena?

Mr. HALE. That is the question before the committee.

The WITNESS. That subpoena does not claim the existence of any messages.

Mr. HANBACK. Is it necessary a motion should be made? I understood—

Mr. HALL. We might wait until we go into executive session. There is another similar question pending before the committee. Mr. Hill is here, and we might dispose of both matters at once.

The WITNESS. Shall I remain here?

The CHAIRMAN. We will recall you after the committee has determined whether it will undertake to compel the production of these papers. Is Mr. Hill present?

Mr. EDEN. He was here.

Mr. MILLARD. The manager of the Baltimore and Ohio Telegraph Company was subpoenaed for this morning, too.

The CHAIRMAN. Who is he?

Mr. MILLARD. His name is Clark.

The CHAIRMAN. Is Mr. Clark, of the Baltimore and Ohio Telegraph Company present? [After a pause.] We can hear Mr. Van Benthuyzen now. Is there any objection to that?

Mr. OATES. I move that we hear his motion without its being taken down.

The CHAIRMAN (to Mr. Van Benthuyzen). For what purpose do you appear before the committee?

Mr. EDEN. If the other reporter takes it down, I think we had better have it taken down also.

Mr. MOFFATT. I do not want his statement to go into the record.

Mr. EDEN. I do not, either.

Mr. MILLARD. If he wants to testify, I have no objection.

Mr. OATES. Let the reporters, both of them, take it, and it will be then a question as to whether or not it shall go into the record.

The CHAIRMAN. If you will allow me, I would like to ask and ascertain what he wants to say to the committee.

Mr. VAN BENTHUYSEN. I will state what I want to say and then you can tell afterwards.

Mr. MOFFATT. There is a misunderstanding in regard to this matter. It was agreed that this should not be taken down, but some member of the committee instructed the reporter to take it down, and it is being taken down.

Mr. OATES. I insist upon it if the other reporter takes it down.

The CHAIRMAN. I requested the gentleman who reports for the Bell company not to take it if the committee determined that it should not go on to the record, and of course he will comply with the request of the committee.

Mr. EDEN. I do not think it is right for one reporter to take it and not the other.

Mr. MILLARD. We have but one official reporter.

The CHAIRMAN. I referred to the gentleman making the Bell company report.

Mr. HALL. I do not think the committee has a right to dictate to an outsider about his taking it down.

Mr. MOFFATT. But we have a right to dictate to the other reporter.

Mr. HALL. I do not see any sense in not allowing the Bell company to take it down and supply it to the journals if they think proper; I mean to supply the record of our proceedings.

Mr. MOFFATT. This gentleman (referring to the reporter for the Bell Company) is here by permission of the committee, and of course if we tell him not to take down anything he will not do it.

Mr. HALL. I do not think he is here by permission of the committee.

Mr. MOFFATT. Suppose the committee refuses him permission to be present?

Mr. OATES. The committee could exclude every one from the room if it thought proper.

Mr. HALL. It would cease to be a public inquiry then.

Mr. HANBACK. That would exclude all the press reporters.

Mr. EDEN. I think the committee reporter might take it down, and then it can be afterwards determined by the committee whether it shall stay on the record.

Mr. MILLARD. I am opposed to any statement that the gentleman may make going into the record, unless he goes back upon the stand and testifies.

Mr. HALL. You have consented to other gentlemen making a statement. A Massachusetts judge sent a letter here, and other letters and communications have been made and sworn to for the purpose of going on this record, and Judge Ranney and yourself have moved to have them admitted, and they are part of the record now!

Mr. MILLARD. No, sir; I have done nothing of the kind; the witness was not here. I am opposed to any statement that the gentleman may make going into the record unless he goes back on the stand and gives it to us in the shape of evidence. It seems to me that that is lawyer-like.

Mr. EDEN. I suppose the committee does not know now whether it is to go on the record or not. Mr. Van Benthuyzen is here for the purpose of stating what he wants.

Mr. MILLARD. Supposing every witness should make a personal request of this kind?

Mr. OATES. Let it be taken down, but I do not propose to let it go into the record unless it is testimony.

Mr. HANBACK. Does he make it under oath?

Mr. OATES. No; it is not evidence to go into the record unless we put it in there.

Mr. MOFFATT. In other words, he could put a stump speech into the record?

Mr. OATES. Not at all; I do not think it is going into the record.

The CHAIRMAN. If any gentleman has a motion to make in regard to this matter I will hear it.

Mr. HALE. I move that Mr. Van Benthuyzen be permitted to take the stand as a witness and state what he desires.

Mr. OATES. I am opposed to that. It may be a repetition of what he has said. I move as a substitute for that that we hear his statement and his motion—I do not know what he wants—and that reporters go ahead and take it down, but that the statement shall not go into the record unless a vote of this committee puts it in there. Do you accept the modification?

Mr. HALE. I think he ought to state under oath whatever he wants to state.

Mr. OATES. I do not know what he wants. Let us see what he wants.

Mr. MILLARD. He can tell us under oath what he wants.

Mr. HALE. I do not think he ought to make any long speech to the committee.

Mr. HALL. I know nothing more about it than what has appeared by his first suggestion to the chairman, that he is under the impression that there are some conflicting statements, contradictory, perhaps, of his own testimony.

Mr. HANBACK. Let us recall him and have him testify.

Mr. HALL. That is not it. It involves his personal interest as an individual, and also an interest that he represents. He probably seeks to ask permission to give this committee information as to the names of witnesses whose testimony will tend to affect the question one way or the other. I think it is entirely proper for a witness who has been on the stand under these circumstances to be allowed to state to the committee what he desires.

Mr. HALE. He might state that to the Chairman and give the names of the witnesses.

The CHAIRMAN. My understanding of the offer of Mr. Van Benthuyzen was, that he came before the committee in order to make a request to be allowed to produce evidence on a certain subject. My judgment is that anybody has the right to do that.

Mr. EDEN. I think so.

The CHAIRMAN. Whether he had been on the stand or not. But I say further that I do not think he or any one else would have a right to appear here and make a statement of facts. But if he wants to produce evidence on certain points or subjects that have been before the committee or that he proposes to bring before the committee, I should say that he had a right to do so.

Mr. MILLARD. You can ask him the question.

The CHAIRMAN. That is what I have asked him already.

Mr. MOFFATT. There is one further objection I have in this matter, Mr. Chairman. Mr. Van Benthuyzen is in contempt of this committee. He has been here before it and repeatedly refused to answer questions which, in my judgment, were pertinent to this inquiry, and he now comes before us to ask of this committee a certain favor. Now, until he purges himself of that contempt and consents to answer any proper questions put to him, I object to his making any statement.

Mr. EDEN. Did he refuse to answer any question that the committee decided he should answer?

Mr. MOFFATT. I do not know that he did refuse to answer any question put by a vote of the committee. But he said repeatedly that he would not answer such and such questions, and that he did not propose to answer any such questions.

Mr. OATES. I remember being in the chair at one time when some point of that kind was made, and as the occupant of the chair I ruled against requiring Mr. Van Benthuyzen to answer the question, because it was outside of the scope of the inquiry.

Mr. MOFFATT. Sometimes that was so, but in addition to that, from day to day he said, "I refuse to answer that question."

Mr. OATES. I do not think he refused to answer any question which the committee voted he should answer.

Mr. MOFFATT. I suppose not.

Mr. OATES. It takes that to constitute contempt.

Mr. MOFFATT. Of course I do not mean technical contempt of the committee. But when a man says "I will not answer that question," and you haven't power to make him answer it, it is enough contempt for me.

Mr. HALE. My motion is that Mr. Van Benthuyzen be allowed to state his request.

The CHAIRMAN. My inquiry of Mr. Van Benthuyzen was for the purpose of bringing that out before the committee. It seems to me that that is a proper proceeding.

Mr. MOFFATT. When the chair interrogated him upon that question he commenced to pull out a document and read it, and that is what I did not want to go into the record.

The CHAIRMAN. I will not allow it if I can help it.

Mr. HALE. I accept the amendment as suggested.

Mr. OATES. All I wanted was to enable him to make known by a statement here what it was he desired to do, not to make it any part of the record, even if it is taken down.

Mr. MOFFATT. Why then should it be taken down?

Mr. OATES. If it is, I move that it be excluded and not be made any part of the record. It does not hurt anybody.

Mr. HALE. I should like to have the chairman ask Mr. Van Benthuyzen if he cannot put his communication in writing.

Mr. OATES. It seems that he has got it there in writing.

Mr. MOFFATT. I should object to that—to his reading a statement.

The CHAIRMAN. I think the committee will be content with the question.

Mr. OATES. Let him go on. We can stop him at any time.

The CHAIRMAN (to Mr. Hale). Do you withdraw your motion?

Mr. HALE. Yes.

The CHAIRMAN (addressing Mr. Van Benthuyzen). The committee desires to know for what purpose you appear here to-day; and I suggest to you that it seems to be the sense of the committee that you should not now make a statement of facts, but merely indicate the purpose for which you desire to be heard.

Mr. VAN BENTHUYSEN. Since I left here there has been testimony given before this committee that would lead the outside world to suppose—

The CHAIRMAN. I think you are now going beyond my suggestion. Do you wish to introduce testimony here for any purpose?

Mr. VAN BENTHUYSEN. Yes; I want to introduce testimony.

The CHAIRMAN. On what point?

Mr. VAN BENTHUYSEN. On the testimony that has been given here recently by Mr. Sypher, Mr. Hill, Mr. Clark, Mr. Crawford, Mr. Dana, Mr. Reid, and Mr. Pulitzer.

Mr. HANBACK. And Mr. Jones?

The CHAIRMAN. Is it for the purpose of contradicting what they have testified to?

Mr. VAN BENTHUYSEN. I want to show that some—

Mr. MILLARD. I object to what he wants to show.

The CHAIRMAN. You need not state the facts. You understand what the purpose of the committee is?

Mr. VAN BENTHUYSEN. I do not hear everything that is said, and therefore I do not fully understand. If you don't want to let me make a statement of what I want to show, you can afterwards rule it out.

The CHAIRMAN. The committee does not seem to be disposed to have your statement. They want to know on what particular points you desire to introduce evidence.

Mr. VAN BENTHUYSEN. In regard to the charge of conspiracy on my part with officers of the Government.

The CHAIRMAN. I ask you again if you want to contradict the testimony of the witnesses named by you?

Mr. VAN BENTHUYSEN. Not only to contradict them, but to show that some of them are unworthy of credence.

The CHAIRMAN. You want to attack the character of some of them?

Mr. VAN BENTHUYSEN. Yes, I do. I want to show that some of them are unworthy of credence.

The CHAIRMAN. We understand that.

Mr. HALE. I suggest that he be asked now if he has the names of the witnesses he desires to introduce.

Mr. VAN BENTHUYSEN. I want to show also that there was a conspiracy entered

into between the Bell company and these people, and that improper means have been used—

The CHAIRMAN. I will ask you now to regard what I said to you, and merely answer the questions. You will have to follow the direction of the committee. Can you indicate the names of the witnesses whom you want to call?

Mr. VAN BENTHUYSEN. I will produce it. It is documentary evidence.

The CHAIRMAN. But do you want any witnesses called?

Mr. VAN BENTHUYSEN. Yes, sir.

The CHAIRMAN. Can you name them?

Mr. VAN BENTHUYSEN. I cannot name them all now.

Mr. HALE. About how many does he propose to produce?

Mr. HANBACK. And where do they reside?

Mr. VAN BENTHUYSEN. There are quite a number. I should have to write them down.

Mr. HALE. There are quite a number? Oh, well, that is enough.

The CHAIRMAN. It is a question now, whether the committee will go into the matter as indicated by the witness.

Mr. VAN BENTHUYSEN. I forgot to add that I would like to be represented by counsel also.

Mr. HALL. When will Judge Ranney return?

Mr. MILLARD. He will be back to-morrow morning.

Mr. HALL. I moved that this matter be referred to a committee composed of Mr. Boyle and Judge Ranney, and that they have an interview with Mr. Van Benthuyesen, and determine and report to the committee as to the matter of action.

Mr. MILLARD. I second that motion.

The CHAIRMAN. Put some other member on instead of me.

Mr. HALL. Then I suggest Mr. Oates.

Mr. OATES. Excuse me; I shall decline to serve on it.

Mr. HANBACK. Your motion is right.

Mr. HALE. I think we had better determine first whether we shall go into this part of the investigation.

Mr. OATES. I am perfectly willing to postpone the matter, as the gentleman on that side of the table desires, until Judge Ranney is here, and then, I think, Mr. Van Benthuyesen or anybody else who wants to produce evidence might come before the committee and state it fully, so that it does not take up too much of our time, and I do not care in what form he states it, so far as I am concerned, and then I shall be prepared to vote on it as to whether we will go into it or not. I think it will be time enough then for us to consider the testimony and how much further we should go.

Mr. HALE. This proposition would not involve too much, in my judgment, to go into it in that shape.

Mr. MILLARD. It is a matter we can safely leave to Mr. Boyle and Mr. Ranney.

Mr. HALE. They are safe men, I know.

Mr. OATES. I shall oppose any such motion myself.

Mr. HALL. I do not care anything about it. Mr. Millard and some of the gentlemen on the other side are objecting to this going into the record, unless he shall resume the witness stand.

Mr. MILLARD. I am in favor, if Mr. Van Benthuyesen has any important witnesses, that they should be brought here. He speaks of the testimony of Mr. Dana, Mr. Read, Mr. Pulitzer, and Mr. Clark, and they are all important witnesses; and if he has anything to show that they have in any manner testified untruthfully, I am willing to open the door and have them sworn.

Mr. EDEN. I think he certainly has a right to contradict them in any way, if he has evidence that he can contradict them, by which is important.

Mr. MILLARD. I think the extent to which we can go in that matter we can safely leave to Mr. Boyle and Judge Ranney.

The CHAIRMAN. I think that is a question for the committee itself.

Mr. OATES. I think the committee would have to decide it eventually. I do not think they would like to.

Mr. HALL. I am going to withdraw the motion. I am ready to vote to adjourn.

Mr. OATES. I move that the committee adjourn until 12 o'clock to-morrow.

The motion was agreed to, and the committee adjourned until Tuesday, May 18, 1886, at 12 m.

WASHINGTON, D. C., *Tuesday, May 18, 1886.*

The committee was called to order at 12.20 p. m.

The CHAIRMAN. I have the return of the testimony from New Orleans. I will open it. [Opens package.] The members of the committee can look at their leisure. General Johnson is present this morning to be further examined. I will recall him.

BRADLEY T. JOHNSON, who had been previously examined as a witness in the case, was recalled.

By the CHAIRMAN (Mr. Boyle).

Question. Is there anything you desire to say to the committee?—Answer. Yes, sir. When I left here on the 16th of April last, I did so after a promise to produce to the committee the correspondence between Col. Young and myself, relating to the bringing of the Government suit. I procured that correspondence from among my papers and left it in Baltimore last week when I went away to spend the week at Annapolis. I came over here with it on Monday a week ago, but the committee had no quorum. So I saw Col. Oates and went away on the understanding that I was to be notified when to come. I directed the correspondence to be sent this morning by express to Mr. Gardner, the secretary of the company. I saw Mr. Gardner a little while ago, and he had not yet received it. When it comes I will have handed to the chairman of the committee all my letters from Col. Young.

When I was examined before the gentlemen were rather pressing upon two points. One of those points is this: It appears that a paper was produced by Mr. Gardner and offered in evidence—a report of mine to the board of directors of the Washington Telephone Co., dated September 10, 1885, which is indorsed “Not acted upon, because of satisfactory provisions otherwise made.” I was interrogated as to what those satisfactory provisions were. I declined to give any information about them, because they were private arrangements between myself and my company, and were not within the purview of this investigation. I prefer now to state to the committee that they were provisions relating entirely to my own fees and the compensation I was to receive for professional services in connection with the suit. [Referring to book of the company.] The satisfactory provision that was made with me at that time, in lieu of the one proposed in that paper, was one relating entirely to compensation to be paid to counsel, and had no relation to the Government suit or any other public matter of any kind. Without offering this book in evidence or allowing it to be used in evidence, I prefer to show it to the committee for the purpose of showing what the arrangement was. I do not propose to allow the book to go in evidence, but prefer that Mr. Ranney, yourself (the chairman), and the gentlemen of the committee should see what it is. [Book submitted to the committee for inspection.] That is the satisfactory provision that was referred to and about which Mr. Ranney interrogated me. I knew exactly what it was, but I did not propose to communicate it, because it was a private professional matter. I do not propose to do it now, but I prefer letting you gentlemen know there is nothing to conceal and nothing that is wrong.

Q. You say it relates entirely to your fees and has no connection with the Government suit?—A. It has no relation to the Government suit at all. It is entirely a professional and personal matter between myself and the company.

By Mr. HALE:

Q. Between you and your own company?—A. Yes, sir; between me and my own company. It has no relation to the parent company or to any other suit except the suit that was then pending in Baltimore against my company, or the suit I was promoting which had been brought in Baltimore and was to be heard on the 15th of September. That arrangement was made on the 10th of September, and the hearing in Baltimore was to take place on the 15th of September. This report I made to my company was in regard to the arrangements for the defense of the suit; and the company made some other proposition to me which was satisfactory and which was accepted in lieu of the proposition I made myself.

Mr. HALE. That is a matter that is certainly none of our business.

The WITNESS. None of your business in the world; none in the world, sir.

By the CHAIRMAN:

Q. Is there any other matter that you wish to refer to?—A. I would like to say that I have instructed the secretary of the Washington Telephone Company to exhibit, to any gentleman of the committee who wants to look at them, all the papers and records of that company. I object to producing them as testimony, because I do not think they are competent testimony. I do not think the committee has any right to inquire into them. There is nothing to be concealed in the transactions of the company. They are open to the examination of any gentleman of the committee who desires to examine them—whenever they choose. I have examined the list of the stockholders of the company. I was interrogated as to whether a name on the list

of stockholders was A. F. Gorman or A. P. Gorman. There is no such name as Gorman on the list, and nothing like it. I do not propose to offer the list in evidence, but only to let the gentlemen of the committee see it. There is no mystery about this matter, and I am only standing on my legal rights as to what I shall testify to and what I shall not testify to. There are two gentlemen who were members of Congress some time ago, who are stockholders of that company. One of them is Gen. Van H. Manning; the other is Col. Casey Young. Gen. Manning was elected a director of the company, I think, after the expiration of his term as a member of Congress, so that he was not a member of Congress at the time he became a stockholder. Col. Young was a member of Congress at the time he became a stockholder. These are the only two names on that list in any way connected with any Department of the Government so far as I know.

Q. What was the date of Mr. Manning's election as a director?—A. I couldn't tell you that.

Q. I ask it simply because you state it was after the expiration of his term as a member of Congress.—A. I don't think I remember when General Manning went out of Congress. I can only state it in that general way.

Q. He was not a member of the last Congress?—A. He was not a member of the last Congress. He was elected in the summer of 1885, sir, or the fall of 1885.

The CHAIRMAN. No.

The WITNESS. I mean as a director in this telephone company. He was not elected a member of Congress then. He went out of Congress on the 4th of March, 1885, did he not? He is not a member of this Congress.

Mr. OATES. He went out on the 4th of March, 1885.

The WITNESS. Very well. He was not connected with the Government at all when he became a stockholder in this company.

Q. Have you any other matter you wish to bring to the attention of the committee?—A. I do not want to take up the time of the committee or my own time either by appearing here again, and if you will allow me to go on a little irregularly about the correspondence I would like to explain some things. I ought to have it here and explain it to you as I go along. It ought to have been here this morning; I don't know why it is not. It will certainly be here during the course of the day and will be handed to the chairman. In March, 1885, I found a letter of mine to Col. Young, giving an opinion as to the expediency of bringing the suit in Memphis, Tennessee, by the Pan-Electric company against the Bell company, to enjoin them from slandering the title of the Pan company there, and advising as to the propriety of that action.

By Mr. EDEN:

Q. That is a part of the correspondence?—A. That is a part of the correspondence.

Q. Which will be delivered to the committee?—A. Which will be delivered to the committee; yes. On the 8th of July, 1885, Col. Young came to see me in Baltimore, and there we made some further examination of the law on the subject. He must have left on the night of the 8th of July and got to Pittsburgh on the morning of July 9. On the night of July 9 he wrote to me fully about the Pittsburgh suit. You will see that letter. It is among the papers. After that I pressed him very much to proceed with the Pan-Electric suit in Tennessee, because I wanted that matter brought to a point. I proceeded to prepare a bill against the Bell company myself in order to bring a suit in Baltimore, if they once gave me any occasion to do so. They never did move against me until the 3d of July, 1885, when they published notices in two daily papers of Baltimore, notifying our customers that they would be sued for infringement of the Bell patent. To that I replied by the letter which is in my testimony in the record. I proposed bringing suit against them on the 20th or 22d of July. I have not the letters here to fix the date. I filed a bill in the State court to enjoin them from a slander of my title. The Bell company brought suit in the Federal court, I think, on the 16th of July. They accepted the issue I made with them, and brought a suit against the Pan-Electric company, the Washington company, of which I am the president, and the Washington company of Maryland. The court had no jurisdiction as to either one of the companies. They had no jurisdiction as against the Pan-Electric company, because that was not doing business in the district; they had no jurisdiction against my Washington company, because mine was a Tennessee corporation, and I was not transacting business within that district, and therefore they had no right to sue me. They had no jurisdiction against the Washington company of Maryland, because that was in the hands of a receiver of the State court, and they had no right to sue a corporation that was in the hands of a receiver of the State court.

When the suit was brought on the 16th of July, I was confronted with it; I was forced to issue on the Baltimore case, and I did not propose to back out and run away from a fight I had brought on myself, and I went into court and entered a special appearance for my company, not raising the question of jurisdiction at all, and meeting the issue they made. It stands that way now. You asked me before at what

time the appearance of Mr. Stirling was entered. I find from the record that none of us ever did enter any appearance at all, and have not to this day. There was a special appearance for the purpose of moving to dismiss the bill on account of the pending litigation in Tennessee. That explains some portion of the testimony that has been given heretofore.

I find that about the 21st of July Colonel Young sent me a copy of Colonel Val Benthuyssen's letter to the Attorney-General, demanding that a suit be brought in the name of the Government against the Bell company to vacate their patent. I will give you a copy of Colonel Young's letter to me and the inclosed copy of Van Benthuyssen's letter to the Attorney-General. Both will be among the file of papers I will hand to you in the course of the day. So when I said the other day I had never heard of the Government suit until I came to the conference here in Washington on the 27th or 30th of July, I was mistaken. I had heard about it on the 21st of July preceding, by the letter from Colonel Young, but it made so little impression on my mind that I went right straight along in my own way, making all the preparations for the fight against the Bell company in our court. I never paid any attention to the Government suit at all. However, I heard about the act of Congress that had been passed authorizing a suit to be brought, and it turned out that the bill had never passed the Senate and therefore had not become a law; and then Mr. Von Briesen and myself had some talk on the subject. We discussed the general proposition, and I was quite satisfied the law was sufficient without an act of Congress.

In the State of Maryland, where I have resided and practiced law a good many years, and in the State of Virginia, where I have also resided and practiced law, it had been the custom from colonial times to vacate patents by *scire facias* and bill in equity. It was the common practice for a hundred and fifty years, and I can find for you fifty cases. It was the common practice in Virginia to do the same thing, and if any of you are sufficiently interested in the subject you will find a reference to it in Mr. Jefferson's Notes on Virginia, in a book that was written in 1781. He said it was the common practice to vacate patents by *scire facias* or bill in equity.

When Mr. Von Briesen and I discussed this matter, it all came to my mind, and I was satisfied that the general power existed without an enabling act. That was the reason why the suggestion that was made to me here in July made no more impression on my mind than it did. I never had a doubt that the suit would be brought, because I supposed we had a right to have the suit brought, and I did not suppose it was possible for the Attorney-General on account of any personal relations to interpose and defeat a great public right, or attempt to do so. I was here on the 30th of July, when I had the conference at the Ebbitt House with the gentleman in relation to the bringing of the Government suit. I was here again on the 3d of September and I saw the Solicitor-General, Mr. Goode, and asked him whether the suit had been ordered.

The suit was ordered on the 3d of September, and it was brought in Tennessee on the 9th of September. I think you will find those dates to be verified on the record. I tried to get a copy of the telegram that was sent to me from Memphis announcing the bringing of the Government suit. I inquired at the office in Baltimore, and I found they send all their dispatches off and put them in the paper mill as soon as possible, probably within thirty days, so that I can get no copy there. I cannot find a copy among my papers, but I know precisely what the telegram said. The telegram was a Western Union telegram, stating that the suit had been brought to-day—whatever the date was. I got it on the 10th of September.

Q. Do you desire to make any further statement?—A. That is all I have to say.

The CHAIRMAN. The gentlemen of the committee may proceed to examine you.

By Mr. OATES :

Q. After the date of that meeting that you spoke of, at the Ebbitt House, along during August or the 1st of September, did you ever attend any conference held by members of the National Improved Telephone Company and the Pan-Electric company at Colonel Young's rooms, No. 1327 G street, in this city?—A. After the first meeting at the Ebbitt House, which was my first connection with it—July 27—from that time, during the month of August, did I attend such a meeting there? I am reasonably certain I did not. I am as certain as a man ought to be about such a thing. I don't think so. I haven't the slightest recollection of it.

By Mr. RANNEY :

Q. You say your conference at the Ebbitt House was on the 27th of July?—A. Yes, sir; the 27th and 30th. My name is registered there on the 30th, but I am satisfied I was there a day or two days before.

Q. Whom did you see there on the 27th?—A. I saw the same gentlemen I saw before. I saw Colonel Van Benthuyssen, of New Orleans, Mr. Huntington, of Mississippi, Col. Casey Young, and Col. George Gantt. I don't want to be tied to that date. It was about that time. I saw those gentlemen at that conference, whether on the 27th or the 28th I am not prepared to say.

Q. What makes you fix on that day?—A. Because I have a recollection that I was here on the 27th and 30th. I was over here to attend the committee a week ago yesterday and I went to the Ebbitt House and examined the register, and I am satisfied I saw my name registered here on the 27th. I looked for it this morning and I couldn't find it. You can see what the register shows.

Q. Don't you find your name is registered there for the first time on August 1?—A. No, sir; my name is registered the first time on July 30, according to what I find this morning, but when I examined it on last Monday I found my name registered July 27.

Q. What day of the week was July 30?—A. I cannot tell you.

Q. Were you not here on the 31st?—A. I think I was; yes, sir.

Q. Whom did you meet on the 31st?—A. The same gentlemen I have just named.

Q. Was Mr. von Briesen there?—A. He was.

Q. Was he there each time when you were there?—A. He was there twice when I was there, certainly, but I have an idea that the last time I was there he had gone off to New York.

Q. The last time?—A. I think so. I am not sure about that.

Q. Whom did you meet the last time after Von Briesen left?—A. I think I met precisely the same gentlemen. I have no recollection of meeting anybody except Col. Young and Col. Gantt, from Memphis; Col. Van Benthuyssen, of New Orleans, and Mr. Huntington, of Mississippi; I can't remember anybody else.

Mr. RANNEY. I have seen those records. Have they been put in yet?

Mr. OATES. The registers?

Mr. RANNEY. Yes.

Mr. OATES. No; they never have been put in.

Mr. RANNEY. The dates appear very clearly by the record.

The WITNESS. My name is registered there on the 30th of July, and the 3d of September, and I was satisfied it was registered on the 27th of July. I still can't understand why I could not find it this morning, because I certainly saw it there a week ago.

Q. Do you recollect having an interview there with these gentlemen on the 31st of July, when Mr. von Briesen was present?—A. I don't remember it, but I think it is entirely probable.

Q. Do you remember in what room it was held?—A. Yes, sir; perfectly.

Q. What room was it?—A. It was a corner room, probably in the 3d story, down on Fifteenth street. The Ebbitt House is on the corner of Fifteenth street, is it not?

The CHAIRMAN. Fourteenth street.

The WITNESS. It was down the hill towards Willard's; down Fourteenth street, towards the avenue.

Q. How long did that conference last?—A. The conference lasted some hours I would say. I got over here about ten o'clock in the morning, and the conference lasted all day, until probably three o'clock in the afternoon.

Q. Did Mr. von Briesen stay through it?—A. I cannot tell you.

Q. Can you tell us what was said there?—A. No, sir. I will tell you that the general discourse was on the subject of having a suit; the legal power of the Attorney-General to order a suit to vacate a patent. There was a general discussion between Major von Briesen and myself as to the power of the Government to order a suit to vacate a patent procured by fraud.

Q. The conference related to the Government suit?—A. Yes, sir.

Q. Was there anything else discussed beyond the power of the Attorney-General?—A. No, sir; I can't say that. If you will ask me the direct question you are after I will answer you.

Q. I would like your recollection of that interview. As I was not there I am obliged to seek my information from you?—A. Yes; but you have got something you want to find out; you have something in your mind that you want to know about. I haven't the faintest idea of what it is. I don't remember any subject of discussion except that.

Mr. RANNEY. I don't want you to fly from anything you think I may have.

The WITNESS. No; I am not afraid of anything you have; nothing in the world.

Q. I want your recollection of what the interview was. Can't you tell us what the discussion was?—A. The discussion was as to the power of the Government to bring a suit to vacate a patent, without an enabling act of Congress.

Q. Was that all?—A. I would not be willing to say that was all. It was a conversation covering several hours.

Q. Was that the whole subject of conversation?—A. No; I don't think it was.

Q. What else was there?—A. I think the subject of conversation was very largely the means by which the patent was illegally procured and the evidence that could be procured to vacate the patent; the probability of people having been bribed in the Patent Office to procure the patent.

Q. Was there anything else that you can remember?—A. No; I can't remember anything else beyond that. The general scope of the discussion was as to the advisability of attacking the patent.

Q. Was there any conference as to where the Government suit should be brought?—

A. I expect there was; yes, sir. I think there was.

Q. The question where the Government suit was to be brought was talked over?—

A. Yes, sir; I think it was.

Q. That you had forgotten about. What was said on that subject?—A. I think there was considerable discussion as to where the Government suit should be brought. There was considerable discussion at the time about the law of the matter, as to what court had jurisdiction; in what district we could get jurisdiction.

Q. What was the discussion?—A. I don't know. I couldn't tell you that.

Q. Was any particular judge mentioned or discussed?—A. I can't say that. I think the judges were discussed and mentioned.

Q. Was there any judge that they talked about that they thought would be a good man to bring it before?—A. Yes, sir; I think they named half a dozen of them.

Q. Was Judge Baxter one of them?—A. Judge Baxter was undoubtedly one of them.

Q. Do you recollect what was said about him?—A. I can't remember anything specially; in general that Judge Baxter was a very brave and very honest man and a very good judge. I had known Judge Baxter at that time for a long period of time and had had knowledge of his career.

Q. Was there anything said about his reputation for hostility to patents?—A. I couldn't say that.

Q. You cannot say whether anything was said one way or the other?—A. No, sir.

Q. Were you not aware of the fact that he was quite notorious for his hostility to patents, so much so that no patent lawyers would bring suits before him?—A. I was not. I know the judge before whom I practice had quite a character in that way and I advised against bringing the suit before him.

Q. Who was he?—A. Judge Bond, of Baltimore. Judge Bond is by no means friendly to the patent laws generally. His decisions do not run that way. I advised against bringing the suit in my own district, for the reason that it would require an exceedingly laborious examination, and I did not think Judge Bond was a patient enough man to do it.

Q. Was not your reason that some one said Judge Baxter was quite notorious for his hostility to patents and had made a reputation in that line?—A. I cannot say so, sir. I cannot say I remember anything of that kind.

Q. Can you remember anything that was said about it?—A. Yes, sir; there was a great deal said about Judge Baxter. I had known Judge Baxter in North Carolina as long back as 1852. I knew his character very well.

Q. I do not ask you for what you know. I want to know what was said here?—A. You want to know what was said, and therefore I will give you the reasons for my trying to remember what was said. What was said about Judge Baxter was quite in approbation of his general character and his force.

Q. His force?—A. Yes, sir.

Q. On what objective point was his force?—A. His force in trying a case on the merits of the case without regard to the people who were behind it and promoting it, and without regard to the power of a great corporation. I suppose Judge Baxter would be as fair a man as we could get.

Q. There was nothing said about his force as directed against patents generally?—A. Nothing about patent smashing; no, sir.

Q. You are sure nothing was said about that?—A. I am not prepared to say that; I am not prepared to say nothing was said. I don't remember anything that was said in that direction. After the suit was brought, or attempted to be brought in Memphis, Tennessee, there was a great deal of talk as to his being a patent smasher. I knew nothing about his reputation in regard to patents and did not hear anything about it until it came out in these publications after the suit was brought in Tennessee, when the charge was made that we selected Tennessee because of the reputation of Judge Baxter as a patent smasher. I knew nothing about it at that time. I did not know he had ever tried a patent case.

Q. You are quite sure he was discussed?—A. Certainly he was discussed. A judge in St. Louis was discussed, and a judge in Cincinnati was discussed. I couldn't remember the names.

Q. Was not the principal part of the conference in regard to the question as to where the suit should be brought?—A. The principal part of the conference was as to where the jurisdiction was. First, whether the Government had the right to bring the suit itself without an enabling act; and second, in what district the Government could get jurisdiction over the Bell company. Those were the two propositions we were laboring with.

Q. Are you speaking of the interview of July 30th or 31st?—A. I am speaking of the interview of July 30th or 31st.

Q. Which one?—A. Both of them.

Q. I have been talking of the interview of July 31st, when Mr. Von Briesen was there.—A. Mr. Von Briesen was there on the 30th also.

Q. Was Casey Young there on the 31st?—A. He certainly was.

Q. Was he there on the 30th?—A. He certainly was.

Q. What time in the day was that interview on the 30th?—A. After 11 o'clock in the morning?

Q. And before night?—A. From 11 o'clock probably until 3.

Q. Who was there on the 30th at that first interview? Name each one if you can.—

A. Mr. Van Benthuyssen, Mr. Huntington, Mr. Young, and Mr. Gantt.

Q. Where was that conference held?—A. In the room at the Ebbitt House that I have just described.

Q. Both of the conferences were held in the same room?—A. Yes.

Q. At that time was discussion had as to where the suit should be brought?—A. I cannot remember that, but I have no doubt it was. I have no doubt that the discussion of the 30th and 31st had relation to where the suit ought to be brought.

Q. I have looked at the record and taken a minute of it. It is to be brought here, and I am sorry it is not here this morning. I think you will find, if I am correct in my recollection, that Casey Young and Colonel Gantt did not come until the night Southern train of the 30th, and were there for lodging on that night; that they did not get there until the evening Southern train of the 30th of July.—A. It is quite possible.

Q. If that is true, you could not have had a conference with Colonel Young and Colonel Gantt.—A. I might have had it. They might have come in the afternoon train after dinner, and I might have seen them in the afternoon. They were not there probably before dinner, if the register so states. I put my recollection against the register that they were there on the 30th, the first day I got there. I don't care what the register states.

Q. Were you aware that Casey Young stayed here until the 7th of August?—A. I was not.

Q. Did you not see him after the other parties had left?—A. I cannot tell you that. I was here frequently during that time, but whether I saw him or not I cannot tell you.

Q. Did you visit him at his room on G street after the others had left?—A. I think that is entirely possible, sir, but I have no recollection of it. I have visited him at his rooms on Thirteenth or Twelfth street.

Q. 1327 G street?—A. I never was there at all. Where is G street? If you will give me some idea of the geography, I will tell you.

Q. G street is the next street to that on which the Ebbitt House is located. Did you meet him at his rooms there?—A. No, sir; I never was at that room.

Q. Were you not during that time arranging with him for the trial of the Baltimore case?—A. No, sir; I was not arranging with him about the trial of the Baltimore case. I was trying to get him to arrange about the trial of the Baltimore case.

Q. Did you do anything about the Baltimore suit between the 1st of August and the 15th of September?—A. Yes, sir; I made an engagement with Colonel Gantt for him to come on here and assist me with the hearing on the 15th of September.

Q. When did you make that arrangement?—A. I made that arrangement during the time you are speaking of, the early part of August.

Q. What else did you do?—A. I do not know.

Q. You don't know of anything else?

The WITNESS. What else did I do? What do you mean? I did a thousand things.

Mr. RANNEY. In the preparations for that hearing?

A. I prepared quite a mass of testimony. You have got a lot of it printed here. I have sent it to the committee. I prepared quite a lot of affidavits in the case.

Q. Your principal reliance was the expected Government suit, was it not?—A. No, sir; it was not.

Q. You said when you were here before you were hurrying that matter up.—A. I was. I thought the Government suit would be a bar to a subsequent procedure; to another procedure.

Q. Did you not talk that over in these conferences on the 30th and 31st of July?—A. Very much so; very much so.

Q. That was another subject?—A. Yes, sir.

Q. That the Government suit would be a sufficient reason for the continuance of the hearing in Baltimore during the pendency of the suit?—A. Yes, sir.

Q. When did you first talk that over?—A. I suppose I first talked of that when I first heard of the Government suit.

Q. When was that?—A. I told you just now it was on the 30th of July.

Q. You talked it over then?—A. Yes, sir.

Q. You thought then it would be a good thing to use for that purpose?—A. I thought so then, and I still think so.

Q. And you did all you could to secure it?—A. I did all I could to secure it.

Q. You thought a man could do a good deal, and you did all you could. Tell us what you did do.—A. I urged Colonel Young by letter and by telegram to hurry up the application that was to be made from Memphis. When I parted from the other gentlemen here in Washington on the 30th or 31st of July it was with the understanding that application was to be made from Baltimore, New York, Memphis, and New Orleans; that all the applications were to come here to have suits brought in the name of the Government to vacate the Bell patent. I pressed the forwarding of those applications all I knew how.

Q. When were you doing that in order to have all those applications come?—A. During the month of August.

Q. You were going to have all the applications from these various places converge?—A. Yes, sir.

Q. What application were you going to get from New York?—A. Mr. Von Briesen was to send one from New York.

Q. On behalf of whom?—A. Our view of the law was this: That this was not a litigation that was to be set on foot by any party in interest or any opposition company, but was a litigation to be undertaken on the application of citizens; that any citizen of the United States had a perfect right to apply to the Attorney-General to have this suit brought. Mr. Von Briesen had a perfect right to make the application in his own name.

Q. In his own individual name?—A. I suppose so.

Q. Who else was to make application?—A. The Washington Telephone Company, represented by myself, from Baltimore.

Q. Who else?—A. The National Improved Company, from New Orleans, represented by Mr. Van Benthuyzen.

Q. Who else?—A. The Pan-Electric company from Memphis.

Q. Who else?—A. That is all.

Q. You were going to converge all those named.—A. Yes, sir.

Q. When was that arranged?—A. That was arranged at the meeting in July.

Q. Which one, the 30th or 31st?—A. I couldn't tell you that; I suppose it was the later one.

Q. Mr. Von Briesen was going to send an application as a citizen, was he?—A. I don't know about that. I supposed he was lawyer enough to send on a proper application in the ordinary way. I didn't know what form he would put it in.

Q. He was simply counsel for the National Improved Telephone Company?—A. He was.

Q. Do you think it would have made any difference so long as he was to sign a petition, whether he signed it as attorney for the company or whether he signed it in his own name as a citizen?

The WITNESS. Do I think it would make any difference whether he signed as attorney for the company or as a citizen?

Mr. RANNEY. Yes.

A. I don't think it would make any difference at all.

Q. Do you think it would make a better show?—A. I don't think so.

Q. What was the object in having him sign his name as an individual—as Von Briesen?—A. I didn't say the object was to have his name put down as Von Briesen. I said he was to forward an application from New York. I did not know how it was to be done. That was to be left to him, I suppose.

Q. So that all the parties you have named who were going to join you were parties who were being pursued by the Bell company for infringement?—A. I don't think that is so.

Q. Tell me any one that was not?—A. The National Improved Telephone Company was not being pursued by the Bell company.

Q. Had they not just been sued up in Pittsburgh, through their licensees?—A. I believe they had.

Q. Did you not know they had been notified that they were to be sued in New Orleans also, their own headquarters?—A. No, sir; and I don't believe they were so notified, either.

Q. Do you know anything about it?—A. No, sir. You asked me if I knew, and I said I didn't know it and I didn't believe it.

Q. You knew that Van Benthuyzen had come on here from Pittsburgh, where he had been beaten, very much exasperated?—A. Yes, sir; I knew that.

Q. His licensee was being pursued?—A. Yes, sir.

Q. Do you know of any one else that was not then being pursued as an alleged infringer of the Bell patent?—A. Yes, sir; I think I know several companies that were not being pursued by the Bell company.

Q. Those you have named?—A. Yes, sir; the National Improved Company had no suit brought against it, and no suit was threatened at that time. The Pan-Electric company had a suit brought against it in Baltimore. The Washington company and the Pan company both of them had been sued by the Bell company.

Q. It was a combination then of people who were being attacked as infringers?—
A. Yes, sir.

Q. And you wanted to call them citizens, did you?—A. No; I don't think there was any necessity for calling them citizens; they were citizens, you know; you couldn't deprive them of their rights as citizens, no matter what you called them.

Q. You did not understand they were acting other than to protect their own interests, did you?—A. I did not understand that question.

Q. They were more anxious to protect their own patents and give them supremacy than anything else, I take it?—A. No; I don't take it that way at all. The way I always understood it was that they proposed to break up the monopoly of the Bell company.

Q. And get one of their own?—A. Assuming the Bell patent was obtained by fraud, and that they would have a fair field for competition in the business.

Q. The breaking up of the monopoly would leave them with their patents?—A. They would be good for what they were worth.

Q. You stated the other day that after Casey Young went to Pittsburgh he made a report to you by letter of the result of his visit?—A. Yes, sir.

Q. That letter I would like to have you produce.—A. I will have it here to-day.

Q. Have you not got it here now?—A. No, sir; not now.

Q. After he went back to Memphis subsequent to these interviews on the last of July and the 1st of August you had a continuous correspondence with him, had you?—
A. Yes, sir. You shall have those letters from him and my answers. You shall have the correspondence between Colonel Young and myself from that time up to the bringing of the Government suit on the 9th of September.

Q. You have them?—A. They will be here in the course of the day. I sent them over by express. They had not arrived this morning when I came up to the committee.

Q. Will you also furnish us with the telegrams?—A. I have not the telegram. I could not find the telegram.

Q. You had some, had you not?—A. I had a telegram on the 10th of September from Gantt & Patterson who were the attorneys in Memphis. I can recollect the telegram verbatim.

Q. During the month of August?—A. No, sir; it was dated on the 10th of September. I received it on the 10th of September. The telegram was dated Memphis, September 10th, was addressed to Bradley T. Johnson, Baltimore, and said "suit brought yesterday." That was about the telegram.

Q. In the record which you produced here of the last vote — ?—A. I did not produce that book to be used in evidence.

Q. Will you let me look at it?—A. Certainly, with pleasure. You may look at any book we have; you are welcome to do so.

Mr. RANNEY. It is already in evidence.

The WITNESS. I was going to ask the chairman if he would not strike it out from the evidence. I think it is very improper to have it in as evidence.

The CHAIRMAN. That is a matter to be submitted to the committee.

Mr. RANNEY. General Johnson submitted a report, says the book, on which no action was taken because of satisfactory provision already made for the defense of the suit by the Bell company against this company. It don't say what that satisfactory provision was.

The CHAIRMAN. He has stated.

The WITNESS (taking the book which Mr. Ranney had referred to and handing it to Mr. Gardner.) Now, Mr. Gardner, will you be kind enough to take this book, and don't let anybody have it.

Q. Will you tell us what that satisfactory provision was?—A. No, sir; I will not.

Q. You absolutely decline?—A. I absolutely decline. I have stated to the committee that it was a private professional relation between myself and my client, and I decline to let you know anything about it.

Q. It was a provision relating to the Pan-Electric company, was it not?—A. No, sir, it was not; it was a provision relating entirely to my fees.

Q. The preceding resolution on which that was based says there is now no occasion to sell the stock of the Pan-Electric company, and therefore—

Mr. HALE. That book was produced, as I understand, not to be used as evidence.

Mr. RANNEY. Would not you read the preceding—

Mr. HALE. Let me make a statement if you please. That book, as I understand, was produced by the witness for the inspection of the committee and not to be made public. I think the reading of the extract by Mr. Ranney to the committee was improperly divulging the contents of the book.

Mr. HALL. It was placed in our hands for inspection.

Mr. RANNEY. That same book was produced by Mr. Gardner without objection and used as evidence. A large portion of it was already in evidence, and will be found in the record of the committee.

The WITNESS. The book is not before the committee, I assure you.

Mr. RANNEY. It has been used in evidence.

The WITNESS. I ask the committee to strike out all extracts from the book. I ask them now to strike out what you have just read.

Mr. HALE. If that extract was allowed to stand by itself it would place the witness in a false light, unnecessarily.

Mr. RANNEY. I disregard what this witness says, and take the contents of the book as put in evidence during a former period through Mr. Gardner, the secretary and treasurer, who is the custodian of the books.

The CHAIRMAN. Is it in evidence?

Mr. RANNEY. Yes, sir; such portion as we found material, and this is one of the material entries.

The WITNESS. I ask the committee to strike out all of Mr. Gardner's testimony that does not relate to the officers of the Government. I have a motion to that effect before the committee.

Mr. HALL. I remember Mr. Camden testified to a memorandum on the back of a paper that was somewhat similar to the language just taken from the book, but I did not think the book was read in evidence.

Mr. RANNEY. This identical book was produced by Mr. Gardner, and I read these identical votes on the very same subject, which I claim was clearly right under the circumstances.

Mr. HALE. I am satisfied the quotation last read is improperly in evidence.

Mr. RANNEY. The quotation from the book was already in evidence. Preceding it was a reference to the sale of stock of the Pan-Electric company which the proposed to make before as a means of providing money to pay the expenses of the suit. That is alluded to here, and then comes this vote to which I have called his attention.

Q. Now I understand you to decline to answer what that arrangement was?—A. Yes, sir; I have answered before fully to the committee what the arrangement was, and I have given that book to the committee for the purpose of allowing them to satisfy themselves. If they choose they may examine the book as to matters pertinent to this inquiry, but with the distinct statement and understanding that that book shall not be used as evidence. I decline to allow the book to be put in evidence.

Mr. RANNEY. If the book had not been in evidence already I would have heeded your request; but as it was already in evidence I had a right to read from it.

The WITNESS. I ask the committee to strike it all out of Mr. Gardner's testimony. I move that all references to the book and all extracts from the book be stricken out. If there is any difficulty about the expense in renumbering the pages of the record, or anything of that sort, I offer to pay all the expense myself. That is my offer to the committee now.

Mr. HALL. The testimony referred to will be found on page 516.

Mr. RANNEY. Inasmuch as you decline to answer pertinent questions, I shall decline to question you any further.

The CHAIRMAN. Does any other gentleman of the committee desire to question the witness?

By Mr. HALE:

Q. The arrangement referred to in that extract was a private arrangement between you and your company as to your fee?—A. That is all.

By Mr. EDEN:

Q. It had no reference to the Pan-Electric company at all?—A. None whatever.

By Mr. HALE:

Q. That is what was meant at that time by "satisfactory provision"?—A. Yes, sir; an arrangement satisfactory to me. It had no reference to the Government suit or the Pan-Electric suit.

By Mr. HALL:

Q. I suppose you regarded the conferences of the 30th and 31st of July as practically one conference?—A. Yes, sir.

Q. Many things were discussed and rediscussed on those two days?—A. Yes, sir.

Q. And the result was that it was agreed that applications from different directions should be presented with a view of undertaking to put on foot a suit by the Government attacking the original Bell telephone patent. Was there any agreement at all made at that time with reference to the procedure, as to the matter of expense, or assigning different parties to different positions in the movement?—A. Not so far as I was concerned. I was a party to no such agreement, nor was there any such agreement made with my knowledge.

Q. It was just simply a conference between gentlemen representing different interests?—A. Yes, sir.

Q. All of which were affected by the existence of the Bell telephone patents?—A. Yes, sir.

Q. I understood you to say, in reply to Judge Ranney, that you discussed the question of jurisdiction, as to where such a suit could be maintained against the Bell Telephone Company?—A. Yes, sir.

Q. And you discussed the question of the judges of the various United States courts?—A. Yes, sir.

Q. I suppose there is no question but that in the conference you were anxious to secure the most available position you could?—A. The best one we could get.

Q. You did not hunt out a judge that you knew had hostile feelings towards your interests, or one that belonged to the Bell Telephone Company?—A. We were not willing to go to Massachusetts where the court was committed against us.

Q. Did you at the time of that conference know that any Massachusetts judge was interested in the Bell Telephone Company or had relatives that were largely interested; was that matter discussed?—A. No, sir; not to my recollection.

Q. How long have you been a practicing attorney?—A. I have been a practicing attorney, I am sorry to say, for thirty odd years.

Q. Did you ever know of a conference of attorneys in regard to a proposed litigation in which they sought to get hostile judges against them; or do they naturally try to get the best status they can for their clients?—A. That has been my experience with them, sir.

Mr. HANBACK. I guess that goes without saying.

Mr. HALL. I think probably it is different up in Massachusetts.

The WITNESS. They always pick out the hard places there. Their company always does that.

Q. In regard to this matter of the contents of this record and your relation to the transaction, I understand that you declined to answer, not because of any desire to withhold information, but because you think it is a matter purely personal?—A. Yes, sir.

Q. And that we have no right to inquire into it?—A. Yes, sir.

Mr. HALL. That is all.

The CHAIRMAN. Does any other gentleman desire to examine the witness?

By Mr. RANNEY:

Q. Did you not know that then, in 1885, Judge Colt, who was the circuit judge of Massachusetts, had never tried one of these patent cases?—A. I did not know that.

Q. You were aware that the Federal courts of New York, New Jersey, and Pennsylvania, including Judge Gray and Judge Lowell, had passed on the Bell patent, were you not?—A. Yes, sir; I was. I was perfectly satisfied that two of the suits in Massachusetts were fictitious suits, gotten up for the purpose of getting a decision from the court. I was perfectly satisfied of that. I know Judge Lowell very well by reputation. I have read a great deal after Judge Lowell, and I have the very highest possible opinion of his ability. I say the same of Justice Gray also. I should not hesitate to go before either of them with a new case of first impression; but it would be utter folly to take the case before any judge where the court was committed up to the eyes to the opposite doctrine. No lawyer on earth would do that, that I ever saw.

Q. The courts of New York and Pennsylvania and New Jersey you wanted to avoid, I suppose. Is not that so?—A. I didn't care very particularly about that.

Q. You wanted to get the suit brought down South, did you?—A. Yes, sir; or out West would answer the purpose just as well.

Q. Where all the Pan-Electric people and the National Improved people live?—A. To bring it in that way would be much fairer to the public. It would be fairer to go down South, where all the Pan-Electric company live, than to go to Boston, where all the Bell company live, and where it is the general impression that the Bell company own a good deal more than they are entitled to own.

Q. But you knew in any case there could be an appeal to the Supreme Court?—A. Yes, sir; and I knew that to prepare a case for trial would probably cost \$25,000, and that it would take three years to get it before that court and decide it; and if they got a perpetual injunction against us in one of those districts where the court was committed, and if we had our business closed up for three years, it would be utterly ruinous.

Q. You knew in any event the case would go to the Supreme Court; that it would be carried there on appeal or a writ of error, did you not?—A. No, sir; it is not true that any case can be carried to the Supreme Court by writ of error or appeal.

Q. Cannot every patent suit by bill in equity be carried there?—A. No, sir; some decrees cannot be carried up by appeal.

Q. In any suit connected with these patents there should be no question about the value of the patent, and there would be an appeal.—A. Oh, yes; I know there is such a thing as an appellate court. You can appeal from the circuit courts to the Supreme Court.

Q. You knew wherever you went the case could go to the Supreme Court on appeal?—A. We thought so; yes, sir.

Q. Honestly, now, was not this the situation: That you wanted to get before some court that would not grant the preliminary injunction? Was not that the trouble with your companies; that you knew preliminary injunctions would be granted?—A. I am perfectly willing to stand an examination upon my knowledge of the law of patents and Federal practice in injunction proceedings; but it appears to me it is rather an unfair proposition for you on the Bell side to examine me as to what I think in regard to the Bell case.

Q. I am not asking your opinion as to any one case.—A. You are asking me an opinion on the general proposition of law, then.

Q. I ask you if your trouble in this matter was not that all of your companies were sure to be enjoined on bills of equity brought by the Bell company?

The CHAIRMAN. That would hardly be the case where there was a suit on the part of the Government.

Mr. RANNEY. I do not refer to the Government suit.

The CHAIRMAN. They were not concerned with the matter of jurisdiction in the other cases.

The WITNESS. No, sir. We were of opinion then and I am of opinion now that if we had brought a proper suit at the proper time and in the proper court we could have enjoined the Bell company from proceeding against us by newspaper injunctions. You want to know if we did not want to bring a suit where we would not be enjoined by a preliminary injunction. I say yes, sir.

Q. I ask whether the trouble with these companies who were seeking to get a Government suit did not arise from the fact that the Bell company would proceed and get preliminary injunctions on bills in equity against them if they did not get somebody else to interpose?—A. I could not tell what the trouble was.

The CHAIRMAN. I think it might be taken for granted that if the Bell company wanted a preliminary injunction they would naturally go to a court where they thought they could get it.

Mr. OATES. I object to questions on this point. Mr. Ranney announced some time ago that he was not going to put any more questions to this witness. He is now examining him on the law.

Mr. EDEN. In regard to what a court would do.

Mr. RANNEY. The gentlemen on the other side have rehabilitated the witness by having him swear as to what was not in the agreement. I sought to find out what was not in it by asking him to tell me what was in it.

The CHAIRMAN. Does any other gentleman care to examine the witness?

The WITNESS. Mr. Chairman, I would like to ask the committee if they have acted on the motion I made on the 16th of April with regard to striking out certain portions of Mr. Gardner's testimony. It is a matter of some importance to me to have that testimony expunged from the record, although I do not know how important the committee may consider it.

The CHAIRMAN. No action has been taken by the committee on that motion.

The WITNESS. If there is any question of expense as to striking it out, if the committee will permit me I will contribute the necessary funds for that purpose.

The CHAIRMAN. I believe you intimated you would like to be heard by the committee?

The WITNESS. I would rather be heard on the law if there is any question about the law. I am very clear the committee had no right to go into anything of that sort. I propose to furnish the correspondence between Colonel Young and myself to the committee with the understanding that it is not to be made a part of the record, unless I am here present to be examined in regard to it.

The CHAIRMAN. In regard to this paper (indicating paper) which you handed me, it is hardly worth while to show it to the members of the committee, or anything else that is not to be made a part of the record.

Mr. RANNEY. I do not want to see anything that you will not let me use.

The CHAIRMAN. I prefer not to, either. As to the correspondence which has been called for, if you are willing to have it go on the record it may be produced. But it will hardly be worth while to have it produced simply for personal inspection.

Mr. HANBACK. I do not see what value that will be, because we cannot comment upon it or take any action in regard to it.

Mr. RANNEY. If he says he is willing to show it to us, but is not willing to let it go into the record, and that we have no right to it, I decline to look at it.

Mr. EDEN. I suppose the correspondence is to be furnished for the action of the committee, and if the committee deems it competent it can be introduced?

The WITNESS. Yes, sir.

Mr. HALL. I understood the request of the committee to furnish certain letters was very much in the nature of a subpoena; that it was a sort of search warrant, only instead of being issued by subpoena it was a request of the committee. I understood

General Johnson to say he was willing to comply with it, and submit the letters, subject to the objection that might have originally been made to the request.

Mr. RANNEY. This investigation is in the nature of a search warrant. The resolution is a search warrant to search out the facts.

Mr. HALL. I think that is true. You have come pretty near to it.

The CHAIRMAN. If the correspondence is to be produced you had better be here and produce it.

The WITNESS. I will leave it entirely to the committee. If the committee think it is competent evidence the committee can do just what they choose with it. I put myself in the hands of the committee.

Mr. OATES. Where are the letters. If we are going to pass on them at all we had better do it now.

The WITNESS. They are not here yet, sir.

Mr. MOFFATT. I would like to ask General Johnson a question or two.

By Mr. MOFFATT:

Q. Were you present at the hearing that resulted in the ordering of the present suit?—A. Yes, sir.

Q. Do you recollect when that hearing was closed?—A. I do not, sir.

Q. It was some time in October, was it not?—A. Some time in October or during the early part of November.

Q. Do you recollect when the decision was rendered?—A. I do not recollect the date. The decision was rendered some two or three weeks after the hearing terminated.

Q. Between the hearing and the decision did you see Secretary Lamar?—A. No, sir; certainly not.

Q. You are positive?—A. I am certain I did not. I saw him during the hearing, and spoke to him, just a casual salutation as I passed. That was all. I never saw him during that time.

Q. Between the time of the hearing and the decision?—A. Between the time I went before him as a judge up to the time of his decision I never saw him socially at all. I had no communication with him at all, directly or indirectly.

By Mr. OATES:

Q. Please state generally to what those letters between you and Col. Young relate.—A. You will find the first letter dated in March, 1885, in which I give an opinion as to the expediency of filing a bill in the name of the Pan company against the Bell company in Memphis. The Bell company, I was informed, was attacking the right of the Pan company to transact business. That was in March.

Q. Do any of them relate to the bringing of the Government suit?—A. The latter part of them do relate to the bringing of the Government suit; yes, sir; after the meeting here, I think. The letters in August do relate to it; half a dozen letters.

Q. Is there anything else in them about which you or somebody else has not testified?

Mr. RANNEY. Is not that going into the contents of the letters?

Mr. OATES. It is only a general question. I thought you wanted them.

Mr. RANNEY. I do. I want the letters themselves.

Mr. OATES. I don't know whether they are worth anything or not.

Mr. RANNEY. You can tell better by looking at them.

Mr. OATES. If they do not relate to the question about which we are inquiring we have no right to see them unless the witness thinks proper.

The WITNESS. I will file them with the chairman, and the committee can decide whether they are proper testimony or not. The committee are perfectly welcome to them if they think they are competent.

Q. Can you refer to that part of the evidence of Mr. Gardner which you think should be stricken out?—A. Yes, sir.

Mr. HALL. It begins on page 525 and continues on page 526 and 527. Most of it is on page 527.

The WITNESS. I gave the chairman a marked copy of the record, on which I indicated what I thought ought to be stricken out. I would commence at the bottom of page 525:

“By Mr. RANNEY:

“Q. I see by your record, page 5, that the first meeting, held June 3, 1884, was held at Casey Young's office?—A. Yes, sir; so it appears. I was not secretary of the company at that time.

“Q. This is the record you have produced here?—A. Yes, sir.”

I think all that ought to go out down to page 528.

Mr. OATES. To what point?

The WITNESS. Down to the answer of the witness after the report to the directors of the Washington Telephone Company. To this point:

"The WITNESS (reading): After reading this I have received a telegram from Gantt & Patterson, attorneys at Memphis, stating that the bill by the United States against the Bell company has been filed in the United States courts there, and they will send a copy, which telegram I read you."

Down to and including that. In regard to the conversation between Mr. Rogers and Colonel Gardner, I know nothing about that. I have nothing to say about that. Then if you will go on to page 533:

"Q. This is a matter of memory, and I want to deal fairly with you, and I want you to deal fairly with me. Tell me the substance of anything that was said or what it was—not your argument about it, but your recollection.—A. I don't propose to enter into an argument, but my recollection is that we had some talk about suits."

I think all that about suits ought to come out.

Mr. OATES. Where does it begin?

The WITNESS. It commences down about one-third of the way on page 533. I think it ought all to come out down to page 534, where you will see the question, "Did you ever try to sell any stock to any member of Congress?" Not including that, but down to that. On page 535 the question is:

"At the close of the minutes I see you make this memorandum: 'General Johnson read a report, on which no action was taken because of satisfactory provision already made for the defense of the suit of the American Bell Telephone Company.'"

I think that ought to be stricken out, from there down to the question on page 536, by Mr. Millard. I think that refers to the private matters of the company and is not proper testimony before this committee.

The CHAIRMAN. I think you had better mark another copy. I may have the one you gave me, but I am doubtful of it. Is the committee through with the examination of Gen. Johnson? I know of no other witness to be called at this time.

The witness then left the stand.

The CHAIRMAN. Mr. Van Benthuyzen, the committee is now ready to hear anything you may have to say.

Mr. VAN BENTHUYSEN (handing a letter to the chairman). Mr. Chairman, I have embodied my wishes in a communication to the committee.

The CHAIRMAN. Is it the desire of the committee to have it submitted now or in secret session?

Mr. OATES. I suppose no objection will be made.

Mr. HALE. Probably all the members have seen it privately. I have.

The CHAIRMAN. I have not.

Mr. MOFFATT. I have not.

Mr. RANNEY. There are certain telegrams I have spoken about, and communications of Mr. Van Benthuyzen with the President, which are embodied in one of the Interior Department records I have before me, and sworn to. There is also a telegram to the Inter-Ocean on the 10th of September that he swore to.

Mr. HALL. Of whom are you speaking now?

Mr. RANNEY. Of Mr. Van Benthuyzen. He sent a dispatch to the Inter-Ocean on September 10, to which he testified when he was on the stand. I have here a copy in print, that has been sworn to; also a communication of his to President Cleveland, which was given out to the public. Those I want to put into the record.

The CHAIRMAN. Have you them there?

Mr. RANNEY. I told you where they can be found. They are in the Maryland record, sworn to by the party as taken out of the papers.

Mr. EDEN. That is a very roundabout way of putting in evidence, if it is evidence at all.

Mr. RANNEY. I thought you might possibly object on that account. If there is any doubt about it we will take a more direct way.

Mr. EDEN. I don't know whether it is important or not.

Mr. RANNEY. I spoke to the chairman about calling on the President to produce them, and he said we had them here, taken from the newspapers.

Mr. OATES. I don't care anything about the form if they are pertinent. If they throw any light on the question under investigation, I do not object to having them go in in that shape.

Mr. RANNEY. I thought there might be some technical objection, for instance, that he should have his attention called to them. He is here. I suppose any communication made to the President is public.

Mr. HALL. I suppose you would have to get a resolution from the House asking the President to produce the papers if not incompatible with the public business.

Mr. RANNEY. Oh, no. You asked Mr. Forbes what he said to the President on the subject. Why should not what Mr. Van Benthuyzen said to him be competent also?

The CHAIRMAN. I saw the President and he has no objection to having anything put in that passed between himself and Mr. Van Benthuyzen. He stated to me that nothing passed from him to Mr. Van Benthuyzen, but that he had a dispatch from Mr.

Benthuyssen. I was to call and get it, but I left the city before doing so. He was to have it hunted up for me.

Mr. RANNEY. It was given out to the public press. I did not know before where it was to be found. I have found it in the proofs and reply in the Maryland case, sworn to by a witness as having been taken from the papers of the date given.

The CHAIRMAN. Is there any objection to allowing a copy of this dispatch to go in?

Mr. HALL. We cannot understand the proposition until we know what the dispatch is.

The CHAIRMAN. You will have an opportunity to learn.

Mr. HALL. I don't suppose there is any objection to it.

Mr. RANNEY. I will call attention to the parts I deem material.

The CHAIRMAN. It can all go in together. As to Mr. Van Benthuyssen's dispatches to the newspapers, I do not think the committee is concerned with them.

Mr. HALL. I am willing, so far as the letter is concerned, to resort to the ordinary method of producing evidence. I am willing that Mr. Van Benthuyssen shall be put on the stand and asked if he wrote such a dispatch, and I am willing to waive any question as to its being a printed copy.

Mr. RANNEY. Then there is the dispatch to the Chicago Inter-Ocean.

Mr. EDEN. I do not think that is evidence.

Mr. OATES. What is the point?

Mr. RANNEY. He testified in relation to having seen the reporter there and given him a dispatch, and he said he was surprised that he did not see it in the newspapers, and he made inquiry about it.

Mr. OATES. To what feature of the investigation does it relate?

Mr. RANNEY. It relates to the object of the suit.

Mr. EDEN. Is that a dispatch to a newspaper?

Mr. RANNEY. Yes; his dispatch to a newspaper.

Mr. OATES. How is that touched by the resolution?

The CHAIRMAN. Suppose we deal with one thing at a time. Here is the dispatch to the President. Is there any objection to putting that in?

Mr. RANNEY. It should be put in on the ground that it may have influenced the President. That was the ground on which Mr. Forbes' interview was introduced. Then there is on page 779 a letter to the President.

Mr. OATES. I don't suppose it amounts anything anyhow. I do not see any objection.

Mr. RANNEY. Then the dispatch he dictated to the Inter-Ocean on page 785.

Mr. OATES. There is a good deal of matter in already that is of no account. We may as well let this go in.

Mr. EDEN. It seems to me that putting in a dispatch to the newspapers is going rather too far.

Mr. RANNEY. It is only in connection with his testimony as to what he said to the reporter.

The CHAIRMAN. I think, gentlemen, that the dispatch to the President should go in, if there be no objection as to the manner of proving it. It is a printed copy.

Mr. OATES. I would not raise any objection to that.

Mr. EDEN. You are satisfied the President did receive the dispatch?

The CHAIRMAN. He told me he received a dispatch.

Mr. HALL. What is that record in which the copies are found?

The CHAIRMAN. It is the Bell company's proofs in the matter before the Secretary of the Interior. If there be no objection we will put in the dispatch to the President. It is on page 777 of the book. It may be taken from that. It is not necessary to read it.

The CHAIRMAN. Now, as to the letter of Mr. Van Benthuyssen to the President. It is stated that one was sent. My understanding was that there had been nothing received by the President except a dispatch.

Mr. RANNEY. There is also the dispatch he testified he gave to the reporter of the Inter-Ocean when he met him at Waukesha.

The CHAIRMAN. I do not see how that would be competent testimony.

Mr. RANNEY. I deem it material.

The CHAIRMAN. If it is offered, I will examine it.

Mr. RANNEY. He presents an application ostensibly from private citizens. He ostensibly was seeking a Government suit in the interests of the public and in the name of citizens; whereas, as a matter of fact, I say, his purpose and object was to have it brought in the interests of his own particular company, and with a view of preventing injunctions. The purpose is in order to show the fraud practiced.

Mr. EDEN. Do you refer to Mr. Van Benthuyssen?

Mr. RANNEY. Yes, sir; that he practiced a fraud by misrepresenting that it was an application in the name of citizens, whereas it was in fact an application in his own behalf in disguise. This is a dispatch in which he discloses his real purpose.

Mr. EDEN. To a newspaper?

Mr. RANNEY. Yes, sir. He discloses that his object was to get this suit. That was the advice on which he was acting, and that was the means he resorted to, and, the fact being proved, the House may find and the country believe it was a fraudulent conspiracy.

Mr. HALL. Is there a copy of the dispatch there?

The CHAIRMAN. It is in the book.

Mr. RANNEY. It is printed as taken from the Inter Ocean—the one he testified to. It is sworn to by a man who clipped it from the Inter-Ocean.

Mr. HALL. I presume these are correct copies. Those papers were subject to inspection by all the parties in that case.

Mr. EDEN. If we are not investigating Mr. Van Benthuyzen I do not see the necessity for the evidence.

Mr. RANNEY. We are investigating the object and purpose for the bringing of the suit.

Mr. EDEN. Not the object and purpose of Mr. Van Benthuyzen.

Mr. RANNEY. The reason for it.

Mr. EDEN. That is not the point.

Mr. RANNEY. Suppose Mr. Van Benthuyzen, in conjunction with Casey Young, treated as one person, should get up—

Mr. EDEN. A man can suppose anything, if he wants to.

Mr. RANNEY. It is a fact that the evidence tends to show that that application was in the name of certain men as citizens, which was a disguise of these two combined companies. Under the guise of individual names, keeping the names of the companies in the dark and out of sight, they presented to the Government an application for a Government suit, pretending it was done at the instance of individuals representing the public, whereas in fact it was a fraudulent device of their own to get the suit in behalf only of the companies which they represented.

Mr. EDEN. I suppose you want to show that Mr. Van Benthuyzen practiced a fraud upon some officer of the Government, and hold the officer responsible for it.

Mr. RANNEY. No, sir; it was a fraud practiced by the Pan-Electric company in secret combination with the National Improved Telephone Company, Mr. Van Benthuyzen being the agent of the latter and Casey Young being the agent of the former. It was a fraud on the public.

The CHAIRMAN. You have not made up your mind to that effect, have you?

Mr. RANNEY. I say that is the argument. If you ask me whether I have made up my mind on it, I say I have.

Mr. HALL. You do not need to say that.

Mr. RANNEY. I think it is perfectly plain.

Mr. EDEN. I think that has been understood some time.

Mr. RANNEY. I have no doubt it was intended as such, if you ask my opinion.

Mr. HALL. In the early part of the investigation you suggested that we should not make up our mind until all the evidence was in. You have departed from that advice.

Mr. RANNEY. I have made up my mind, as far as that is concerned, unless you can show proof to the contrary, and I have done it on the evidence.

Mr. EDEN. I will not make up my mind until the end of the investigation.

The CHAIRMAN. If this dispatch is proved to have come from Mr. Van Benthuyzen, it might be competent to contradict him. I cannot see that it would be competent for any other purpose.

Mr. HALL. The course of the committee heretofore has been to allow very broad inquiry as to the conduct and declarations of any of these parties, either as between themselves or with reference to the Government or its officials. This proposition is to introduce an act on the part of Mr. Van Benthuyzen in sending a dispatch to one of the public journals. The question arises as to the competency.

Mr. RANNEY. I claim it discloses the purpose of this proceeding on the part of Van Benthuyzen.

Mr. CASEY YOUNG. I would like to show it to Mr. Van Benthuyzen. He can't hear a word that is said.

The CHAIRMAN. It is not material to show it to him.

Mr. HALL. It is apparent that that dispatch was sent after the action of the Government was had. It could have had no effect whatever in influencing the Government or any of the officials. I think the committee are quite competent to determine the motive and purpose from all previous conduct, without this after-publication. Of course it would be competent to contradict a witness, possibly.

Mr. RANNEY. I do not understand the objection is made to the mode of proof, by printed copy.

Mr. HALL. I suppose that book contains a true transcript. All the parties were present there.

Mr. RANNEY. I will state again my view of it. My claim is that it is competent as showing the dispatch which Mr. Van Benthuyzen has already testified to, in the first

place. In the second place, it is competent and material as tending to show the object and purpose of his proceeding for the Government suit.

Mr. HALL. I think the suggestions made by way of comment upon the facts are hardly opportune now, and I do not think they are true, notwithstanding the gentleman has made up his mind. I think it must be known to every intelligent man that a suit brought by the Government, at whomsoever's instance, could not be a fraud in the sense indicated, because everybody would know it must be in the interest of all who had patents.

Mr. RANNEY. I do not say I have made up my mind as to the fraud on the part of the Government.

Mr. HALL. You said you had made up your mind as to the fraud on the part of the individuals who were inducing that action.

Mr. RANNEY. I said these men were making false pretenses in the matter of the bringing of the Government suit.

Mr. HALL. The records of the Government right here at the Capitol show probably one hundred patents of various kinds for receivers and transmitters. The owners of all these patents would be benefited by a successful suit by the Government. The idea that an application of that kind, whether it was in the name of individuals or of corporations, would not be for the direct and immediate interest of all parties involved, is a little too remote for any speculation at all. It is a subject of which fraud cannot be predicated. It is an improper use of the word fraud to apply it to any such situation, in my judgment.

Mr. RANNEY. It tends to show that these parties, knowing that Attorney-General Garland would not act on an application that on its face was made or was on behalf of the Pan-Electric company, sought to do it under a disguised name. It may have relieved the Attorney-General; but the individuals sought to do it under a disguised name.

Mr. EDEN. As they did not make this application to him at all, that is rather a far-fetched inquiry.

Mr. RANNEY. It tends that way.

The CHAIRMAN. Did Mr. Van Benthuyzen testify he had sent this dispatch?

Mr. RANNEY. Yes.

The CHAIRMAN. There is nothing in it to indicate that it came from him.

Mr. RANNEY. It was given to the reporter who sent it.

Mr. HALL. Mr. Van Benthuyzen stated that after reaching Milwaukee, I think it was, or some other point, he obtained an early issue of the Tribune, and not seeing any allusion to the action on this matter he sent a dispatch. I don't remember whether he sent a dispatch of that kind or a dispatch of inquiry as to why it had not been published. It is very easy to ascertain that.

Mr. RANNEY. He said the reporter of the Inter-Ocean was there; and he didn't happen to see it, and found afterwards it did appear. That is my general recollection of it.

Mr. HALL. I don't think it is very material.

Mr. RANNEY. The question is why those men signed as individuals, and why they did not sign as the Pan-Electric Company and the National Improved Company?

Mr. HALL. I suppose there are three hundred pages of this testimony to show, and everybody understands it.

Mr. RANNEY. Tending to show that they came to the Government in disguise, under a secret written agreement between the two companies?

Mr. HALL. I do not see how anybody is in disguise when he comes in his own proper person and under his own signature. I do not see how anybody can impose upon any one else in that way.

Mr. RANNEY. They conceal the written agreement between the two parties.

Mr. HALL. There is no evidence that they concealed it. They did not conceal it.

Mr. RANNEY. Casey Young says he did not tell Garland of it.

Mr. HALL. Nobody ever heard of a party making an application—

The CHAIRMAN. This discussion does not relate to any matter before the committee.

Mr. RANNEY. It is only as to the materiality of the evidence.

The CHAIRMAN. Objection being made, I think the evidence is not competent.

Mr. HALL. As far as I am concerned, I do not interpose any objection on the ground that this is not the original.

The CHAIRMAN. If there be no objection it may go in.

Mr. RANNEY. I think all such statements of the parties should be put in.

The CHAIRMAN. The paper itself seems to be nothing but a press dispatch from Memphis.

Mr. OATES. By every principle of law it would be, if genuine, admissible against Mr. Van Benthuyzen, but not against the other parties.

The CHAIRMAN. That would depend upon circumstances. Some allegation has been made that there was a conspiracy, and that this was one of the acts done in

pursuance of the conspiracy. Assuming the conspiracy to be established, it would be competent evidence against them all.

Mr. OATES. Yes; but that is what I do not assume.

Mr. RANNEY. We do not need to assume that in order to dispose of this question.

Mr. HALE. It seems to be only an item of news sent off by the correspondent of the Inter-Ocean.

The CHAIRMAN. It ought to be identified as the dispatch Mr. Van Benthuyzen has spoken of.

Mr. HALE. It may be the correspondent got his news from Mr. Van Benthuyzen, but it is a dispatch from the correspondent of the paper as a matter of news.

Mr. HALL. I don't know whether Mr. Van Benthuyzen sent the dispatch or not.

Mr. OATES. I am willing it should go in under Mr. Ranney's offer as against Mr. Van Benthuyzen for whatever use he can make of it.

Mr. EDEN. Mr. Ranney insists it shows a conspiracy on the part of all the other parties.

Mr. RANNEY. I never insisted any such thing. I said the broad claim might be—

Mr. HALE. Do you insist on its going in?

Mr. RANNEY. Yes.

Mr. HALL. Where is the authority that this was sent by Mr. Van Benthuyzen?

Mr. RANNEY. Mr. Van Benthuyzen himself has testified to meeting the reporter of the Inter-Ocean, and discovering that the dispatch did not appear afterwards, and then finding the next day that it did appear. That is my recollection.

The CHAIRMAN. That was not a dispatch from Memphis.

Mr. HALL. I do not think we should admit it without some proof.

The CHAIRMAN. Let us ask Mr. Van Benthuyzen.

Mr. EDEN. I don't think Mr. Van Benthuyzen said he sent a dispatch from Memphis.

The dispatch in question was here shown to Mr. Van Benthuyzen.

The CHAIRMAN. Mr. Van Benthuyzen, I show you what purports to be a special telegram to the Chicago Inter-Ocean, dated at Memphis, Tennessee, September 9, 1885.

Mr. HALL. Before he answers I want to read what he said about that.

The CHAIRMAN. Gentlemen, I propose that we do one thing at a time.

Mr. HALL. It is with reference to this very thing.

Mr. OATES. Let him state whether he sent it or not.

The CHAIRMAN. Look at that dispatch and state whether you sent that dispatch to the Chicago Inter-Ocean.

Mr. VAN BENTHUYSEN. Is this the only thing that I am to be interrogated about?

The CHAIRMAN. For the present, yes.

Mr. VAN BENTHUYSEN. I don't know anything about it, sir.

The CHAIRMAN. Are you not aware whether you sent that?

Mr. VAN BENTHUYSEN. I never sent it. I never had any connection with it, and nobody that I know of ever had any connection with it. It is dated September 9. At that time I was in Waukesha, Wisconsin.

The CHAIRMAN. You say you did not send any dispatch from Memphis at that time?

Mr. VAN BENTHUYSEN. Not one; no, sir.

The CHAIRMAN. Did you send that dispatch, or have it sent from any place?

Mr. VAN BENTHUYSEN. No, sir; I know nothing about it at all. I was asked if I saw these dispatches in the paper at the time, and I said I understood they came from Memphis to these journals in Chicago. I knew nothing about them, however.

Mr. HALL. After speaking of receiving a dispatch announcing that suit had been brought, he said:

"I received a telegraphic dispatch from Mr. Beckwith that the bill had been filed by him. The next morning I looked in the papers and found no reference to it whatever. I thought that was very strange, and I thought they would think probably I had led them astray about the matter."

There is nothing in the record to intimate that he sent it.

Mr. MOFATT. Read on.

Mr. HALL (reading): "It seems they did become a little alarmed about it. Mr. Busby, the editor of the Inter-Ocean, had, I suppose, telegraphed down to his paper, and he had a notice of it in there, which notice came from me."

Mr. MOFATT. That is it: "Which notice came from me."

Mr. HALL (continuing to read): "But there were no press dispatches; no associated press dispatches. I was very much annoyed, and I telegraphed down to find out what was the matter, and I received a message back that all the messages with reference to that had been suppressed by the associated press at Memphis. The next morning, the 11th, I bought the Chicago Tribune, and I found a very elaborate description of the bill in a special dispatch from Memphis"—
which is this.

Mr. EDEN. It seems that somebody else has been getting up a conspiracy.

Mr. RANNEY. There seems to have been a nest of them, in regard to this suit.

The CHAIRMAN. Is it still desired that this dispatch shall go in?

Mr. RANNEY. Yes.

The CHAIRMAN. Let it go in.

Mr. EDEN. With the evidence of Mr. Van Benthuyesen.

The CHAIRMAN. That is in. This is the dispatch he refers to, I suppose, that was in one edition of the Inter-Ocean and not in the other.

Mr. RANNEY. He said he saw the reporter of the Inter-Ocean at Wankesha.

The CHAIRMAN. That was to make inquiry why the statement had not appeared, and he found another edition of the paper in which it did appear. I believe there was a letter to the President also, was there not?

Mr. RANNEY. Yes; a letter to the President.

Mr. HALL. I understood that letter was introduced.

The CHAIRMAN. We will let them all go in together, to show what was the state of Mr. Van Benthuyesen's mind at that time.

The papers in question are as follows:

[From the Daily Inter-Ocean, Chicago, Sept. 10, 1885.]

THE TELEPHONE WAR.—SUITS BY SOUTHERN PARTIES TO TEST BELL'S CLAIMS.—A SAMPLE BILL.—LOCAL VIEWS.

[Special telegram to the Inter-Ocean.]

MEMPHIS, TENN., Sept. 9.—On the petition of Watson Van Benthuyesen of New Orleans, Charles P. Huntington of Mississippi, J. R. Beckwith of New Orleans, George Gantt and others of Memphis, and the presentation of evidence to the United States district attorney that Bell did not discover the art of transmitting speech by electricity or invent the telephone, the district attorney, Judge Carry, submitted said evidence to the Department of Justice at Washington, and requested permission to institute suit in the name of the Government, to annul both of the Bell telephone patents. After investigation by the Department of Justice, permission was granted, and the bill of complaint was filed this day at Memphis, in the United States circuit court, Messrs. J. R. Beckwith, of New Orleans, George Gantt, the Hon. Casey Young, and General Wright, of Memphis, being appointed special Government attorneys to assist in prosecuting the suit.

The suit is a novel one, as it is brought in the name of the Government to annul or recall the patents issued to Bell, and the documents filed bring out many points of special interest to telephone and telegraph men. The attorneys here claim that the effect of filing the bill will be to suspend proceedings of the Western Union and Bell telephone people against other telephone companies, and that the result of the suit may be the breaking down of the monopoly in telephones.

(The New York Times, Tuesday, September 29, 1885.)

THE TELEPHONE LAWSUIT.—PRESIDENT CLEVELAND'S ATTENTION CALLED TO THE MATTER.—MR. VAN BENTHUYSEN JUSTIFIES THE SUIT TO CANCEL THE ORIGINAL PATENT ON THE BELL TELEPHONE.

CHICAGO, Sept. 28.

Mr. Watson Van Benthuyesen, president of the National Improved Telephone Company, who is the chief promoter of the suit to cancel the original patent on the Bell telephone, this evening sent the following dispatch from this city to President Cleveland:

His Excellency GROVER CLEVELAND,

President of the United States, Washington, D. C. :

DEAR SIR: I had the honor of addressing to you the following telegraphic dispatch yesterday:

The editorial in yesterday's New York Tribune addressed to you is a tissue of lies with reference to General Garland. The petition for the Government suit against the Bell Telephone Company was not signed by a single person owning stock in the Pan-Electric Telephone Company. The evidence presented to warrant the suit is overwhelming, and, owing to the extraordinary methods of the Western Union Telegraph Company and the Bell Telephone Company, is absolutely necessary for the protection of the public. The commendation of the press is almost universal, and the Department of Justice is extolled everywhere for its action. General Garland did not authorize the suit. He was absent from Washington, and permission was granted by the Acting Attorney-General, which he was compelled to do in the interest of the general public.

W. VAN BENTHUYSEN,
Original Petitioner.

Now it is alleged that General Garland owns stock in a competing telephone company. I have no personal knowledge of this fact, but if it is true, and he had been in Washington, and had refused permission to institute this suit simply because of his personal relations to another telephone company, it would have been an act of injustice to the public that would have reflected severely upon the present administration. It must be borne in mind that the courts will not permit fraudulent issue of patents to be made a defense in infringement suits, and this question can only be taken up by the Government. The bill of complaint in this suit shows that the Bell patents were obtained by fraud, misrepresentation, false suggestion, and deceit; that Bell's discovery of the art of transmitting speech by electricity is absolutely false; that the decisions obtained from the courts in favor of the Bell patents were obtained by collusion and untruthful admissions. Philip Reiss discovered the art and gave it to the world in 1862, long before Bell was ever heard of, as will be seen by the accompanying extracts (which are only a few out of many even more positive) sent by mail. The Reiss instruments, as made in 1862, transmit articulate speech perfectly, and I hold myself in readiness to exhibit them in full operation to the Government. The original Bell patent shows no instrument that transmits speech, and no instrument therein mentioned or as described by Bell ever did transmit speech. I have proof to show that the first instrument with which Bell transmitted speech was in no wise described in his patent, but was the *fac simile* of an instrument described in a caveat filed by Elisha Gray for a speaking telephone on the same day that Bell filed his application for an improvement in multiple telegraphy, and which has been distorted by decisions of courts in collusive suits to cover a speaking telephone. I have an affidavit of the examiner who passed Bell's application to issue showing that by a violation of the law and rules of the Patent Office, Gray was deprived of his rights. I have an affidavit showing that Bell or his attorneys was made acquainted with the contents of Gray's caveat in violation of law.

The first successful transmission of speech by electricity by Bell was after his patent for an improvement in multiple telegraphy had been issued, and was made with the *fac simile* of one of the instruments described in Gray's caveat. The transmission of speech by Bell at the Centennial was by the *fac simile* of the other instrument described in Gray's caveat, and it is not at all likely that Bell would have left out of his application for a patent all mention of two instruments that would work successfully, and mentions in his patent instruments that will not transmit speech. Gray, under erroneous advice, and in the belief that Bell, having first publicly exhibited a successful telephone, entitled Bell to priority, wrote letters that have been construed as an admission by Gray that Bell was the first inventor. This Gray would not have done but for this erroneous advice, as his (Gray's) caveat, its drawings and clear description of a speaking telephone, gave him priority, regardless of what Bell did after this caveat was filed.

In conclusion, I beg leave to add that the remarkable fact is also shown in the interference cases that they were carried on without Gray's authority, and the examiner's argument was all in favor of Gray, but the decision was in favor of Bell because of the action of the courts in the collusive cases. No greater wrong has ever been perpetrated in any country than has been perpetrated under the so-called "Bell" patents, and the strong arm of the Government should correct the wrong done really through the wrongful acts of its own agents. If the law had been carried out, Gray would have filed his application in pursuance of his caveat, and would have exhibited successful speaking telephones. Bell could only show a "multiple telegraph" apparatus (that cannot transmit speech), for which he would have received his patent, while Gray would have received a patent for a "speaking telephone." Your earnest attention is necessary in this to prevent further wrong.

Very respectfully,

W. VAN BENTHUYSEN.

The CHAIRMAN. Is there anything else, gentlemen? Let us dispose of the request of Mr. Van Benthuyssen. I have a letter from General Sypher also.

Mr. HALE. Hadn't there better be an executive session?

Mr. OATES. I think not.

Mr. HALE. I do not think the statements ought to be made public through this committee.

Mr. OATES. I have no objection in the world to making them public.

Mr. HALE. There are aspersions cast on witnesses on both sides, and this is done merely in the form of a statement to the committee. If it was under oath, of course it would be all right.

The CHAIRMAN. It is a request he makes to the committee.

Mr. HALE. Yes; but some of the matter contained in that request I do not think is proper to go before the public in this way.

The CHAIRMAN. I have not read it.

Mr. HALE. I have read it. If he goes on the stand and testifies to those things, that would be different.

The CHAIRMAN. I adhere to what I said yesterday. Any mere statement of fact by Mr. Van Benthuyzen should not be allowed to go on record. If he has any witnesses, that is another thing.

Mr. HALE. There are statements that affect the character and standing of witnesses.

Mr. HALL. I looked through it carefully, and I do not know that it is obnoxious to that objection. A man cannot make a statement without saying what he expects to prove.

Mr. HALE. Perjury is charged.

Mr. OATES. He is responsible for that, not the committee.

Mr. HALE. It ought not to be made public by the committee unless it is stated under oath.

Mr. HALL. He asks that that may be done.

Mr. HALE. It is simply a statement addressed to the committee.

Mr. EDEN. I take it Mr. Benthuyzen would have a right to have the records show that he offered to introduce certain testimony upon certain points. It is for the committee to determine whether the testimony shall be received.

Mr. OATES. That is a legal rule.

Mr. HALE. Let him come before the committee and make the offer. Here is a statement sent to the committee by him.

Mr. HALL. He came here personally and offered to make his statement and was told he had better put it in this shape. Now he has addressed a communication to the committee.

Mr. HALE. My suggestion yesterday was that if he wanted to say anything he ought to come before the committee and testify as a witness.

Mr. OATES. As I understand it the proposition now is not to have matter that lies within his own knowledge and that he can testify to. It is a motion that he makes to this committee to allow him to appear by counsel and introduce evidence of certain matters and things. If we hear him, I do not see why we should give him a half-way hearing or a private hearing. Anything he says reflecting on anybody else he is responsible for, not this committee.

Mr. HALE. What he says I think he ought to say under oath.

Mr. OATES. If he sees proper to make the motion without oath, that is for him. It is for the committee to vote on the motion and determine whether we will allow him to produce the evidence he offers to produce.

Mr. HALE. There are some serious charges made against individuals.

The CHAIRMAN. Gentlemen, we can dispose of this matter. Is there a motion?

Mr. OATES. I think we had better have the papers read, so that every member may know their contents.

Mr. HALE. I move we first consider the matter in executive session.

The CHAIRMAN. I will state the motion. The gentleman from Missouri moves that the communication of Mr. Van Benthuyzen be considered in secret session.

Mr. HALE. There is also a communication from Mr. Sypher. I want to include both in my motion.

Mr. EDEN. Yes; the proposition and counter-proposition.

The CHAIRMAN. The gentleman from Missouri moves that the communications from Mr. Van Benthuyzen and J. H. Sypher be considered in secret session. Is the committee ready for the question?

Mr. OATES. I only want to say, before taking a vote on it, that except as to our own action with reference to subpoenaing witnesses and shaping this investigation, all we have done has been done in public, and I am opposed, for the sake of anybody, to going into secret session about this matter. I am in favor of considering it openly, and letting everybody know exactly what is done.

Mr. RANNEY. I agree with the gentleman from Alabama in that position. It seems to me that this is the case: Mr. Van Benthuyzen having seen testimony that has been put in here, and having testimony within his knowledge with which he desires to deny or refute anything affecting himself by his own or other evidence, should be given the opportunity to do so.

Mr. OATES. I speak of him and Mr. Sypher and everybody else.

Mr. RANNEY. I should object to taking any written statement from him. If there is anything he can prove by his own testimony, he has a right to go on the stand, and it is the duty of the committee to recall him if they think he can refute anything as a matter of fact.

Mr. OATES. I have only read a part of his communication. He makes a motion for the committee to hear him and allow him to produce evidence upon certain questions. I do not know exactly what those questions are. It strikes me the committee ought to hear this motion as we hear any other business, and then decide whether we will allow it or not.

Mr. RANNEY. I agree with you.

Mr. HALL. I understand he is attempting to furnish this committee with the sources of information that may be material to certain questions.

Mr. HALE. I understand the proposition now is whether that communication shall be read to the committee in public.

Mr. OATES. And considered in public.

Mr. HALE. My proposition is to first determine in executive session whether we will make it public.

Mr. RANNEY. I make the motion that we do not receive, to go on the public record, this statement of Mr. Van Benthuyzen in writing.

Mr. HALE. That is the effect of my motion.

Mr. RANNEY. I am perfectly willing that he should go on the stand and testify to any facts within his own knowledge.

Mr. EDEN. That is not what he asks.

Mr. OATES. That is not what he asks.

Mr. EDEN. He makes a motion before the committee for leave to introduce certain witnesses to prove certain alleged facts that he says affect his testimony and affect him. I think he has a right to make that motion, and I think he has a right to have the records show he has made it. It is for the committee to determine what course shall be taken.

Mr. OATES. I see he starts out by claiming he has a right to vindicate himself, and states his grounds.

Mr. EDEN. If the committee think it is not a proper subject of investigation, he at least has the right to make the request and have it appear of record.

Mr. HALE. He wants to have witnesses come before the committee and make the statement under oath.

Mr. OATES. As far as I am concerned I have not got to the question whether we will do that or not. The only question is whether we will hear his motion and his application in open session or in secret session.

Mr. HALE. My point is, that it ought not to be presented to the committee in public until the matter has first been passed on in private, for reasons that are apparent on the face of that communication.

Mr. EDEN. If the committee refuse to hear the testimony, he has a right to show by the record that he offered to produce it.

Mr. OATES. I think so.

Mr. HALE. Let him come as a witness and make that offer, and not present a written communication.

Mr. EDEN. This is not his own testimony, but the testimony of somebody else. He could not swear to it himself. He says that there are other people whom he wants to introduce to testify to it. I assume he could not swear to it himself.

Mr. HALL. When any person goes to a member of the committee and gives the names of witnesses you do not expect that to be under oath?

Mr. HALE. No; but this is a man who has been a witness.

Mr. HALL. He does not appear in the province of witness, but simply to tell the committee where the information can be obtained.

The CHAIRMAN. The question is on the motion of the gentleman from Missouri.

Mr. HALE. Is it on that motion or on the objection to receiving the communication in this shape?

The CHAIRMAN. The motion has been stated. As many as favor the motion of the gentleman from Missouri [Mr. Hale] will say aye; contrary, no. [After the vote.] The ayes seem to have it; the noes have it. The motion is lost.

Mr. HALE. Now, what shape is the question in? I object to receiving that paper in public.

The CHAIRMAN. That was the effect of your motion.

Mr. HALE. My motion was to go into executive session. Now I object to reading that paper in public.

Mr. OATES. Let us vote on that.

Mr. EDEN. I move that the committee consider the application made by Mr. Van Benthuyzen.

The CHAIRMAN. The gentleman from Illinois moves that the committee proceed to consider the motion of Mr. Van Benthuyzen which he has presented to the committee.

Mr. HALE. Is it intended by that motion to give this communication to the stenographer and have it placed on the record?

The CHAIRMAN. Yes; and Mr. Sypher's also.

The motion of Mr. Eden was then put and carried.

The CHAIRMAN. The papers will be submitted to the committee.

Mr. OATES. I suggest that they be read to the committee.

The CHAIRMAN. I will read them. [Reading.]

WASHINGTON, May 17, 1886.

DEAR SIR: In the progress of the investigation of certain matters connected with the Pan-Electric and American Bell Telephone Companies by the select committee of

the House of Representatives, of which you are the chairman, much testimony has been taken, the tendency, if not the purpose, of which was to prove me guilty of a conspiracy with certain public officers and private individuals to induce the bringing of a suit in the name and under the authority of the United States Government, to annul certain telephonic patents granted to Alexander Graham Bell, and now claimed as the property of the American Bell Telephone Company, and this, too, for the purpose of advancing my own private interest and that of my alleged fellow-conspirators.

This is a grave charge, and it is but natural that I should desire to defend myself against it by every proper and lawful means, as far as I may be permitted by the committee to do so within the scope of the resolution under which it is acting.

To enable me to do this I respectfully ask of the honorable committee to accord me such privileges and facilities as are, I believe, universally allowed by the laws and usages governing all tribunals of every kind charged with the duty of investigating matters of this nature that may be alleged against any citizen, that is the right to be heard by the counsel, to introduce witnesses in my own behalf, and to be confronted with and allowed to cross-examine those who have been or may be called to testify against me.

If these rights are allowed me by the committee I propose—

First. To submit competent documentary and oral evidence to establish the fact that some of the witnesses who have testified in support of the charges referred to are charged in their respective communities as wholly unworthy of credit. These witnesses are J. Hale Sypher, E. N. Hill, and Joseph Pulitzer; the two former of whom have testified, as shown by the record, that they originated the calumnies that gave rise to this inquiry, and the latter in his testimony has assumed the whole responsibility of publishing them to the world.

Second. To show by the cross-examination of witnesses who have already been examined, and by the testimony of others yet to be called, that the American Bell Telephone Company has resorted to and used undue and improper means to scandalize and influence public officials, and improper methods to secure successful results in the Patent Office, and through that office the courts of the United States.

In pursuance of these ends I respectfully ask that the following witnesses may be summoned before the committee:

Hon. James O. Broadhead, Hon. Wm. C. Jones, Hon. Celsus Price, Wm. H. Swift, esq., Herman Hansler, esq., Col. John Knapp, Geo. W. Bailey, esq., Hon. Robert A. Campbell, Mr. Joseph Bogy, jr., Hon. John B. Finney, Col. Grin. Prather, John A. Dillon, Editor Henry W. Moore, managing editor, and Ignatz Kappner, business manager of the Saint Louis Post-Dispatch, all of Saint Louis, Mo.; and John A. Cockrell, assistant editor of the New York World, and Wm. Swan, of Boston; and I ask to have recalled the following witnesses who have already testified: J. Hale Sypher, E. N. Hill, Joseph Pulitzer, T. C. Crawford, S. N. Clarke, A. G. Boll, Gardiner G. Hubbard, Wm. R. Driver; and that the latter be required to produce the minute-book, stock-books, and cash-books of the American Bell Telephone Company and all contracts made by said company.

I propose also to show that it is not true that in the contests already had and the efforts to secure a Government suit against the Bell patents through myself or my company is the work of any Democratic or other political element; the facts being that in all these contests Republicans have been in the majority and the principal portion of the expense has been paid by Republicans, and the attorneys against the Bell companies are nearly all Republicans of the highest respectability and standing.

I believe that all the testimony I shall offer to introduce is fully authorized under the terms of the resolution of inquiry and the course of examination which has already been taken by the committee.

I have the honor to be, very respectfully, your obedient servant,

W. VAN BENTHUYSEN.

Hon. CHARLES E. BOYLE,

*Chairman Select Committee of House of Representatives,
Investigating Telephone Matters.*

WASHINGTON, D. C., May 18, 1886.

MR. CHAIRMAN: I observe from the public prints that a person by the name of Van Benthuyzen has requested permission of this committee to impeach the testimony of myself and other gentlemen who have testified before you. This man is quite notorious for his impudence, audacity, and unscrupulous transactions. I hope you will afford him the amplest opportunity to refute any statements made by me, here or else-

where. While I invite and challenge the closest scrutiny into my private character and public acts, by this honorable committee, I shall not permit my record to be interpreted or judgments to be passed upon me by any such man as Van Benthuyssen.

Very respectfully,

J. H. SYPHER.

The CHAIRMAN. I have a letter from Dr. Rogers also.

Mr. OATES. Let us have the whole thing.

Mr. EDEN. Yes, let us see what the doctor has to say.

Mr. HALE. It is pretty spicy reading, worth reading if life was a little longer.

Mr. EDEN. Is Dr. Rogers's letter on the same subject?

The CHAIRMAN. I presume this letter was intended for the committee. It is addressed to me as chairman of the committee.

Mr. J. HARRIS ROGERS (to the chairman). If you will allow me, I think it was only intended for yourself.

The CHAIRMAN. Then I will not read it. There is nothing in it to indicate that it was to go before the committee except that it is addressed to me as chairman.

Mr. HALL. I suppose that it is a confidential communication.

The CHAIRMAN. I will so treat it. Now, gentlemen, the matter is before the committee. What is the pleasure of the committee?

Mr. HALE. I confess, myself, I do not know what to do with them.

Mr. HALL. I think it is entirely proper to consider them—as to whether we will take the testimony. It is not a difficult subject to consider, I think.

The CHAIRMAN. The first matter before the committee, as I understand, is that Mr. Van Benthuyssen asks, in the first place, to be allowed to introduce testimony in this respect: "To submit competent documentary and oral evidence to establish the fact that some of the witnesses who have testified in support of the charges referred to are charged in their respective communities as wholly unworthy of credit. Those witnesses are Mr. Sypher, Mr. Hill, and Mr. Pulitzer, the two former of whom have testified, as shown by the record, that they originated the calumnies that gave rise to this inquiry, and the latter in his testimony has assumed the whole responsibility of publishing them to the world." It would probably be better to submit these requests separately.

Mr. HANBACK. Is it not a fact that there is oral and documentary evidence which he desires to present?

Mr. RANNEY. He does not say that he has any documentary evidence.

The CHAIRMAN. No; it is a question whether he shall be allowed to attack the reputation of the witnesses named, they having testified before this committee.

Mr. HALE. He submits the proposition as a whole, does he not?

The CHAIRMAN. I can see that part of the testimony offered might be competent and the other part not competent.

Mr. OATES. It is competent for the committee to consider the whole or any part of it.

The CHAIRMAN. Does any member of the committee desire to offer a motion?

Mr. EDEN. I do not think the committee should go into a general investigation of that kind.

Mr. RANNEY. I do not see that General Sypher's testimony is material at all. I think he communicated no fact to the committee.

The CHAIRMAN. It will simplify the matter if some gentleman will make a motion that we shall or shall not admit this evidence.

Mr. EDEN. I move that we shall decline to go into an investigation on that point which the chairman has just read.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois that this committee will not receive testimony under Mr. Van Benthuyssen's first offer, to show that Messrs. Sypher, Hill, and Pulitzer are charged in their respective communities as wholly unworthy of credit.

Mr. OATES. Mr. Chairman, looking into the resolution of the House under which this committee was created, and which gives the committee all the power and authority that it has, I think we have, in our efforts to fully discharge the duty devolving upon us as set forth in that resolution, in a good many instances exceeded our powers in our search for evidence. If we undertake to enter upon the inquiry, or the request rather, of Mr. Van Benthuyssen, I think we will assume all the functions of a court and get entirely outside of the question, for most of the purposes stated there are outside of our authority. We have found ourselves on more occasions than one in the predicament of seeking testimony here which we did not have the power to compel. I think we have indulged in about as much latitude as could be expected. While every one may have his own opinion concerning the evidence already adduced, I do not think it advisable to extend the investigation to the degree indicated in this application. This application to be allowed to put in rebutting testimony opens the

gates very wide, and if granted, would protract this investigation indefinitely. Therefore I will offer this resolution just at this time as an amendment or substitute.

(To Mr. EDEN.) If you will withdraw your resolution, I will offer this as a substitute.

Mr. EDEN. You had better read it and then we can see what it is.

Mr. OATES. I think you will accept it. The resolution I have drawn reads as follows: "*Resolved*, That no other witnesses be subpoenaed or called to testify before this committee. The documentary evidence which is relevant may be introduced, and witnesses who have testified may correct any error in their testimony or be recalled to testify about any new matter which has been admitted into the record since the examination of such witness or witnesses."

Mr. EDEN. Very well; I will accept that.

Mr. RANNEY. Be kind enough to read that once more.

Mr. OATES read the resolution, as requested.

Mr. EDEN. That does not apply to documentary evidence, I understand.

Mr. RANNEY. I have some documentary evidence which I desire to offer at the proper time.

Mr. OATES. Under that resolution, we should treat the register of the hotel as documentary evidence.

Mr. HALL. Would that allow any witness to be recalled in reference to any document that may hereafter be introduced?

Mr. OATES. Yes, to explain any new matter in it.

Mr. EDEN. You cannot get in documents as evidence unless it is by agreement.

Mr. OATES. Well, I think we have been pretty liberal in regard to putting in documents so far.

Mr. HALL. I do not know what may be produced in the way of documents. It may become necessary to call some witness in connection with a document.

Mr. OATES. I will say to Mr. Hall that this is not intended by me to operate harshly or to cut off anything which is just and right.

Mr. EDEN. If any person should be affected under it, that person would have a right to come in and make a statement.

Mr. OATES. If it was alleged as untrue he might.

Mr. MOFFATT. How would that affect the matter of the telegraphic dispatches? We may have to subpoena some one else in order to get at them.

Mr. OATES. Well, that is documentary evidence.

Mr. EDEN. Let it be understood, then, as you say, that they are documentary evidence and can come in.

Mr. RANNEY. Has anything been heard from Mr. C. P. Huntington?

The CHAIRMAN. Nothing.

Mr. OATES. Nothing since he sent the certificate of his doctor.

Mr. HALL. Suppose, Mr. Oates, that you add to the end of your resolution, "unless in explanation of documentary evidence hereafter introduced." For instance, Mr. Ranney says that he has letters which he desires to introduce. I do not know what they are. But in regard to them, or documents that any member of the committee might want to introduce, if necessary, witnesses should be allowed to explain them.

Mr. RANNEY. The documents I refer to are nothing except what are before the committee.

Mr. OATES. Are they not all of them letters to or from some of the parties who have testified as witnesses?

Mr. RANNEY. Yes.

Mr. OATES. Then they can be recalled under this resolution.

Mr. EDEN. If a person is reflected upon by anything contained in a document, he should have a right to come before the committee and explain the matter.

Mr. HALL. I move that it include all documents hereafter to be submitted.

Mr. RANNEY. That was practically the determination the other day.

Mr. HALE. I am ready to vote for that resolution at any time, but if I understand the practice, I think having communications before us specially, we ought to make some disposition of them.

Mr. OATES. This disposes of them. It cuts them off.

Mr. HALE. Suppose you add to the resolution that this request be not granted. That may be the indirect effect of it.

Mr. OATES. We have here a request for the introduction of new witnesses. Of course, if this resolution is adopted, it knocks all that out.

Mr. EDEN. It disposes of all that.

Mr. HALE. Yes; it would if it was in the resolution, but the resolution is too general.

Mr. OATES. That was the pending question when the resolution was submitted.

Mr. EDEN. This will cover all that Mr. Van Benthuyzen proposes, as I understand it.

Mr. OATES. I prefaced the introduction of it by stating that I thought we had gone fully enough into evidence touching all these matters, and therefore I offered that resolution.

Mr. EDEN. This resolution would dispose of Mr. Van Benthuyzen's request.

Mr. HALE. I think we ought to dispose of these formal communications now before the committee.

Mr. RANNEY. Then suppose you make a motion to that effect.

Mr. OATES. I think the Chair would rule that my resolution would dispose of them.

The CHAIRMAN. That was my understanding; that this request was before the committee for consideration when the gentleman from Alabama offered this resolution.

Mr. HALE. I make this as an amendment, "that the request of General Sypher and Mr. Van Benthuyzen be not granted."

Mr. OATES. The very language of the resolution, "that no other witnesses be subpoenaed or called on to testify before this committee," includes that.

Mr. HALE. If the proposition was not pending, that would be sufficient, but there is a pending proposition undisposed of before the committee.

The CHAIRMAN. The gentleman from Illinois withdrew his motion, and there is no motion before the committee but this.

Mr. MOFFATT. I submit that there is one point in the request of Mr. Van Benthuyzen not covered by this resolution. He asks leave to introduce, among other things, documentary evidence on these points.

Mr. OATES. If he brings documentary evidence the committee can judge whether it is proper or not.

Mr. MOFFATT. But he asks to impeach them in that way.

Mr. RANNEY. That resolution applies to documentary evidence.

Mr. MOFFATT. That leaves this question of Mr. Van Benthuyzen's introducing documentary evidence open. The best way is to consider and act upon it definitely.

Mr. RANNEY. This resolution does not preclude Mr. Van Benthuyzen from introducing documentary evidence.

Mr. MOFFATT. I do not want documentary evidence introduced by him. Why not say that we will not grant his request, and that would be the end of it. I think Mr. Hale's view of that is correct.

Mr. EDEN. I think the resolution covers the whole thing.

Mr. RANNEY. I think it does.

Mr. OATES. In order that we may have no further trouble, I will consider that as an amendment.

Mr. HALL. In regard to the suggestion of the gentleman from Missouri, and also in regard to some remarks made as to the relevancy and materiality of the testimony of General Sypher and Mr. Pulitzer, in my opinion their evidence is material. But as to many of the facts stated by them of course there is no controversy. But there might be in the minds of some persons a doubt as to whether they have stated all the facts; whether there are not some material facts omitted, and I regard, so far as the whole aspect of their testimony is concerned, the matter of character as material, and while I am not in favor of going into that question now, in consequence of the lateness at which this proposition is laid before the committee, I do not want the action of the committee to assume such a shape that it shall leave the impression that we declined to go into the investigation of character because we believed those witnesses or did not believe them; and hence I object to the suggestion which has been made two or three times that we decline to go into that in a general way. The resolution now is a proper one and covers it.

Mr. HALE. I do not think there is any conflict whatever as to the testimony of Mr. Pulitzer; that is my recollection.

Mr. OATES. Mr. Pulitzer did not swear to any fact at all except that he got this communication from his regular correspondent and stated that he was responsible for what had been published. He did not testify to any of those facts.

Mr. EDEN. I do not think that this action of the committee is to reflect upon their testimony or to build it up, but to leave it just as it was.

Mr. HALE. That is my understanding.

Mr. OATES. I have added to this resolution, and I will read it again. [Reading:]

"Resolved, That no other witnesses be subpoenaed or called to testify before this committee. That documentary evidence which is relevant may be introduced, and witnesses who have testified may correct any error in their testimony or be recalled to testify about any new matter which has been admitted into the record since the examination of such witness or witnesses, or in explanation of documents hereafter introduced, and that the motion of Mr. Van Benthuyzen be denied."

Mr. HALE. Why not include the motion of General Sypher also?

Mr. OATES. There is no motion in his communication; his is only a letter.

The CHAIRMAN. Do I understand the gentleman from Illinois to withdraw his motion?

Mr. EDEN. Yes.

Mr. HALE. I am satisfied with the resolution.

Mr. HALL. I understand that General Sypher's application is practically the same as that of Mr. Van Benthuyzen.

Mr. OATES. No; I do not think he made any motion.

The CHAIRMAN. He merely desires to be heard.

Mr. HALL. It is practically a request of that kind; and I move to amend that resolution by striking out the last words about Mr. Van Benthuyzen and substituting these words: "That all pending propositions to take further testimony be refused."

The CHAIRMAN. I will state to the gentleman from Iowa that General Sypher does not ask to be permitted to produce any testimony whatever. He merely concurs in the request of Mr. Van Benthuyzen, and proposes to ask that he be given scope to attack him. A refusal of Mr. Van Benthuyzen's request would cover the whole ground.

Mr. OATES. General Sypher has made no request. He has just said that he was willing to meet it.

The CHAIRMAN. The question is on the adoption of the resolution offered by the gentleman from Alabama. Those who are in favor of its adoption will say aye—

Mr. OATES. I move a call of the committee so that we can have a record of the vote.

The CHAIRMAN. The clerk will call the roll.

The eight members of the committee present voted in the affirmative, Mr. Millard being absent.

The CHAIRMAN. The ayes have it; it is agreed to.

Mr. RANNEY. I have some documentary evidence that I desire to offer at the proper time.

The CHAIRMAN. I want to put into the record the majority and the minority reports of the House Judiciary Committee on the question of the power to institute Government suits for the revocation of patents.

Mr. OATES. I have no objection, and I think in that connection we had better have the opinions from the Interior Department on the same question put into the record.

Mr. EDEN. They have been put in.

The CHAIRMAN. That is a separate matter.

Mr. OATES. Have you got those?

The CHAIRMAN. I have one set.

Mr. RANNEY. It seems to me, as these reports are public documents now before the House and the country, there is no need of encumbering this record with them again, is there?

Mr. OATES. I think it is just as well to let them go into the record.

Mr. HANBACK. It tends to preserve them.

Mr. RANNEY. I have no objection, except that it encumbers the record. They are public documents.

The following are the reports referred to:

[House Report No. 1003, Forty-ninth Congress, first session.]

CANCELLATION OF PATENTS FOR INVENTIONS AND DISCOVERIES.

The original resolution (No. 100) asked—

"That the Committee on the Judiciary be directed to inquire and report to the House, accompanying the report by a bill if deemed best—

"First. Whether under existing law, and if so under what law, the Attorney-General has authority at the instance and in the interest of private corporations or of individuals, in the name and at the expense of the United States, to institute and carry on or defend against suits to cancel or annul letters patent issued to citizens of the United States under the laws thereof on account of inventions or discoveries, said United States having no pecuniary or other interest therein; and

"Second. Whether if said authority exist, and its continuance be deemed wise in the judgment of the committee, the law conferring the same should not be made so specific as that parties in interest would be apprised with certainty in what cases and under what conditions they might look to the Government of the United States to undertake the burden of their litigations in that behalf."

The House adopted the following resolution:

"Resolved, That the Committee on the Judiciary be required to answer the questions by said resolution No. 100 propounded, and advise the House as to the present state of the law on said subject, and report any amendment deemed needful, if they find that the law in that regard needs amendment, and that the committee may report at any time."

Answering, your committee says, that should a suit to cancel or annul its letters patent be begun by the United States, and should the bill aver that the United States had "no pecuniary or other interest therein," i. e., in the patent, without qualifying words, it would be dismissed upon demurrer. No court would try a cause in which the party suing appeared to have no interest.

Should the United States, in such a suit, omit that allegation, but aver that they complained only "at the instance and interest of private corporations or of individuals," and with no view beyond protecting those private interests, we suppose the suit would be dismissed upon the ground that for such private interests statutory remedies had been prescribed. For these reasons, considering the first question literally, your committee answer it in the negative. We do not see how who paid the expenses of the litigation could be material, except with a view to learn whether the suit were only to protect such purely private rights asserted.

In 1685 Sir Oliver Butler's case was decided in England (see 3d Levinz R., 220). In *Queen vs. Aires*, 10 Mod. R. 354, in 1717, the court, Parker, C. J., said:

"As to this, Sir Oliver Butler's case is an express authority * * * that the Crown *de jure* ought to permit subjects to sue in the name of the King" to vacate the King's patent.

This language comes not from Butler's case, but from a remark by the Attorney-General or reporter about that case in another report of *Queen vs. Aires*, 10 Mod. R., 258. The only question in Butler's case was whether the King could have his grant canceled. But the doctrine is recognized in 3 Bl. Com., 260, quoted below.

Butler's case was relied on by Crittenden, Attorney-General, in 1850, in *United States vs. Hughes*, 11 Howard R., 557, and the grant was canceled. Butler's case was cited with approval in *Mowry vs. Whitney*, 14 Wallace R., 434. But in 114 U. S. R., 244, the court, by Miller, J., in *Minor's* case, said it was a grave question whether officers of the United States could allow the use of the name of the United States in suits for private interests only.

Section 4918 Rev. Stat. U. S. allows persons interested in interfering patents to have patents declared void in a court of equity; but that judgment affects only the parties to that action and those holding under them by title derived after such judgment. Sections 4919, 4920, 4921, and 4922 cover the defenses which may be made by persons sued for infringement.

The general law of equity jurisdiction and these statutory provisions seem to us to provide ample remedies for all cases purely private in which the judgment sought is to affect private interests only. Perhaps, therefore, the "grave question" suggested in 114 U. S., *ante*, need not be raised. (See *Mowry vs. Whitney*, 14 Wallace, 434.) In such purely private suits, in England and here, the private person must pay expenses of the litigation.

But letters patent for inventions and discoveries may be judicially canceled at the instance of the United States, suing for the general public. As to the grant of these patents, Congress stands for the public or sovereign.

Dyer reported two cases (*Rex vs. Esten* and *Penwarren vs. Thomas*), from which he concluded—

"That where there is only one patentee who has committed a cause of forfeiture, of which office the King has not made yet any new patent, there the patentee shall not be ousted by the King except by *scire facias* at the suit of the King, &c. (Dyer 198^a.) In *King vs. Clarke*, decided in 1674, it was said, 'The question was upon the grant of the King. Nudigate—That the King's patent shall be void in these following cases: 1. Where he is misinformed in his grant (1 Co., 52). * * * 3. If the King shall be deceived in matter of fact or matter of law, it is void (10 Co., 112; 1 Co., 46), &c. (Freeman, 172.)"

In 4 Coke's Institutes, 8, speaking of the court of chancery, it was said: "When the King granteth anything that is grantable, upon a false suggestion, the King by his prerogative, *jure regio*, may have a *scire facias* to repeal his own patent."

In 1684 a grant by the King of Great Britain was canceled because obtained "by surprise and by false particulars," and that, too, though it was urged that under such law "no patentee can be safe, nor should the King's seal be of any force." (Attorney-General *vs. Vernan*, 1st Vernon's R., 276-9.)

That case was followed in *King v. Sir Oliver Butler*, in 1685, where the grant was "surreptitiously and fraudulently" procured (sec. 3, Levinz R., 220).

That grant was to hold fairs at a place so near as to interfere with other fairs under an older grant. It was decided by Lord Chancellor Finch, assisted by North and Jones, who gave judgment for cancellation. Upon writ of error to House of Peers it was submitted to six judges, who unanimously held: "The King has an undoubted right to repeal a patent whenever he is deceived or his subjects prejudiced;" and therefor he cited precedents. There is a shorter report of the same case in 2d Ventris, 344. In 1717 Butler's case was relied upon in *Queen v. Aires* (10 Modern R., 354), as above quoted. Blackstone, in his Commentaries, published in 1776, defined the King's letters patent as "grants, whether of lands, honors, liberties, franchises, or aught else besides." (1 Bl. Com., 346.)

On the next page he said:

"When it appears from the face of the grant that the King is mistaken or deceived either in matter of fact or matter of law, as in case of false suggestion, misinformation, or misrecital of former grants, or if his own title to the thing granted be different

from what he supposes, or if the grant be informal, or if he grants his estate contrary to the rules of law, in any of these cases the grant is absolutely void." (*Ib.*, 347.)

In telling of the remedy by *scire facias* for canceling patents, Blackstone said:

"This may be brought either on the part of the King in order to resume the thing granted, or if the grant be injurious to a subject, the King is bound of right to permit him (upon his petition) to use his royal name for vacating the patent by *scire facias*." (3 Bl. Com., 260.)

And for this Blackstone cited Dyer, Freeman, Coke, and Levinz, as hereinbefore mentioned. Chancellor Kent followed Butler's case by name in 1814 to vacate a patent "for fraud, irregularity, or mistake," in *Jackson v. Lawton* (10 Johns. Reports). Following it, Attorney-General Wirt held that a grant by the United States, in which there was a mistake, might be judicially corrected "at the instance of the United States or by the pre-emptors by authority in the name of the United States" (1 Op. Attys. Gen., 458). In 1842 Mr. Legaré so held, citing Butler's case; and reaffirmed it in 1843 (sec. 4, Op. Attys. Gen., 149).

In Stone's case (2 Wallace R.) the Supreme Court of the United States said that a patent might be judicially canceled when issued by fraud or unadvisedly or by mistake, or by one without authority, or to one where it should have been to another. And in *Minor's case* (114 U. S. Reports, 233) that court held the right of the United States to judicially cancel its grant to be as broad as that of a private person to set aside his contract for like reasons.

True, the grants in these American cases were of lands, as was that in *Vernan's case*, *ante*. But in the cases from Dyer and Freeman, and Sir Oliver Butler's case, and in *Queen v. Aires*, they were not of lands but of monopolies.

It is remarkable that our acts of Congress of 1790 and 1793, governing the patents for inventions and discoveries, allowed courts to declare them void when "obtained surreptitiously by or upon false suggestions." The very words were borrowed from the cases of *Vernan* and of *Butler*, cited above. Under those statutes, and until the remodeling of the whole system by the act of 1836, one sued for infringement might so defend as to have a patent, void for those reasons, canceled by the court. Since then such defense can procure a decree operative only between the parties to the suit and their subsequent assignees, as already stated. (Rev. Stats. U. S., sec. 4918.) Of that we speak later.

In 1856 our Supreme Court held that—

"A bill in equity lies to set aside letters patent obtained by fraud, but only between the sovereign making the grant and the grantee." (*Field v. Seabury*, 19 Howard's R., 323.)

That was a patent for land.

In *Doughty's case*, 6th Blatchford, the court (Blatchford, J.) said:

"For any such alleged invalidity the only remedy would be a direct proceeding by the United States to vacate the patent.

"The seal of the United States and the signatures of the proper officers to the grant must be respected, in the absence of fraud, as long as the United States themselves do not question the grant. This is familiar law with regard to all grants by sovereigns."

That was for an invention.

The principle was recognized in *Rubber Company v. Goodyear* (9 Wallace's R.) and in *Mowry v. Whitney* (14 Wallace's R.), and see 112 U. S. R., 358 and 365, the case of *Mahn v. Harwood*. We do not mean that this question has been by those cases judicially determined, but only that in determining the questions at issue the law was treated as settled, as here stated.

In *United States v. Frazier* (22 Fed. Reporter, 106) Judge Blodgett proceeded upon the ground that the United States made no appearance, and that their name was used colorably to cover private interests only. In the same volume Judge Wallace held, in November, 1883: "There is no distinction between letters patent for an invention and for land as regards the rights and remedies for vacating them when obtained by fraud." (*United States v. Gunning*, 18 Fed. Reporter, 511.) This case was reaffirmed by Wheeler, J., in 22 Fed. Rep., 653, and 23 Fed. Rep., 668. It was for a patented invention, and decided in New York in 1884. That case was put upon 19 Howard, *Field v. Seabury*, *ante*, and expressly disagreed with the case of the *Rumford Chemical Works*, decided in Rhode Island in 1876. That was a bill, to vacate letters patent for a discovery, brought not by the United States, but by "George H. Williams, as he is Attorney-General of the United States of America." It was demurred to because it stated no case, because informant averred no lawful authority for the suit, that the suit was not in the name of United States, and that the Attorney-General, in the form used, had no authority to sue, *because the United States is not a party to the suit, &c.* (See *Attorney-General v. Rumford Chemical Works*, 2 Banning and Arden, 302.) The decision dismissing the case was put on this last ground. (*Ib.*, 315.)

The court held that if the action could be maintained it must be in the name of the

United States. All else in it was *obiter* and not at all necessary or appropriate to the logic which reached that conclusion.

The ground for dismissal, that the United States must be the complaining party, was certainly a safe one. For in *Mowry v. Whitney*, 14 Wall., 434, the decision was put upon a demurrer because the United States was not a party complainant, nor did it appear that the suit was at the instance or by the authority of the Government.

But as the *Runiford Chemical Works* case from Rhode Island was, by House Report No. 4, first session Forty-eighth Congress, made by the Committee on Patents, treated as stating the law on its *obiter dicta*, a short review of it in that regard is appropriate.

The foregoing answers the remark of Judge Shipley in that case from Rhode Island, that Sir Oliver Butler's case had not been followed. The foregoing answers, perhaps, sufficiently his claim that a difference between grants to land and grants to monopolies exists, because the United States owns the lands, but does not own the monopolies, which it grants. We have shown that neither Coke nor Blackstone made any distinction between grants of lands and of other things. The United States does not own the monopolies, but it has the right to grant them, and protect their grantee in their uses. The United States owns that right and its lands alike only in trust for the public. This was well enforced by Marshall, Chief Justice, in 1832, in *Grant v. Raymond* (6 Peters's Reports, 218). Speaking of the act of 1793 *ante*, he said: "The great object and intention of the act is to secure to the public the advantage to be derived from the discoveries of individuals" in consideration of "the exclusive right to make up and sell the things discovered for a limited time."

And in *Butterworth vs. Hoe* (112 U. S. R., 59) speaking of the clause in the Constitution allowing such grants, the court said:

"The legislation based on this provision regards the right of property in the inventor as the medium of the public advantage derived from his invention, so that in every grant of the limited monopoly two interests are involved—that of the public, who are the grantors, and that of the patentee."

It is absurd to speak of the United States granting if it had naught to grant.

In the Rhode Island case it was said that the granting of a patent by the Interior Department was a judicial proceeding. Taney, Attorney-General, said it was only ministerial, in 2 Opinions Attorneys-General, 455, in 1831. Mr. Webster so contended in arguing *Field vs. Seabury* (19 Howard *ante*, p. 233) in 1832, and so said Mr. Cushing, Attorney-General, in 8 Opinions Attorneys-General, 270. It is called quasi-judicial in 114 U. S. R., 51. But what of it? The most solemn judgments of the highest courts may be set aside for fraud.

The Rhode Island case mentions that English patents contain in them the stipulation that if contrary to law or fraudulent, &c., they may be set aside, and that ours have no such reservation. The law enters into every contract; is as much a part of it as if therein written. Said Miller, J.: Such a grant "can only be avoided by a direct proceeding by way of *scire facias* or bill in chancery to set aside the grant for some reason which made its original issue a wrongful act. In such case *the Government which issued the patent*, by its Attorney-General or other proper officer, in a court of competent jurisdiction obtains a decree setting the patent aside, whereby it is rendered of no avail against all persons interested in the matter *as well as the Government*." (*Mahn v. Harwood*, 112 U. S. R., 365.)

Such pleadings must aver that public interests are involved and how. For, as our Supreme Court has said:

"The general public is left to the protection of the Government and its officers." (14 Wallace R., 441.)

The public, "the people," by the Constitution vested in Congress certain prerogatives which in England belonged to the Crown. But Congress and Crown hold them *pro bono publico*. The possession of the powers implies the duty to use them *pro bono publico*, and hence the expression that "the general public is left to the protection of the Government or its officers" above quoted. Congress is empowered to secure "for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries" in consideration of the promotion of "the progress of science and useful arts" (U. S. Constitution, Art. 1, sec. 8) and the benefits thereby to come to "the people," upon which so much of their wealth and comfort depend. The contract is made in the name of the United States. If procured by fraud, or accident, or mistake, there ought to be some way to set it aside and thereby protect the general public. We believe the old way, under the acts of 1790 and 1793, by which it could be done upon the suggestion of the defendant in an infringement suit, was merely cumulative upon the right of the United States as one of the contracting parties to have it declared void, and that it was left out of the acts of 1836 and 1870 because it was deemed best that the United States only should pray to cancel its letters patent.

It may be said the United States may not sue except by direct law so authorizing. The cases above cited for canceling patents for land have been judicially sustained, and no statute has specially authorized those suits. The Constitution, article 3, sec-

tion 2, says there may be "controversies to which the United States shall be a party," and that her courts may have jurisdiction in them, and in "all cases arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority." Here is a controversy about a contract to which the United States is a party, and which contract is made pursuant to a law of the United States passed to enable it to perform a great constitutional trust. It seems to be not only the right but solemn duty of the United States to see that her seal attached to such a contract shall not cover a fraud. The mere fact that some private person may receive special benefit from such action does not affect the question when the suit is brought by the United States to protect "the general public." The criminal laws are enforced wholly in the name and at the sole expense of the United States, generally upon the suggestion of individuals. And prosecutions sometimes inure to individual profit, but the purpose is to protect the general public. When such a suit needs to be brought it must be commenced by the Attorney-General or his authority. His duty is to conduct and argue any case, in any court of the United States, in which the United States is interested, or have it done. Should there be no Attorney-General, or he be absent or under disability, the Solicitor-General of the United States has the power to act in his stead (Rev. St., U. S., 347, 349, 367).

From the beginning of the Government such suits have been allowable. Of late years they have been frequently brought by the Department of Justice, upon the suggestion of the Department of the Interior. A list of some of those suits is hereto attached as an exhibit, showing the patent and by what officer in the Department of Justice the suits were commenced or by whose authority the name of the United States was authorized. There are many forcible reasons why the right should not be restricted. It is safe to trust two such Departments. Lest the disposition to grant valuable monopolies to honest inventors be destroyed, it is best to leave it easy for the Government to attack all letters patent "surreptitiously or fraudulently" obtained. Your committee do not deem any amendment of the law in this regard as needful, and therefore recommend that the resolution do lie on the table.

EXHIBIT.

No. 1.—Patentee, John L. Stevens: Patent for egg-carriers. Order March 14, 1874, by George H. Williams, Attorney-General.

No. 2.—Rumford Chemical Works: Patent for yeast-powder; patentee, E. M. Horsford. Patent issued April 2 (or 22), 1856; patent reissued May 7, 1867; patent reissued June 9, 1868. Order April 17, 1875, by George H. Williams, Attorney-General.

No. 3.—Woodbury patent: Patent for pressure-bar; number of patent, 138462; patentee and inventor, Joseph Page Woodbury. Petition filed by L. Gould, president; C. B. Rogers & Co., Norwich, Conn. United States attorney, Connecticut, instructed to institute suit May 11, 1875, by George H. Williams, Attorney-General. United States attorney instructed to take no steps till further instruction, May 13, 1875. United States Attorney, Connecticut, instructed to apply for order of dismissal, November 6, 1875.

No. 4.—United States attorney, Southern Ohio, instructed to subscribe his name and that of the Attorney-General to bill in matter of petition Zera Gotchell, of Cincinnati, Ohio, for leave to bring action in name of the United States set aside and declare null and void Letters Patent No. 99356, granted to Thomas H. Currey, of Cincinnati, Ohio, February 13, 1870. A. Taft, Attorney-General. December 5, 1876.

No. 5.—Thomas A. Edison *et al.* vs. Western Union Telegraph Co.: Patent, improvement of duplex telegraph. Filed September 1, 1874. Appearance for United States ordered May 26, 1876, by S. F. Phillips, acting Attorney-General.

Nos. 6 and 8.—United States vs. John Gunning: Number of patent, 265061, dated September 26, 1882. Alleged inventors, Cæsar Brothers. Bill in equity, March 23, 1883, by S. F. Phillips, Assistant Attorney-General.

No. 7.—Roberts Topedo Case: Patentee, A. L. Roberts; number of patent, 47458, dated April 25, 1865; number of original patent, 59936, dated November 26, 1866, antedated May 29, 1866. Patent number, 5434, dated June 3, 1873. Application for reissue filed May 24, 1873. Reissue of patent 6258, or 6528, or 215408. Suit April 25, 1883. Benjamin H. Brewster, Attorney-General.

No. 9.—Axle-grease: Inventor, Samuel Frazer. Number of patent, 219455, dated September 9, 1870, and number of patent, 233497, dated October 10, 1880. By Benjamin H. Brewster, Attorney-General, July 13, 1883.

[House Rep't 1003, part 2, Forty-ninth Congress, first session.]

VIEWS OF THE MINORITY.

The original resolution (No. 100) asked—

“That the Committee on the Judiciary be directed to inquire and report to the House, accompanying the report by a bill if deemed best—

“First. Whether, under existing law, and if so, under what law, the Attorney-General has authority at the instance and in the interest of private corporations or of individuals, in the name and at the expense of the United States, to institute and carry on or defend against suits to cancel or annul letters patent issued to citizens of the United States under the laws thereof on account of inventions or discoveries, said United States having no pecuniary or other interest therein; and

“Second. Whether if said authority exist, and its continuance be deemed wise in the judgment of the committee, the law conferring the same should not be made so specific as that parties in interest would be apprised with certainty in what cases and under what conditions they might look to the Government of the United States to undertake the burden of their litigations in that behalf.”

The House adopted the following resolution:

“Resolved, That the Committee on the Judiciary be required to answer the questions by said resolution No. 100 propounded, and advise the House as to the present state of the law on said subject, and report any amendment deemed needful, if they find that the law in that regard needs amendment, and that the committee may report at any time.”

The undersigned members of the Committee on the Judiciary, dissenting from the report made by the majority on the foregoing resolutions, respectfully submit their views to the House, as follows:

A presentation of the present state of the law as required involves a review of decisions made and of legislative action had upon the subject of the inquiry.

Two cases reported by Dyer are cited to sustain the claim that our Attorney-General has authority to bring suit in the name of the United States to repeal or annul a patent granted for an invention.

In the first, *Rex v. Eston*, Dyer, 197*b* (1561), judgment was given canceling letters patent held by the defendant of the office of sergeant-at-arms and a per diem fee, for life, and the letters were canceled upon default, on the ground that the defendant did not perform the office, but absented himself.

The second, *Penwarren v. Thomas*, 198*a* (1561), is a suit between individuals claiming the office of bailiff, one by inheritance, in fee-simple, and the other by letters patent, for life. The letters were revoked, and Penwarren was restored to the office.

Neither case gives any valuable suggestion upon this inquiry.

The *King v. Clarke*, Freeman, 172 (1674), so far as applicable, holds only that the King's patent is void when he is misinformed in his grant, and also where he shall be deceived. The *King v. Sir Oliver Butler* (3 Levinz, 220), in the House of Lords (1685), is relied on by the majority, and is cited in cases cited in the report. Let us see what application and authority it has. The mayor and citizens of Rochester held the city under a farm-rent of £12 per annum, and by ancient right held a market every Wednesday and Friday, receiving tolls, &c. The King, by letters patent (reciting an inquisition *ad quod damnum*, finding that it would not be to the damage of the King or any other person), granted to defendant a market to be held in Chatham, 1½ miles away on other days. In the proceedings instituted it was alleged that the writ of inquisition was executed the day of its date, 30 miles from Rochester, and without notice to the mayor, &c., and surreptitiously and fraudulently in deceit of them, and that the grant was to the damage of Rochester and of the market there, and that by reason thereof these letters patent were void. Upon demurrer joined the case was heard in chancery (1680), and is reported (2 Ventris, 334). The chancellor overruled the demurrer and said: “And where a patent is granted to the prejudice of the subject, the King of right is to permit him upon his petition to use his name for the repeal of it in a *scire facias* at the King's suit, and to hinder multiplicity of actions upon the case.”

The case then went up to the House of Peers, and this review is reported in 3 Levinz, 220. In this report, answering the objection that *scire facias* does not lie to repeal such patents, because there is another remedy by the common law, the judges of the House answered, “That the King has an undoubted right to repeal a patent wherein he is deceived or his subjects prejudiced,” citing cases of patents for toll, for markets, and the like, asserting the King's right, and saying that “it is *jure regio* by the common law, and in none of the cases was it any question whether the writ would lie, but only the manner of pursuing it.

The case in the House of Lords is reported at much length, and although it asserts, as above, the doctrine that in such a case “The King has an undoubted right to repeal a patent,” it does not appear to adopt the position of the chancellor below, that

"The King, of right, is to permit [the subject], upon his petition, to use his name for the repeal of it," consequently the latter doctrine, quoted in many books as decided by the House of Lords, 3 Levinz, 220, is without that high authority.

In *The Queen v. Aires*, 10 Mod., 258 and 354 (1717), certain fairs in Derby had been granted to defendant.

It was alleged that the writ *ad quod damnum* was clandestinely executed, and that the grant damaged previous grants to the Earl of Rutland, who had fairs 4 miles distant.

This allegation was sustained by a jury. In this case the Attorney-General in his argument refers to Butler's case and says, page 260: "3 Lev., 220, where it was held that the Crown *de jure* ought to suffer the subject to use their name." And the chief justice deciding the case (p. 354), and apparently adopting the statement, says, "Sir Oliver Butler's case" (with a reference to 3 Lev., 220), "is an express authority that a *scire facias* is the proper way; and that the Crown *de jure* ought to permit subjects to sue in the name of the King;" thus the holding of Lord Chancellor Finch decided *The Queen v. Aires*, and has come down through the books with the authority of a decision of the House of Lords.

It seems that out of cases like the foregoing the common-law doctrine, coming to us by inheritance, if at all, originated and took form.

The Attorney-General v. Vernan, 1 Vernon, 276 (1684). This is a bill in equity to set aside letters patent conveying valuable landed estates from the Crown to Colonel Vernan, obtained for excessive undervalue, upon false suggestions, and in secrecy and haste.

It is analogous to the case of an owner bringing suit to cancel a conveyance obtained by false representations and undue influence, without adequate consideration, but much of the reasoning set forth is inapplicable to our laws or to our times, and the case is of no weight in determining the authority of the United States to cancel or repeal a patent for an invention.

Although it is now legal to repeal a patent for an invention in England by proceedings by *scire facias* as in the market patent case of Sir Oliver Butler, the right is recognized by statutory law.

The patent system of Great Britain was remodeled by the act designated "Patent law amendment act of 1852," which adopts to some extent the American procedure, but adheres in some respects to ancient forms and the royal prerogative.

The right of repeal of letters upon trial at *scire facias* is expressly recognized in sections 35 and 41.

The form prescribed by statute provides that the letters patent shall be upon condition that if it shall appear during the term granted, to the sovereign or to six or more of the privy council, that the "grant is contrary to law, or prejudicial, or inconvenient to our subjects in general," or that the invention is not new, or that the patentee is not the true and first inventor, the letters shall become void.

The continuing difference between the systems as affected by ancient governmental dissimilarities and the royal prerogative is illustrated by a quotation from section 16 of this modern act.

"SEC. 16. *Provided also*, That nothing herein contained shall extend to, abridge, or affect the prerogative of the Crown in relation to the granting or withholding the grant of any letters patent; and it shall be lawful for Her Majesty, by warrant under her royal sign manual, to direct such law officer to withhold such warrant as aforesaid, or that any letters patent for the issuing whereof he may have issued a warrant, as aforesaid, shall not issue, or to direct the insertion in any letters patent to be issued in the manner to be herein provided of any restrictions, conditions, or provisos which Her Majesty may think fit, in addition to, or in substituting for, any restrictions, conditions, or provisos which would otherwise be inserted therein, under this act, &c."

Coming to the American cases claimed to give support to the position of the majority, they will be found to be mainly cases involving patents for land. It must be kept in mind that "a land patent (so called) is only a deed of bargain and sale; it has nothing of grace or generosity or royal favor."

Jackson v. Lawton, 10 Johnson, 23 (1813), was an action of ejectment. Kent, Ch. J. Plaintiff claimed under letters patent dated October, 1811, defendant under letters dated March 12, 1812, which alleged a mistake in the issuing of the first letters, and defendant being in possession under the last patentee.

The question decided was that the elder patent is the highest evidence of title, and that neither the junior patent nor parol evidence of possession, or payment thereunder, could, in this action, be received against the first letters patent. All else is *obiter*. It is evident that the case of patents for invention were not included in the reasoning, as the English practice is discussed with an assertion as to ours, but with no reference to the then existing statutory authority for repealing such patents.

It is unquestioned that the Supreme Court has decided that the United States has full authority to initiate and conduct suits to cancel and annul patents for land obtained from it by fraud, misrepresentation, or mistake. (*Cotton v. The United States*, 11 How., 229; *The United States v. Hughes*, 11 How., 552; *Field v. Seabury*, 19 How., 323; *The United States v. Stone*, 2 Wall., 525; *The United States v. Minor*, 114 U. S., 233.)

In *Cotton v. The United States*, the court said:

"It would be a strange anomaly, indeed, if, having the power to make contracts and hold property as other persons, natural or artificial, they were not entitled to the same remedies for their protection."

And this is the law as to lands patented (or granted) by the United States.

The United States v. Hughes et al., the court, through Mr. Justice Catron, says:

"In this country the lands of the United States lying within the States are held and subject to be sold (under the authority of Congress) as lands may be held and sold by individual owners or by ordinary corporations, and similar remedies may be employed by the United States as owners that are applicable in cases of others. This, we think, is manifest.

* * * * *

"Under existing regulations, Goodbee had the right to enter the land in dispute in exclusion of others, and he did so; and the United States, as owner, having been paid for the land, was bound to make the purchaser a title in the same manner that an individual would have been bound under similar circumstances.

* * * * *

"It is manifest that if the agents of an individual had been thus imposed upon, the conveyance could be set aside because of mistake on the part of such agents and fraud on the part of the second purchaser in order that the first contract could be complied with. Nor can it be conceived why the Government should stand on a different footing from any other proprietor."

Minor's case holds the same doctrine.

Attorney-General v. Rumford Chemical Works, 2 Bann. & A., 298, holds that—

"The decisions in the Federal courts sustaining proceedings in equity to vacate letters patent granting lands obtained by fraud, furnish no precedent in case of letters patent for inventions. The United States as an owner of lands has equal rights, and is entitled to equal remedies with an individual owner. In granting lands the United States conveys that in which it has the fee.

"In issuing letters patent for inventions nothing is granted which belonged before to the United States. The issue of the letters patent is in compliance with an act of Congress. The rights and remedies of the parties are dependent solely on the statutory enactments, and do not grow out of any previous ownership of the supposed subject of the grant, as in the case of a conveyance of lands."

The cases relating to patents for inventions are, upon the question at issue, few and inconclusive, and the law is not yet determined.

Doughty v. West, 6 Blatch., 429; letters patent for an invention. No fraud is claimed.

The question litigated and decided was upon an alleged infringement, and whether Draper, under whom plaintiff held, was the first inventor. The court held that he was, and also held that if the reissue was done unintentionally, through a blunder, that would not avail in this action. All else as to vacating patents is not necessary to the determination of the case.

The quotation in the report from *Mahn v. Harwood*, 112 U. S., 365, is from the dissenting opinion, and the matter quoted is not involved in the decision nor referred to in the prevailing opinion.

Rubber Company v. Goodyear, 9 Wall., 788. This case arose upon the extension of a patent for an invention and is between individuals. The defendants alleged that the extension was procured by "fraud and collusion, by fraudulent suppressions and concealments from and by false and fraudulent representations to an officer."

The court decided that it could not go behind the action of the Commissioner to inquire into such frauds.

The suggestions of the opinion that such question could be litigated in some other proceeding in accordance with the principles of general jurisprudence, and that the case of a patent for an invention is as strong or stronger than one for land, are, it is respectfully submitted, unnecessary to the decision of the case and plainly *obiter dicta*.

In *Mowry v. Whitney* (14 Wall., 434) the plaintiff sought to have declared void *ab initio* the reissue of a patent, the suit being commenced after the term of reissue had expired, on the ground of fraud in such reissue.

The court holds "that no one but the Government, either in its own name or the name of its appropriate officer, or by some form of proceeding which gives official assurance of the sanction of proper authority, can institute judicial proceedings for the

purpose of vacating or rescinding the patent which the Government has issued to an individual, except in the cases provided for in section 16 of the act of July 4, 1836."

The citations, reasoning, and statements tending to the conclusion that the Attorney-General has authority to institute such judicial proceedings—though entitled to very high respect by reason of being permitted by this great court to go upon the permanent records—are, nevertheless, only incidental to the decision, and are outside of the case decided.

United States v. Gunning (circuit court; in equity, 1883), 18 Federal Reports, 511, on demurrer claiming that the United States cannot maintain a suit to vacate letters obtained by fraud.

The court holds that "A bill in equity lies to set aside letters patent obtained by fraud, but only between the sovereignty making the grant and the grantee," and in terms holds directly against *Attorney-General v. Rumford Chemical Works*, 2 Bann. & A., 298.

Were this a decision by the Supreme Court the question would be settled, but as it is not, one inferior court holds that the English rule established under the influence of the doctrine of prerogative obtains under the patent system and laws of the United States.

And another court of equal weight and authority holds the reverse, and until the court of last resort shall pass upon the question it must remain open and undetermined. *United States v. Gunning*, above cited, is not reaffirmed by *Wheeler, J.*, in 22 Federal Reports, 653, nor in 23 Federal Reports, 668, as to the question in controversy.

In 22 Federal Reports, *Wheeler, J.*, says that the question whether this bill to set aside the patent for fraud can be maintained by the United States "has been settled in this case, except upon appeal, by the decision of Judge Wallace overruling the demurrer."

And there he leaves the question.

In 23 Federal Reports, the judge neither decides the point nor intimates his opinion upon it.

In *United States vs. Frazer*, 22 Federal Reports, 106, the Attorney-General permitted the use of the name of the United States to a private party to cancel a patent for an invention obtained upon a fraudulent ground which might, under the statute, have been litigated in a suit between the parties.

It is decided that the case presented is not one in which the United States can authorize the use of its name to carry on a contest between individuals.

The court says:

"The practice here inaugurated will, if followed, transfer nearly all litigation on patents, except mere questions of fact as to infringement, to the office of the Attorney-General, instead of leaving it in the hands of the persons directly interested. The bill in question is not authorized by any special statute of the United States. There is a statute that authorizes the bringing of a bill between interfering patentees, when two patents are issued for the same, or substantially the same, device, and the fact that Congress did not authorize bringing a bill of this character is certainly a strong argument in favor of the view that it was not intended that bills of this character should be brought, and that they intended if a party took a patent he should take it subject to being defeated by those interested in its defeat, by traversing any and all facts upon which his claim to a patent is based."

Some very important suggestions upon the principles affected may be found in the language of the court in *United States v. Throckmorton*, 98 U. S., 71:

"It would be a very dangerous doctrine, one threatening the title to millions of acres of land held by patent from the Government, if any man who had a claim or grudge against his neighbor can, by indemnifying the Government for costs and furnishing the needed stimulus to a district attorney, institute a suit in chancery in the name of the United States to declare the patent void."

And in another land case, *United States v. Minor*, 114 U. S., 244:

"And it may become a grave question, in some future case of this character, how far the officers of the Government can be permitted, when it has no interest in the property or in the subject of the litigation, to use its name to set aside its own patent, for which it has received full compensation, for the benefit of a rival claimant?"

The Attorney-General v. The Rumford Chemical Works, 2 Banning & Arden, 298 (circuit court, district of Rhode Island, 1876), is worthy of very careful consideration. The suit is brought upon information, by "George H. Williams, as he is Attorney-General of the United States of America," at the relation of *George v. Hecker, &c.*, and involves a patent for an invention and reissues.

Among several grounds set forth in the information, it is alleged that one reissue was wrongfully and fraudulently obtained. The decision is upon demurrer, and involves the question of the right to initiate and maintain the suit.

The case is heard before *Shepley and Knowles, JJ.*, and the opinion of the court is given by Judge *Shepley*. The questions involved in the inquiry under consideration are elaborately discussed.

It is decided by the court that—

"A patent for a useful invention is not, under the laws of the United States, a monopoly in the old sense of the common law. The whole patent system of the United States rests upon the basis of the constitutional provision conferring upon Congress the power to promote the progress of science and the useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

"This grant is not the exercise of any prerogative to confer upon one or more of the subjects of a Government the exclusive property in that which would otherwise belong to the common right.

"To the legislation of Congress, and to this alone, we must resort under our form of government, for guidance as to the extent, limitations, and conditions of the respective rights of inventors and the public, and as to forms of remedy and the remedial jurisdiction, as well as the remedy itself, under our system of patent law. * * *

"For the protection of the general public, in place of the provision for a proceeding in the nature of a *scire facias* to repeal the patent, to be instituted within three years, as provided in the act of 1793, it is sought to provide safeguards against the issue of letters patent upon false suggestion and ample security against any injury to the citizen, to whom it opened every possible defense against injury resulting from any mistake or oversight of the Commissioner in issuing the patent. In fact, any defense against a patent that can well be imagined was left open to the citizen whose interests were affected by it, excepting only the one which in *Whitney v. Mowry* the Supreme Court decided was not open, the question of fraud upon the Government in obtaining the grant."

The fact that there was another question in the case does not obscure the decision upon this.

By the Constitution the people clothed Congress with sovereign power, subject to the limitations in that instrument contained, as to patents for inventions and discoveries, and all things relating thereto.

The language of the Constitution is:

"The Congress shall have power:

"To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers."

This involves the governmental function of giving special protection to certain persons in consideration for the benefits they bring to the general public. The result is our patent system. True, the executive power is vested in the President; it is difficult, however, to see how he or his subordinates can execute laws that do not exist. But it is claimed that the common law of England is the source of this power to repeal a patent.

The common law is adopted only so far as it is applicable, and it would be an extreme stretch of construction to hold that a right growing purely out of the kingly prerogative attaches itself, by application of the common law of England, to our Executive in a matter intrusted by the Constitution wholly to Congress. But it is claimed that by necessity, as needed power of action is not discovered elsewhere, outside of Congress, it must inhere in the law officer of the Government. It is more reasonable to say that this power remains dormant in Congress until Congress sees fit to act, and that it may act in special cases or by a general statute.

Congress very early made provision for encouraging the inventive disposition by providing protection to inventors.

The people, recently successful in their war, were in no spirit to permit an executive power akin to the kingly prerogative. The public reliance was not upon sovereign grace and favor or the protection of a prerogative royal in its nature, but upon the Constitution, Congress, and the courts.

The First Congress under the Constitution, April 10, 1790, passed "An act to promote the progress of the useful arts." By section 1 patents were authorized upon petition to the Secretary of State, the Secretary of War, and the Attorney-General, and those officers, or two of them, had authority to cause letters patent to be made out, which should bear the teste of the President and the United States seal.

By section 4 it is provided that upon oath or affirmation made before a judge of a district court within one year after the issuing that a patent "was obtained surreptitiously by or upon false suggestion," an order to show cause should issue to repeal the patent, and providing that "in case no sufficient cause shall be shown to the contrary, or if it shall appear that the patentee was not the first and true inventor or discoverer, judgment shall be rendered by such court for the repeal of such patent or patents."

By an act of the Second Congress, passed February 21, 1793, the foregoing act was repealed and a more elaborate one substituted.

The Secretary of State was made the authorizing officer, who made the letters patent, submitting them to the examination of the Attorney-General.

Section 10 provided that upon oath or affirmation, made before a judge of the district court within three years after the issuing, that the patent "was obtained surreptitiously, or upon false suggestion," a rule to show cause might issue in proceedings to repeal the patent, with power of repeal similar to that of section 4 of the act of 1790.

The Fifteenth Congress (1819) gave the circuit courts original cognizance of all suits relating to inventions and patents.

The Twenty-fourth Congress passed the patent act of July 4, 1836, which repealed all former laws and established the Patent Office under the Secretary of State and the management of a Commissioner of Patents. (The Secretary of the Interior was substituted in 1849.)

Section 15 provides that a defendant sued for damages for making, using, or selling a patented thing may, among other defenses, plead and prove that plaintiff "had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using 'reasonable diligence in adapting and perfecting the same,'" which provision is continued into section 4920, Revised Statutes.

Section 16 provides that in the case of interfering patents, or when an application is refused on the ground of interference, the applicant or the person interested in such patent may have remedy by bill in equity, and the court may adjudge either patent void, in whole or in part, or direct the issuance of letters patent as the facts may require, the judgment, however, to bind only parties and those holding under them, and here the clause providing for repeal or cancellation when the patent "was obtained surreptitiously or upon false suggestion" was omitted.

By the act of 1870 any person interested in any one of interfering patents, or thereunder, may have relief against the interfering patentee by a suit in equity, and any patent may be declared void, in whole or in part, which provision is carried into section 4918 of the Revised Statutes. But by no enactment in force after July 4, 1836, is any authority for the "repeal" of any patent issued, and no statute exists authorizing the President, the Attorney-General, the Secretary of the Interior, or any other official, in the name of the United States or otherwise, to institute a suit to repeal a patent.

Congress having provided for an application on oath, specifications, models, an examination by experts, investigations as to priority, appeals to examiners-in-chief, to the Commissioner, to the supreme court of the District, with a subsequent remedy by bill in equity, with the rights secured in suits touching infringements and those provided in behalf of defendants in the five subdivisions of section 4920, it is not surprising that the old remedy by *scire facias*, or its equivalent, a bill in equity for repeal, should have been dropped; but it is hardly to be credited that it was intended to be retained as a part of our common law, silently and by implication. It seems more probable that it was omitted as unnecessary.

This condition of the law has not been unnoticed by Congress, but in 1882 (Forty-seventh Congress) a bill, entitled "To enable the courts of the United States in cases of fraud and misrepresentation to declare a patent void on application of the Attorney-General," was introduced into the House and replaced in committee by a substitute and submitted, with a report stating that—

"The law, as it now stands, and has stood since 1836, provides no way in which a patent can be declared void except upon the ground of interference with some other patent, and then only upon the suit of some rival patentee, or of some person claiming under one of the interfering patents. * * *

"For forty-six years prior to the act of July 4, 1836, provisions were in force whereby, upon proper complaint by any individual filed in any district court, and other due proceedings had, a patent could be declared void on the ground that it was obtained surreptitiously and upon false suggestion; but at present the general public have no protection against harassment and vexation from invalid patents, and the Government no power to repeal the grant of the same, however strongly it may be convinced that a patent has thus been wrongly granted."

In 1884 (Forty-eighth Congress) a bill intended to reach similar results, and entitled "A bill to enable the courts of the United States, in case of the improper grant of letters patent by reason of fraud and misrepresentation, to declare a patent void on application of the Attorney-General," was reported from the Committee on Patents. The report was substantially the same as that submitted to the former Congress and was read to the House, and the bill passed the House without opposition.

The report, under the inquiries submitted to this committee, says:

"The mere fact that some private person may receive special benefit from such action does not affect the question when the suit is brought by the United States to protect the general public.

"The criminal laws are enforced wholly in the name and at the sole expense of the United States, generally upon the suggestion of individuals. * * *

"From the beginning of the Government such suits have been allowable.

"Of late years they have been frequently brought by the Department of Justice upon the suggestion of the Department of the Interior. * * * It is safe to trust two such Departments."

We answer, such suits were allowed until 1836 by the authority of Congress upon application to the judiciary. It is a question before us whether since that date the litigation has been based upon law or only upon an assumption of authority. That suits have been initiated only proves that an Attorney-General or an Acting Attorney-General or an Assistant Attorney-General has deemed himself authorized. The cases named in the exhibit are practically without consequence.

Beyond all, the fact remains that that court whose potent word is the final end of all legitimate controversy has not yet spoken.

No law requires the Department of the Interior to divide with the Department of Justice the responsibility of bringing a suit.

Whether "it is safe to trust two such Departments" may well be left to be decided, after the fact in any given case.

The suggested enforcement of remedies against these patentees as against criminals is passed without comment.

The quotation seems to imply that the Attorney-General may move "upon the suggestion of individuals," and that "some private person may receive special benefit from such action." Just here lies the danger. Under the law, as set forth in the report, and as the majority advise it should remain, a single officer of the Government, without statutory authority and with only a general responsibility, may attack in the name and at the expense of the United States, with the aid of such assistant attorneys as the public purse may command, and possibly at the instance of a rival or upon the suggestion of opposing private interests, any existing patent.

Few private persons could long withstand the overwhelming effect of such a warfare through the half dozen years necessary to reach a final determination, if one were then reached.

Immense financial results would depend upon the knowledge, the judgment, the independence, and the integrity of one official person.

Legislation looks to the future. Will the fact that one holds high office and is honored and learned, always justify placing upon him such unshared responsibility and power?

It is a lesson of familiar history that a personage honored as solicitor-general, attorney general, member of the privy council, and lord high chancellor of England, one learned in the law beyond his peers, and so intellectually endowed as to grasp all the knowledge of his time, was yet unworthy of such a trust as this.

The following conclusions are arrived at:

(1) That the authority to cancel or annul a patent for an invention or discovery in a suit between private parties on the ground that the same was obtained by fraudulent collusion with an officer of the Government, or surreptitiously by or upon false suggestion, does not exist.

(2) That the public interests require that authority should exist in the Government under proper restrictions to bring suit, in the name of the United States, to repeal and annul any such patent so obtained.

(3) That under the statutes and decisions of the United States it is a matter of grave doubt whether authority now exists permitting a suit by the United States to annul a patent obtained as above stated, which doubt can only be determined by a decision of the court of last resort.

(4) That in case it shall be authoritatively decided that the right to bring suit for the cancellation of a patent claimed to have been obtained by fraudulent collusion with an officer of the Government, or surreptitiously by or upon false suggestion, now rests with an officer of the Government, acting upon his own motion, or at the instance of another, according to his judgment, or at his pleasure, to attack, in the name and at the expense of the United States any patent now in life, or such as may at any time exist, with no restraints or limitations except such as shall appertain to judicial proceedings after the suit is commenced—it is a power and responsibility that Congress should place, define, and restrict.

(5) That in case it shall be decided that no authority exists on the part of any officer or Department of the Government to institute such suit, it is equally the duty of Congress to establish and limit such power.

This minority recommends the enactment of the following bill:

A BILL to provide for the repeal and cancellation of patents in certain cases.

Be it enacted, &c., That the Attorney-General is, upon the request of the Secretary of the Interior, authorized to bring suit, in the name of the United States, to repeal and cancel any unexpired patent for an invention or discovery, whether original, re-

issued, or extended, whenever it shall appear that the public welfare will be promoted thereby, and also that such patent was obtained by fraudulent collusion with a public officer, or surreptitiously by or upon false suggestion: *Provided, however, That no such suit shall be commenced until the circuit justice of the circuit where the suit is to be brought shall, upon cause shown, authorize the bringing of such suit: And provided further, That no issue shall be litigated in such suit which can be legally litigated in a suit between private parties.*

SEC. 2. That such suit shall be brought by a bill in equity in the United States circuit court, and the place of trial shall be in accordance with existing law, and the court shall have power to declare such patent void in whole or in part, and to cancel and annul the same.

SEC. 3. That neither the United States nor the Attorney-General, or any person or party in the name of the United States, shall bring or maintain any suit to repeal or cancel a patent, either in whole or in part, except under the provisions of this act.

SEC. 4. That from any judgment or decree rendered in the premises appeal shall be, at the instance of either party, to the Supreme Court of the United States, in the same manner and under the same circumstances as is now provided by law in other judgments and decrees of circuit courts in causes arising upon patents for inventions.

SEC. 5. That this act shall not apply to or in any manner affect any suit or legal proceeding pending at the time of its passage.

A. X. PARKER,
E. B. TAYLOR,
W. P. HEPBURN,
L. B. CASWELL.

We are of the opinion that the first question propounded is properly answered in the negative; that there is no authority for a suit in the name of the United States brought for the purpose of vacating a patent for an invention, except when it is based upon a state of facts which cannot be regarded by the court and made available in an infringement suit, and that in no case can the name of the Government be properly lent to a suit in the interest only of private parties. It is a question which admits of grave doubt whether, in the absence of any statute providing for it, such a suit can be brought and maintained at all. The question cannot be regarded as decided by the United States Supreme Court, and the decisions in the circuit courts are conflicting on that point. But the better doctrine seems to be that a patent for an invention may be vacated, in a suit brought by the Government in the interest of the general public, when obtained surreptitiously or by fraud. So far as this, and to this extent only, we concur in the report of the majority; and we join in the report of the minority except so far as the same is qualified by what we have said above.

A. A. RANNEY.
JOHN W. STEWART.

The CHAIRMAN. I believe the opinion delivered by the Secretary of the Interior is already in the record. I also offer the opinion of Assistant Secretary Jenks.

Mr. RANNEY. I do not think that ought to go in there myself.

The CHAIRMAN. My opinion is that they ought all to go in—the opinion of Mr. Jenks and of Mr. Muldrow.

Mr. OATES. I understand that in the Secretary's opinion he does not seem to quote the authorities, because he made up his opinion, it seems, from the conclusions in these other opinions. I have never been able to see the others.

The CHAIRMAN. I will state the view I take of it. These opinions were before the Department of Justice when this last Government suit was ordered, and, I have no doubt, gave the reasons upon which the Department proceeded; and, as the character of the action of the Department of Justice is a question here, the ground on which it acted ought to appear.

Mr. RANNEY. I do not remember, but I have a sort of recollection that it was said that they acted on the Secretary's opinion.

The CHAIRMAN. I do not remember.

Mr. OATES. I think so, but I have been informed by some one who has read them that they gave different reasons for their conclusion, and there was a citation of different authorities. But the Secretary made up his opinion without citing these authorities or giving their reasons at all, and I would like to see them.

The CHAIRMAN. We will take steps to procure them. I will postpone this matter for the present and make inquiry.

Mr. RANNEY. I am not aware of the manner of proceeding at the Department. Did they sit as a board?

The CHAIRMAN. Yes, as a board. I will withhold Assistant Secretary Jenks's opinion and make inquiry.

Mr. RANNEY. There are certain other things I desire to have put in the record by and by.

The CHAIRMAN. That is all I know of for the present. [To Mr. Ranney.] Have you a list of the applications made to the Department of Justice for suits where they were refused?

Mr. RANNEY. I could not find one list among my papers. I am sure that Mr. Clay brought us one when he was here one day, and he said he brought another copy.

The CHAIRMAN. Those were the ones refused. I want the other one.

Mr. RANNEY. Those which you had contained them both. He brought it one day, but I do not find it among my papers. He said at his last hearing that you had a copy of it.

The CHAIRMAN. Is there any objection to the admission of this paper? [Exhibiting.] •

Mr. EDEN. What paper is that?

Mr. RANNEY. It is an application for an injunction *pendente lite*. It is an extract from the minute-book of the circuit court at New Orleans. It is a motion made by Mr. Beckwith.

Mr. EDEN. What have we to do with that?

Mr. RANNEY. It shows that he made an application and was using the fact of a Government suit to support it as soon as he could. Mr. Van Benthuyzen testified in regard to it.

The CHAIRMAN. I see no date here. The date of the motion does not appear.

Mr. OATES. It is just following out to their extreme ends all the facts and consequences of the bringing of a Government suit.

The CHAIRMAN. It is claimed that the Government suit was brought for the purpose of affecting the pending suits and that it was intended to use it with a view to prevent the granting of preliminary injunctions in the several suits. And this offer is made, as I understand it, in that view, to show that the Government suit was attempted to be so used in the New Orleans case.

Mr. HANBACK. I think General Johnson has said that he was very anxious to use it in that way.

Mr. RANNEY. It was used there for that purpose.

The CHAIRMAN. Is there any objection to the admission of this paper?

Mr. RANNEY. It affects the parties as showing they were endeavoring to use the Government suit.

Mr. OATES. I cannot see the force of it.

Mr. HALE. You say that is an application for a preliminary injunction in New Orleans?

The CHAIRMAN. It is a motion made on that application, I understand it.

Mr. RANNEY. It is a motion made in the suit for a preliminary injunction in New Orleans, and they appeared and moved for a continuance of that matter because of the pendency of this Government suit.

Mr. OATES. That was their reason for making that motion there.

Mr. EDEN. I think in one of the New York cases it was allowed where a similar application was pending in another court. There is nothing unusual about it.

Mr. RANNEY. That was on an entirely different ground.

Mr. HALE. I think if we admit a part of that record, we ought to admit it all.

Mr. RANNEY. The only material portion of it is that they resisted the motion for a preliminary injunction on the ground of the pendency of the Government suit, and that that was the object in getting it.

Mr. OATES. You say that was their object in getting it. I draw this distinction. That was the object of Mr. Van Benthuyzen, Mr. Huntington, and those men in bringing that suit down there. That was, no doubt, the stimulating cause of their activity. But at the same time it is not a circumstance, or it is not a fact which fastens any responsibility on or tends to show any wrong on the part of any Government officer.

Mr. RANNEY. There are two questions; I make a distinction. Unless the Government officer was cognizant of the fact that it was—that that was the object. The Pan-Electric Company and the National Improved Company combined by a written agreement.

Mr. OATES. You have not carried that knowledge to any Government officers?

Mr. RANNEY. I say I separate the two things. First, what was the object and purpose of the parties in the first place in trying to get a Government suit under the guise of using the names of private citizens and concealing this written agreement? That shows what their object was. The next question is, did they deceive the Department in order to get their Government suit, and deceive it by withholding their secret arrangement between themselves? Did they deceive them? If so, the Government officers are exempt from blame; they are not parties to it or brought into it. But, in the first place, did these parties do it themselves? Were they guilty of it? Did they succeed by deception in getting it? That is one thing. Or did they get it with the Government officers participating in the knowledge? That is another thing. In either aspect it would be important.

Mr. OATES. If parties not Government officers were guilty of deception in obtaining a suit, we will say for the sake of the argument, wrongfully, why our report of that fact would not be a solution of any question referred to us at all.

Mr. RANNEY. Yes, it would.

Mr. OATES. Not at all, for we have no right to investigate into the affairs of people not connected with the Government. But if we could show that there was such a combination and purpose, and the knowledge of that was carried to, or there were circumstances even sufficient to put the officers of the Department of Justice on the inquiry, and they in that way participated in bringing a suit for that purpose, why, then it is highly material. But I do not think there is evidence even tending to establish that sufficient to admit this sort of evidence, because it would simply show what motives outside parties not connected with the Government may have had.

Mr. EDEN. The ground of objection is this: It does not make any difference, so far as this question is concerned, whether the suit was rightfully or wrongfully brought. If it had been rightfully brought, these parties would have done just what they did do. So that it does not throw any light on these transactions at all. No matter with how much propriety it may have been, either; to us there is no benefit in it. This is the simple action of these parties after the suit was ordered, and I think it does not throw any light on the matter we are investigating at all.

Mr. OATES. It might be argued inferentially that that was the motive, but it occurred after the fact, after the suit was ordered, and I do not think it is competent myself.

Mr. HALE. I think the inference sought to be drawn from that motion is too remote from the testimony in this case. We cannot always see what reasons or motives lawyers have.

Mr. RANNEY. It seems to me that the evidence is not only competent, but highly material. Mr. Oates says we are not investigating anybody except Government officers. I disagree with him in regard to that.

Mr. OATES. What power or authority have we to investigate private citizens?

Mr. RANNEY. If that were true, this committee has spent many weeks in vain.

Mr. OATES. That is the point I make.

Mr. RANNEY. Otherwise on that same assumption we had no right to put in the agreement of August 4, 1885, and no right to put in the agreement of August 27, 1885.

Mr. OATES. Why so?

Mr. RANNEY. Because they related to private individuals.

Mr. OATES. But Government officers and a member of Congress were connected with the writing of that agreement.

Mr. RANNEY. Casey Young was not an officer of the Government.

Mr. OATES. But Senator Harris was, and he signed it.

Mr. RANNEY. It is a matter where the whole Pan-Electric Company was involved. Our authority is to examine into the suits brought and the reason and authority therefor, and all the circumstances and facts connected therewith—a very broad inquiry. Now, there are two branches to this inquiry, as I have already stated. The first part affects these individuals and may be confined to them; it may or not affect Government officers. There is some evidence in this case, from which it may be claimed or argued, by way of inference, that the Attorney-General was aware of the fact because he was a director, and from the statement he gives it may be possibly claimed that he was aware of it. It is material. It affects these parties. The question, I say, is this: Why did these men seek that Government suit? Was it in the interest of the public? If so, the Government would be authorized, in my view of the law, under some circumstances, to grant the application. Or was it in the interest of a few individuals combined together for their own interest, and for their own interest only? What was their motive and object? That is the very thing we have been inquiring about. Their motive and object was to use it, first, in the Baltimore suit. That evidence has already gone in. They did use it for that purpose in Baltimore, it is admitted, and is competent as bearing on that. And hence I say that Mr. Van Benthuyzen's object was to use it in behalf of his company, because the two agreements were joint, embracing both of them. He had a suit pending or threatened, and he immediately uses it for that purpose. It is important as showing his intent.

Suppose the Government should now find that the Acting Attorney-General had been deceived, and that this Government suit was the achievement of a conspiracy, and it should now be disclosed that it had been obtained from him by fraud and deception under a disguised motive by a conspiracy or agreement between the two parties for purposes independent of the public good. Supposing that should appear in this investigation? The question is, if the Government had been defrauded into a Government suit on a false pretense, whether it would not be their duty to stop a suit brought on a false pretense on the same ground that patents are annulled when obtained by fraud. It is to disclose facts based on this, as the evidence now tends to show. It is to disclose, in fact, whether the Government was not induced to grant

a Government suit, to give an order for a Government suit, through fraud and for an evil purpose.

Mr. HALE. That only applies to the motives of Mr. Van Benthuyzen.

Mr. RANNEY. It affects the question of whether there was a fraud practiced on the Government.

Mr. HALE. It only affects his motive.

Mr. RANNEY. It affects the purpose.

Mr. HALE. It affects the motive and purpose both.

Mr. EDEN. If it is our duty to ascertain whether this Government suit ought to be dismissed or not because there was fraud practiced on Government officers, we ought to set aside this resolution we have just adopted and go into a further investigation of the subject. We have not got any evidence now from which we have any ground to infer anything of the kind, because it has not been within the line of our investigation.

Mr. RANNEY. We are authorized to inquire into the reason and authority for the bringing of this suit, and all the circumstances and facts. We are not to pass our opinion on what should be done on those facts, and I shall not pass any. But when you disclose all the reasons and facts, if it does appear that that Government suit is the achievement of a conspiracy, obtained under a false pretense for one purpose when it was actually for another purpose, then a state of facts is presented for action, but not for our action.

Mr. EDEN. I am not going to assume anything of the sort in the absence of testimony.

The CHAIRMAN. Let me make a suggestion. As I understand this evidence is offered in the same line that evidence has already been received, that is to say, on the allegation that one of the purposes in obtaining the Government suit was to use it in private suits pending for the purpose of preventing the granting of injunctions. I only want to suggest one fact, and that is, that this suit in which these affidavits were offered, was not pending at the time the Government suit was ordered, and, therefore, it could not have been intended to use the order granting that suit in this particular case.

Mr. RANNEY. Oh, yes. The National Improved Company had been sued through their licensee in Pittsburgh. They would not come in there so as to be bound, and they had reason to apprehend that they would pursue them, and as soon as the hot weather was over they did bring a suit, in September, and it had been brought before the final suit was obtained, before the hearing of the bill.

The CHAIRMAN. I have not the date of the bringing of the New Orleans suit.

Mr. RANNEY. It was brought while the second application was pending.

Mr. OATES. The precise question before the committee is simply this: Judge Ranney offers evidence of a motion which was made after the Government suit was ordered, or was begun, at Memphis, on the 9th of September, in the motion that was made in the suit between the Bell Company and the National Improved Company, of New Orleans, based on the fact that this suit had been ordered. Then it is a circumstance which is offered in evidence here transpiring after the act committed by the then head of the Department of Justice of which complaint is made—an act performed by some of the parties who were very active and solicitous in getting that suit ordered. The question now is whether that is competent evidence—whether the subsequent action and conduct of the parties who were acting in that application for that suit ought to be admitted here for any purpose connected with this inquiry, and Judge Ranney cites the case of the Baltimore suit.

Mr. RANNEY. But where a man acts right after it in a certain way it is evidence of what his intentions were.

Mr. OATES. Very good; but the acts which it is attempted to show in this case, and which Judge Ranney says had already been done in the Baltimore suit, are not the acts of any officer connected with the Government, and, unless we may admit that the acts of those persons not connected with the Government were illegal and their purpose was wrong, we may admit that for the sake of argument; I use it to illustrate why we admit it as a fact; yet, unless there is evidence which brings that to a knowledge of or shows a participation in it by officers of the Government, no action of this committee can in anywise affect it, and, therefore, I think it is immaterial.

Mr. RANNEY. If you concede that the Government did not know anything about it, that it was concealed from them; yet it is competent as showing the reason why people sought to get it under the guise of and in the name of citizens.

Mr. OATES. I can see very well how it can be a very potential argument, and may have some effect in the pending suit to show that the Government had been deceived in the bringing of a suit for the annulment of the Bell patent. But I cannot see how it affects—

Mr. RANNEY. You do not see the effect of the written agreement?

Mr. OATES. Oh, I admit that they did enter into a combination, but at the same time, there is, I take it, no knowledge of that character traced to the Department of Justice, that I am aware of, except, as you say, you may argue it from circumstances.

Mr. HANBACK. Let me make this one suggestion. You admit that there was this agreement made there?

Mr. OATES. Of course; that speaks for itself.

Mr. HANBACK. There were officers of the Government connected with it?

Mr. OATES. I know that.

Mr. RANNEY. Senator Harris signed the agreement, and he was a Senator.

Mr. HANBACK. Is it not perfectly competent to show by this testimony, and is it not competent testimony of the actions of copartners in different places? Is it not proper to show what they did do?

Mr. OATES. Suppose a wrong act had been committed for which a civil suit was pending for damages out of the Department of Justice for ordering a suit, could you charge them with damages for one of the effects or consequences? No, sir; not at all by any law in existence, unless a statutory one.

Mr. HANBACK. It may tend to show, may it not, that they had previously formed this combination?

Mr. OATES. No; it does not throw any light on that question; it was a subsequent transaction.

Mr. HANBACK. I know it was.

Mr. OATES. It is a circumstance, but I do not think it throws any light on the question.

The CHAIRMAN. It must be very hard for the stenographer to report this discussion.

Mr. HANBACK. Would it not tend to show, for instance, as between these officers of the Government and Mr. Van Benthuyzen, that they came together and had meeting after meeting in which they agreed that they would do this thing; that they would by a certain process obtain from the Government the privilege of having a suit brought in the name of the Government of the United States, and that as soon as they could get that then they would interpose that fact of the action of the Government of the United States as a bar to all suits brought by the Bell Telephone Company?

Mr. OATES. Do you not assume there too much? I do not think there is any evidence that Mr. Harris or anybody else at that time, being a member of Congress or holding a Government office, met together time and again with Mr. Van Benthuyzen. Mr. Harris was at one of the meetings, and signed that agreement as acting president, but there is no evidence that he was at the Ebbitt House or at any of their consultations. Col. Young was there, but he was not a member of Congress at that time.

Mr. EDEN. If we take this evidence upon the assumption that there was any wrong in it, we must take the position that the Government never should order a suit in a case of that sort, because if it was ordered somebody might take advantage of it to interpose an objection to having an injunction issued. That is one of the necessary consequences that may follow an ordinary suit, and we may just as well stop at once and say that the Government should not order a suit at all.

Mr. RANNEY. It is to show that the object and motive of these moving parties was to get a suit for that purpose.

Mr. HALL. You have already got in evidence the main fact, that they tried to get a suit.

Mr. MILLARD. And that they used it for that purpose.

Mr. OATES. There is this fact running all through it: that their purpose was to fight the Bell Company in every way they could, and beat them in any way they could in the courts.

Mr. RANNEY. This was the last hope they had, and the only one. It should not be forgotten that Mr. Van Benthuyzen was examined on this very question—and it is conflicting testimony, too—without objection.

Mr. HANBACK. My brother Oates says there is no testimony upon this subject of foreknowledge as to what the action of the Department should be. There is, what I conceive to be, testimony, whether it is to weigh for anything.

Mr. OATES. We will discuss that hereafter.

Mr. HALL. The question is whether they resorted to improper means to secure their object; whether any telephone stock was used to corrupt officers; whether members of Congress were approached. It seems futile to me to attempt to prove that these men desired to have the benefits of a suit brought by the Government, because that was the very thing they were trying to get.

Mr. RANNEY. You must take into account the motive.

Mr. HALE. I take the ground that Van Benthuyzen's motive was immaterial.

Mr. RANNEY. Although he was in combination?

Mr. HALE. He was not an officer of the Government, or connected with the Government in any way.

Mr. RANNEY. In the light of the contracts he was in combination.

Mr. HALE. If we should go into the motives of all the men in these various companies, we should have a big job before us. As I understand it, the question is on the admission of the paper.

The CHAIRMAN. That is it, and I am ready to give my opinion about it.

Mr. OATES. Let us have it.

The CHAIRMAN. It seems to me that we would have had no right to inquire into the conduct of Mr. Van Benthuyzen or any other private citizen if it had not been alleged and claimed that some testimony has been given to associate or connect him with Government officers. That alone has made the testimony as to the acts of these private people admissible here. We have gone on certainly from the beginning proving the independent acts of Mr. Van Benthuyzen and the other private parties on the allegation that they were not acting alone or for themselves, but they were acting in conjunction with Government officers, and their acts have been proved—not to affect them, but to charge the Government officers on the allegation that they were combined together. It is claimed, also, as I understand it, that one of the purposes in having this Government suit brought was to use it in the private suits then pending to prevent the granting of these preliminary injunctions. That has been claimed, and evidence has been given before the committee that such use was made of it in the Baltimore suit, and it has also been proved that the parties who were instrumental in having the Government suit brought desired it for that purpose. There is some evidence in that direction, that they were anxious to hurry it up; Gen. Johnson has so testified to-day. Here is evidence offered to prove that it was for that purpose. In that view it is competent, it seems to me, and I hold that it is admissible.

Mr. HALE. Is that motion signed by Mr. Van Benthuyzen, or by the attorneys?

The CHAIRMAN. It is a certified copy of a motion made in this proceeding.

Mr. HALE. Is there any name signed to the motion?

The CHAIRMAN. No; it is a motion made by Mr. Beckwith, counsel, who was one of the applicants for the Government suit, if I recollect rightly.

Mr. RANNEY. Yes.

The CHAIRMAN. He appears here as attorney for the National Improved Telephone Company, Mr. Van Benthuyzen's company. I think the evidence ought to go in, and if there is no further objection it will go in.

The following is the certified copy above referred to:

Circuit court of the United States, eastern district of Louisiana. Continuance of application for injunction *pendente lite*.

[Extract from the minute book. November term, 1885.]

Court met pursuant to adjournment.

Present, Hon. Don A. Pardee, circuit judge; Hon. Edward C. Billings, district judge.

American Bell Telephone Co. *et al.* vs. National Improved Telephone Co. *et als.*, No. 11150.

This cause having been called for trial of the application for an injunction *pendente lite*, the following motion was presented by the defendants:

"On motion of J. R. Beckwith, counsel for National Improved Telephone Company, one of the defendants, and of E. H. Farrar and A. G. Brice, counsel for the Crescent City Telephone Company, one of the defendants, and on suggesting to the court the proceedings on file in this cause had before the Hon. Secretary of the Interior of the United States, the Commissioner of Patents, and two assistant secretaries of the Interior, organized as a commission for the purpose of answering an inquiry propounded by the Solicitor-General of the United States, as to whether the Government should bring an action to annul and recall the telephone patents issued to Alexander Graham Bell, and set up in this cause as the basis of the complainants' demand;

"And on further suggesting to the court the answer of the said commission to the said inquiry on file herein; and on further suggesting that the Department of Justice of the United States is now preparing a bill in equity to be filed for the purpose of annulling and recalling the said patents set up by the complainants;

"And on further suggesting to the court that your honors will not give effect to the said patents of the complainants so attacked as against the patents of the defendants which are not attacked by the Government, and that it is manifestly proper that the motion for an injunction *pendente lite* should not be heard until the suit so to be brought by the Government is disposed of;

"The said defendants move this honorable court to continue the application for an injunction *pendente lite* herein indefinitely, with leave to the complainants to renew the same whenever the said Government suit so to be brought is disposed of."

On consideration whereof it was ordered that said motion be cumulated with the application for an injunction *pendente lite* herein.

The hearing of the application for an injunction *pendente lite* was then proceeded with. Bayne & Denegre, Thomas J. Semmes, James J. Storrow, and Edward N.

Dickerson for complainants; J. R. Beckwith, Farrar & Kruttschnitt, A. G. Brice, and John M. Bonner for the defendants.

And after hearing evidence and the arguments in part of counsel for complainants, it was ordered that the matter lie over until to-morrow at 11 a. m.

CLERK'S OFFICE.

I certify the foregoing to be a true copy from the original records in this office.

Witness my hand and seal of said court at the city of New Orleans the 19th day of April, 1886.

[SEAL.]

E. R. HUNT, Clerk.

Mr. OATES. I see that Mr. Marean is still here, Mr. Chairman, and I think we ought to dispose of the question connected with him, one way or the other.

The CHAIRMAN. Yes, and we ought to dispose of Mr. Hill's question also. Is there any motion in regard to the disposition of Mr. Marean? Mr. Marean is manager of the Western Union Telegraph Co., and he has declined to produce the dispatches called for in the subpoena directed to him.

Mr. HANBACK. Under the rules of his company and directions of his superiors.

The CHAIRMAN. Yes; under the rules of the company and the instructions of his superior officers.

Mr. HALE. I move that we take no further steps against Mr. Marean with reference to these telegrams until the subpoena particularly specifies what is wanted.

The CHAIRMAN. It is moved by the gentleman from Missouri that no further proceedings be had under the subpoena *duces tecum* issued to Mr. Marean, manager of the Western Union Telegraph Co.

Mr. RANNEY. Has the subpoena been made as specific as it can be?

Mr. MILLARD. Can it be made more specific?

Mr. HALE. Oh, yes; you can describe the telegrams. We argued this whole question yesterday.

Mr. MILLARD. How can you be more specific?

Mr. HALE. If you cannot find the testimony, that is your misfortune, I reckon. The question is, whether the subpoena is sufficiently specific to enable them to produce the documents referred to. I have examined the law a little in regard to that subpoena, and I am satisfied that we cannot enforce the production of the papers called for.

Mr. HANBACK (to Mr. Marean). Have you the subpoena?

Mr. MAREAN. Yes, sir. [Handing the subpoena to the chairman.]

The CHAIRMAN. Is the committee ready to act upon the motion? The motion is, that the committee proceed no further with reference to the subpoena directed to Mr. Marean.

Mr. RANNEY. It seems to me that we ought first to get these telegrams.

Mr. HALL. I move this as a substitute: That, in the opinion of the committee, the witness is excused from complying with the subpoena in the manner and form issued.

Mr. HALE. The effect of the motion would be the same, would it not?

Mr. EDEN. I think it ought to be understood that we are all in favor of having the papers if there has been a proper foundation laid by the subpoena issued; that we should endeavor to get the witness to produce the papers.

Mr. HALL. That is the reason I changed the motion.

Mr. HALE. I do not care what form it is put in.

Mr. RANNEY. It seems highly important that we should get the information. So far as Mr. Harris and Mr. Young are concerned they ought to give their written consent that their telegrams should be produced. Before acting upon the motion, I wish to ask Mr. Harris, Mr. Young, and other witnesses we have had here, whether they are willing to give their written consent to the production of these telegrams. Probably they will agree to it. But if they do not, in my judgment, the telegrams are too important not to resort to all the power we have to get them. They are communications between these parties relating to this Government suit, and in any conflict of evidence are very material.

Mr. CASEY YOUNG. So far as I am concerned, I have no disposition to conceal any telegram on that subject, and I presume that Senator Harris has no such disposition.

Mr. RANNEY. Then are you willing that they shall be produced?

Mr. YOUNG. Upon this condition: That I be allowed to prosecute this investigation beyond the limits fixed by the resolution of this committee this morning. It would be agreeable to me and, I think, to the gentlemen associated with me, that this investigation should go very much beyond the limit that it has now reached. More than two months this investigation has been continued, and no witness has been summoned by us. If we are allowed to summon witnesses now, to appear by counsel, I will join in an application to all the telegraph companies to produce every telegram I have ever received or ever sent in reference to this matter. I have not the slightest objection to it.

Mr. RANNEY. Will you not do that without coupling your assent with a condition?

Mr. YOUNG. I do not think I ought to do that, for this reason: I have been detained from my business for more than two months by this investigation, and have been subjected to any amount of annoyance—though that is a matter not for the committee to judge; I do not want to be detained here two months longer unless I may be permitted to go into such investigation as I think proper for the vindication of myself and of the gentlemen who are associated with me. I think we have the right to appear by counsel and to summon witnesses who may be examined and cross-examined upon any charges preferred against them.

Mr. RANNEY. I do not care to discuss it. You decline to give your assent except as coupled with a condition?

Mr. YOUNG. No, sir. I want to add that it will take three or four weeks to get all these telegrams, because some were sent from Memphis, some from Saint Louis, some from Hot Springs, and others from New Orleans. I can refer to my book. I see the subpoena calls for dispatches sent by me to officers of the Government, but I never sent a telegram to Mr. Garland or Mr. Goode or any officer of the Government on this subject, unless, perhaps, to Senator Harris, if he can be called an officer of the Government. I never had any correspondence with them, never wrote them a letter, and never sent a telegram on this subject. I will look over this book, and if I can tell the committee where they were sent from I have no objection to doing so. I see that I paid for a good many telegrams that were sent by other parties, because they were sent in the interest of the company, but I cannot tell where they were sent from nor when, except by the dates on the book. On the 1st of September I sent one for Col. Gantt to somebody. The book does not show to whom; and I see on September 28th there is one to Van Benthuyzen; that must have been sent from Hot Springs, because I was there at that time. I see another one for Col. Gantt, but it does not say where it was sent from or to. I presume it was some telegram he sent in the interest of the company to somebody. I do not know to whom; perhaps to Gen. Johnson, of Baltimore, or Mr. Van Benthuyzen, or Mr. Beckwith. Col. Gantt would hand me a little memorandum of expenses incurred for the company, and I would enter it on the book. Here is one dated October 9 that I sent to Senator Harris, I take it, from the fact of being directed to him. That must have been sent from Hot Springs, because I think he was here at that time, and if I had been here I would not have sent him a telegram. I think I know what that is about.

Mr. RANNEY. We do not want your statement with reference to the contents of the telegram; we want the telegrams themselves.

Mr. YOUNG. I was just explaining. I have not the slightest objection to every telegram being produced.

Mr. HALE. I think we had better have a vote on that question.

Mr. HALL. As I understand, the motion before the committee does not involve the question of securing this evidence at all.

Mr. MILLARD. Let me make this suggestion: Here is this company sending these telegrams to different parties; suppose the subpoena should be so framed as to refer to these particular telegrams in the book, and let him take the book.

Mr. OATES. I object to any investigation of that kind until we dispose of the question, and then, if anybody wants to examine Col. Young with reference to procuring definite information upon which to base another subpoena, I have no objection.

Mr. MILLARD. As I understand, the manager raises the point that the subpoena is not sufficiently specified. Here is a book showing the different telegrams sent and received. Let the subpoena cover the telegrams referred to in this book.

Mr. OATES. That is not a part of his subpoena.

Mr. MILLARD. Make it a part.

Mr. OATES. We will have to make another one.

Mr. MILLARD. I understood him to say yesterday that he had them from the 1st of October. I call for the yeas and nays on the question.

The CHAIRMAN (to Mr. Hall). What is your motion?

Mr. HALL. That, in the opinion of the committee, the witness is excused from complying with the subpoena to produce the dispatches in the manner and form in which the subpoena is issued. That is the substance of it.

Mr. RANNEY. I ask for the yeas and nays.

The CHAIRMAN. The question is on the motion of the gentleman from Iowa.

Mr. HALL. In support of the motion I want to say that it is not in any sense or manner in opposition to the production of the testimony. It is purely a legal question, as I understand it, as to whether the witness should be compelled, under the pains and penalties of refusal to obey the subpoena, to comply with it. I have given the subject some little attention, and my understanding is that the subpoena is not one that any court would enforce.

Mr. HANBACK. Let me say that I do not understand that even the House has any authority in the matter, and I think this committee is powerless. If the witness declines to answer a question the committee cannot help itself. If we had had the power we might have had half a dozen witnesses in jail who have refused to answer questions, but we have accepted their refusals silently right along and with the best

grace we could. What is the use of sitting here, wiser than owls, going through the form of considering whether we will present a witness to the House for contempt when we know very well that the House cannot commit him?

Mr. OATES. Mr. Chairman, when Mr. Hill was before us and declined to answer, a motion was made by Mr. Ranney to report him to the House as being in contempt, and pending that motion the committee adjourned, and the motion has never been disposed of yet. I have examined the case of Kilbourn *vs.* Thompson, and have become satisfied that this committee has no power whatever, nor indeed has the House of Representatives any power, to commit a witness for contempt under such circumstances. The inquiries in that case were concerning executive officers, and the decision of the Supreme Court holds that the legislative department, to which the House of Representatives pertains, cannot exercise any such power as that. In this matter I shall vote for the motion of the gentleman from Iowa, because, in the first place, I do not think that the dispatches are sufficiently described; and, in the second place, if the witness were to refuse to produce them, I do not think we have any power to deal with him.

Mr. MILLARD. If your doctrine be good law, then a Congressional committee cannot pursue any investigation.

Mr. OATES. I just ask you to read that decision of the Supreme Court. That is the doctrine of the Supreme Court.

Mr. EDEN. I am inclined to think that if we had a subpoena that came within the rules of that corporation they would comply with it.

Mr. OATES. It will be remembered that Kilbourn was committed and afterwards sued the Sergeant-at-Arms of the House, with others, and recovered \$10,000 damages for false imprisonment.

Mr. HANBACK. He first got a verdict of \$100,000, and afterwards \$60,000, and finally compromised on \$10,000.

The CHAIRMAN. The question is on the motion of the gentleman from Iowa (Mr. Hall), and upon this the yeas and nays are called. The clerk will call the names of the members.

The yeas and nays were as follows:

Yeas: Messrs. Boyle, Oates, Eden, Hall, Hale, and Hanback.

Nays: Messrs. Ranney and Millard.

Yeas, six; nays, two.

Mr. EDEN. I wish to state that I voted in the affirmative simply for the reason that I think the subpoena is not in proper form.

The CHAIRMAN. That has been stated.

Mr. RANNEY. That can be remedied.

The CHAIRMAN. I suggest that the subpoena go into the records.

Mr. EDEN. Yes.

The subpoena is as follows:

By authority of the House of Representatives of the Congress of the United States of America.

To J. P. LEEDOM, *Sergeant-at-Arms, or his Special Messenger*:

You are hereby commanded to summon M. Marean, manager W. U. Telegraph Co., to be and appear before the Pan-Electric Select Investigating Committee of the House of Representatives of the United States, of which the Hon. C. E. Boyle is chairman, and produce all dispatches to or from each of the following-named persons to or from each other: Hon. Casey Young, Hon. A. H. Garland, Hon. Isham G. Harris, Gen. Joseph E. Johnson, Wm. McCorry, Wm. Van Benthuse, Col. Geo. Gantt, Bradley T. Johnston, C. Siexias, and Hon. John Goode, between July 8th, 1885, and August 10th, 1885, between August 10th, 1885, and the 15th day of September, 1885, between Sept. 15th, 1885, and the 1st day of January, 1886, and between January 1st, 1886, and the 1st day of May, 1886. Said dispatches sent to or from the following offices: Washington, D. C., Memphis, Tenn., Pittsburgh, Pa., and New York, N. Y. Said dispatches relating to a Government suit or matters concerning the Pan Electric Telephone Co., or its subordinate companies, in their chamber in the city of Washington, on Monday, May 17th, 1886, at the hour of 12 o'clock m., then and there to testify touching matters of inquiry committed to said committee; and he is not to depart without leave of said committee.

Herein fail not, and make return of this summons.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 14th day of May, 1886.

[L. S.]

J. G. CARLISLE,
Speaker.

Attest.

JNO. B. CLARK, Jr.,
Clerk.

Mr. MILLARD. I move now, Mr. Chairman, that the chairman be instructed to issue a definite subpoena referring to every dispatch appearing upon the company's cash-book. I think such a subpoena could not be objectionable under the rule of the company.

Mr. OATES. I think that would be putting a hard job upon the chairman.

Mr. MILLARD. It ought to be done.

Mr. OATES. I move to amend that motion by substituting the name of the gentleman from New York (Mr. Millard) for that of the chairman.

Mr. MILLARD. Will you agree to vote that the witness should obey such a subpoena?

Mr. OATES. If he refuses I shall vote that he cannot be compelled, because that is the law. I do not want to vote against the law and give the witness the right of action for damages against the Sergeant-at-Arms.

The CHAIRMAN. In the Kilbourn case the plaintiff sued the committee.

Mr. HALL. You have no right to ask us what our votes shall be until the question comes up.

Mr. RANNEY. I think there is a statute under which such cases can be sent to the grand jury here.

Mr. MILLARD. I withdraw the motion, and now move that the chairman frame such a subpoena as he deems necessary, for the production of the dispatches, and see that it is properly served upon the manager of the Western Union Company.

Mr. OATES. I move as a substitute for that, that the gentleman from New York be named as the one to prepare the subpoena in place of the chairman.

Mr. MILLARD. I have been trying to get the dispatches while you have instructed the manager that he need not produce them.

Mr. OATES. And I say so to the full committee.

Mr. MILLARD. You said outside of the committee room, to the manager of the company, before he had appeared before the committee at all, that under the law he need not produce the dispatches. That is the instruction you gave him.

Mr. OATES. I never instructed him, sir. I told him that, in my opinion, the law would not compel him to do it; and I tell you and everybody else so.

Mr. MILLARD. That is as I understand it.

Mr. OATES. But I never instructed him.

Mr. MILLARD. You stated to him that the law would not compel him to produce them?

Mr. OATES. In my opinion; I say that now.

Mr. EDEN. I understand that there is no objection on the part of the company, if I understood the witness aright, to produce all the telegrams we want, under a proper subpoena. And if Mr. Millard or any other member of the committee will ask for the production of a dispatch that has any bearing upon this investigation, and will ask for such a subpoena coming within the rules of the company or the law, I will vote for it.

Mr. RANNEY. There is a statute, I am sure, to the effect that a man can be punished who does not comply and gets in contempt of the House; he may be reported to the grand jury.

Mr. MILLARD. My motion is within the suggestion.

Mr. HALL. They cannot send a man to jail for a thing that Congress has no right to call upon him to do.

Mr. EDEN. We ought to have some sort of information if there was a subpoena to this company that has some bearing upon this investigation. I do not think we have a right to issue a subpoena to this corporation to produce all the dispatches that ever passed between a lot of gentlemen; but if any member of the committee has any reason to believe that a certain dispatch or any number of dispatches has any bearing upon this question, let the fact be stated and the subpoena issued.

Mr. OATES. Mr. Chairman, I will say this—I do not know that it needs any motion, I believe every member of the committee is agreed on that—that if a subpoena be gotten up that describes the dispatches desired, in a legal shape, that subpoena will be issued and served; I take that for granted. I do not believe there is any member of the committee who will vote against that. At the same time, I am not disposed to vote that work on the chairman. If any gentleman desires it, and will undertake to prepare one, I feel satisfied it will be served, and to that I have no objection in the world, and if the witness will obey it and bring in the dispatches having anything to do with this inquiry, I shall not object to receiving them at all. But I state again that if he were to resist, it is my legal opinion that we cannot punish him for contempt.

Mr. MAREAN. Mr. Chairman, may I make a suggestion? I do not think I testified yesterday that I would not obey the subpoena and bring the dispatches. That might have been inferred from the rules. Of course I would not commit myself until a proper subpoena has been served, and then I should follow the instructions of my superiors.

Mr. EDEN. I did not understand that there was any objection on the part of the corporation to produce them.

Mr. MAREAN. There is no objection, and the rule so states.

Mr. HALL. The company is bound to protect itself.

The CHAIRMAN. The gentleman from New York (Mr. Millard) moves that the chairman be directed to issue such a subpoena as in his judgment will be within the rule of law, and sufficient to procure the production of these dispatches. The gentleman from Alabama (Mr. Oates) moved an amendment.

Mr. OATES. I moved to substitute the name of the gentleman from New York for that of the chairman.

The CHAIRMAN. The chair is disposed to hold that out of order, as that is a duty imposed upon the chair under the statute, and cannot be turned over to the gentleman from New York.

Mr. HALL. I move as a substitute that the chairman issue subpoenas for the production of any dispatches which are sufficiently described by any member of the committee to the chairman to justify the issuance of such subpoena.

The CHAIRMAN. The committee has heard the substitute offered by the gentleman from Iowa.

Mr. OATES. If the chairman gets sufficient information so that he can do it. It is not right to direct him to perform an impossibility.

The CHAIRMAN. The question is on the substitute offered by the gentleman from Iowa (Mr. Hall).

The substitute was agreed to.

Mr. HALL. Now I offer a motion in regard to Mr. Hill. I believe his case has not been acted upon:

That in view of the character of Mr. Hill's testimony relative to the individual who furnished him the alleged information that Attorney-General Garland attended a meeting with Mr. Young and others at 1327 G street, and the fact that that statement was excepted from the article prepared by him and published in the Tribune and World, and his refusal to disclose the name of his informant, the matter is not of sufficient importance or consideration to justify this committee in insisting further on his answering the question or in reporting to the House his refusal to answer.

The CHAIRMAN. The committee has heard the resolution offered by the gentleman from Iowa.

Mr. HALE (to Mr. Hall). Wont you be kind enough to read that again? I did not get the point.

Mr. Hall read the resolution again.

The CHAIRMAN. The question is on the resolution just read.

Mr. HALE. It seems to me that that involves a question that we ought to pass upon when we come to make up our report, because it relates to the force and effect of our testimony. It is rather deciding that question in advance.

Mr. OATES. That does not express any important reason. I do not think we have the legal power. I endorse that resolution, but for another reason. I am disposed to let it go entirely, because I do not think we have any power, nor has the House any power, if we report him to the House, to punish him.

Mr. RANNEY. Has not the House the power to turn him over to the grand jury of the District of Columbia to be tried criminally?

Mr. OATES. No, sir; none in the world.

Mr. RANNEY. Have you looked at the statute?

Mr. OATES. I do not care for forty statutes in the face of the decision of the Supreme Court.

Mr. EDEN. That question was not before the Supreme Court under the statute.

Mr. OATES. Their opinion was based upon Constitutional grounds.

The CHAIRMAN. I desire to say a word upon this matter. I was not present when Mr. Hill was examined, but I have understood, and understand from this resolution, that the question he refused to answer was this; It seems that he stated, in the article prepared by him, that Mr. Garland had attended a certain meeting at some place in this city; that that article was published, with that part of it or that statement of fact omitted; and that in his examination here Mr. Hill stated that he had no personal knowledge as to Mr. Garland's attending that meeting, but that that had been told him by some other person, and he declined to tell who that other person was. Now, it seems to me that having stated that he had no personal knowledge of Mr. Garland's presence at that meeting, there the matter was at an end, and that when the committee went beyond that and tried to prove what some one had told him as to Mr. Garland's attendance there it went beyond any rule of evidence under the law, and was an attempt to prove a fact by hearsay. Mr. Hill did not pretend to know that the Attorney-General was there, did not allege that, but said that he had been told by some one that the Attorney-General was there.

Mr. HANBACK. Right there, Mr. Chairman, would it not be proper to ascertain who hat party was in order to procure his testimony?

The CHAIRMAN. No; I think not; I have never known it to be done in any court in a matter where I have been concerned, to compel a witness to disclose the name of another witness by whom a competent or relevant fact might be proved. That cannot be done. I think, therefore, that the question to Mr. Hill, while it might have been asked properly, and while such questions have been asked during the course of this investigation, yet, when Mr. Hill had answered, it proved nothing. It did not prove that the Attorney-General was there, and did not prove any fact relevant to this inquiry. If answered, it would merely disclose the name of a witness who, he would allege, could prove the fact. That is not competent testimony. An answer to it cannot be compelled.

Mr. OATES. I do not know that it is very important. In one aspect I think your view is very sound law, but I hold a somewhat different view. In a controversy where the party against whom the evidence is offered might object to it as hearsay, yet suppose that what he had said or published—it was not published in a newspaper it is true, but still, it was published in that letter which he put in circulation—had been defamatory matter, for which Mr. Garland had brought an action, and he being called as a witness and asked that question, it seems to me it would be relevant and pertinent as matter of law in a case of that kind.

The CHAIRMAN. As evidence against Hill?

Mr. OATES. Yes, sir.

The CHAIRMAN. But we are not sitting here to prove anything against Hill; his conduct is not under investigation.

Mr. OATES. But, Mr. Chairman, any statement by him or other evidence that tends to impeach or contradict him is relevant evidence.

The CHAIRMAN. I agree entirely that if this evidence were sought to be introduced simply to affect Mr. Hill, it would be competent, but where it is sought for the purpose of proving a fact affecting other parties it is not competent.

Mr. HALL. I think the jurisdiction of this committee with reference to that goes farther than ordinary investigations in courts. We have admitted a good deal of evidence that would not have been admitted in courts, and we have admitted it on the ground that we are seeking for information.

The CHAIRMAN. The gentleman from Iowa will remember another fact—that this resolution looks to our right to punish Mr. Hill in case he refuses to answer. You must therefore ask him a legal question; you cannot punish him for not answering an illegal question.

Mr. HALL. If some property had been stolen and Mr. Hill were to appear before us and state that he knew where it was but would not tell, I think he could be compelled to tell.

The CHAIRMAN. That is not the case. Suppose Mr. Hill in that case should say, not that he himself knew, but that he knew another man who knew where it was?

Mr. HALL. Still the resolution simply disposes of the case. I do not care anything about the resolution itself. Mr. Hill is here, and the order still stands for him to appear to abide the decision of the committee as to what will be the result of its consideration of his refusal to answer. I am perfectly willing to let it drop as it is.

Mr. OATES. Suppose you withdraw the resolution and move that the committee take no further action.

Mr. HALL. The country has had before it Mr. Hill's testimony, and it stands to-day with an imputation that there is authority somewhere for the alleged fact that Attorney-General Garland attended that meeting, and therefore I thought my resolution a proper one.

Mr. HALE. I understand now that Mr. Hill says, outside, that he has seen his informant, and that his informant tells him he was mistaken.

The CHAIRMAN. He had better swear to it.

Mr. OATES. I move that the matter be postponed until the next meeting of the committee.

Mr. RANNEY. I object to this statement made outside.

Mr. OATES. Give him an opportunity of coming here.

Mr. RANNEY. I do not care for what Hill or anybody else says outside.

Mr. HALL. I withdraw my resolution.

The CHAIRMAN. The gentleman from Iowa withdraws his resolution. Is there any other matter to bring before the committee at this time?

Mr. RANNEY. There are some letters of Mr. Goode's and Mr. Harris's.

Mr. OATES. Mr. Chairman, I think we have worked long enough to-day. Let them go till another time. I move that we adjourn until 12 o'clock to-morrow.

The motion was agreed to, and at 4.07 o'clock p. m. the committee adjourned until 12 m. to-morrow, Wednesday, May 19, 1886.

WASHINGTON, D. C., *Wednesday, May 19, 1886.*

The committee was called to order at 12.40 p. m.

Mr. HALL. Are there any witnesses to examine to-day?

The CHAIRMAN. I know of none.

Mr. RANNEY. Has a subpoena been issued for the clerk of the Ebbitt House?

The CHAIRMAN. No, I believe not. I did not know his name, and I understood you to say yesterday that you would see that he came before the committee.

Mr. OATES. In order to dispose of that question, I move that Judge Ranney and Mr. Hall be deputed to go to the Ebbitt House and examine the registers and other books to ascertain what is necessary.

Mr. RANNEY. I have been to the hotel and examined the books. I know about them.

Mr. OATES. Perhaps two members of the committee had better go there together and examine them and make a report of the result to the committee. That would answer every purpose.

Mr. HALL. I understand it is simply in regard to a few names, to ascertain the date of the registry.

Mr. RANNEY. That is all. The books show when they came and when they left.

Mr. HALL. The books show when they registered.

Mr. RANNEY. Yes, and they show exactly when they left. They keep a book there showing that.

Mr. HALL. The register itself would not show when they left.

Mr. OATES. You could see when they registered and whatever else the books show.

Mr. RANNEY. There are two books there, which show exactly when they arrived, at what time of the day or night, and when they left.

The CHAIRMAN. You have heard the motion of the gentleman from Alabama (Mr. Oates).

Mr. RANNEY. I am willing to consent to that with the understanding that if the subcommittee cannot agree about the facts and what the books show, that we can summon the clerk here and examine him about them.

Mr. OATES (after a consultation with Mr. Ranney). I will change my motion and move that the chair appoint two members of the committee to go to the Ebbitt House for this purpose.

The CHAIRMAN. The question is on the motion of the gentleman from Alabama [Mr. Oates] that a subcommittee of two be appointed to examine the register and other books at the Ebbitt House with a view of ascertaining the time of the arrival and the departure of the several parties named.

Mr. RANNEY. I think we had better summon the witness here and let him bring the books. That is the quickest and easiest way.

Mr. MOFFATT. I think, under the circumstances, we had better have the witness here before the committee.

Mr. MILLARD. Is the witness at the Ebbitt House?

Mr. RANNEY. Yes; he is the clerk there. I do not remember his name.

Mr. OATES. My idea was that we could get through with it easier in that way than any other. I will withdraw the motion if there is any objection.

The CHAIRMAN. Very well, I will send a subpoena for him.

Mr. HALL. I suggest that the subpoena had better be in the form of a note indicating what is desired, as he probably cannot bring with him all the books necessary to furnish the information.

The CHAIRMAN. It is to cover only the period mentioned.

Mr. HALL. I suggest that the subpoena have a memoranda attached to it indicating what is wanted, so that he can examine the books, and get the data without bringing so many books with him.

Mr. RANNEY. I am informed that the name of the clerk in question is C. E. Gibbs.

The CHAIRMAN. I called on the President this morning in regard to the correspondence with Mr. Van Benthuyzen. I believe there was given, yesterday, a dispatch of September 28. That is already in evidence, and I have the original before me. It embraces a dispatch of the day before, September 27, so that we have the two dispatches. I have, also, a letter from Mr. Van Benthuyzen to the President, dated October 10, 1885. I find that it also was published in this volume of proofs in the Baltimore suit. It is not in evidence. Is it the desire of the committee that the letter of October 10, addressed to the President by Mr. Van Benthuyzen, shall go into the record? If there is no objection, it can go in. It is the letter of October 10, 1885. I have the original here. In this book it appears to be taken from the New York Times.

The letter referred to is as follows:

NEW ORLEANS, *October 10, 1885.*

To his Excellency GROVER CLEVELAND, *President of the United States:*

DEAR SIR: In accordance with my letter of September 23, 1885, and in view of the circumstances that have occurred since that date, I beg leave to call your attention

to the following facts, and have the honor to submit, at the end of this, a few extracts of evidence, showing that Philip Reiss, of Germany, discovered the act of transmitting speech by electricity, and did so transmit speech, and gave his discovery to the world, without conditions and without price, long before A. G. Bell was ever heard of as an inventor. These extracts, and the fact that the "Reiss" instruments transmit and receive articulate speech, clearly and distinctly show conclusively that A. G. Bell did not discover the "art." Philip Reiss made several forms of instruments embracing every principle now in use.

The Bell Telephone company adroitly fixed attention to the poorest forms, and both the Bell company and the defendants in their collusive suits, the decisions in which they claim gave Bell priority of invention, were interested in suppressing and did suppress the facts concerning Philip Reiss and his instruments. So extraordinary have been the conduct of those suits, that in one instance, notwithstanding the fact that the "Reiss" instruments transmit and receive speech clearly, the judge had the unparalleled effrontery to assert that a "a century of Reiss could not have produced a speaking telephone."

In the New York Tribune of Sept. 29th, one E. N. Dickerson, attorney for the Bell company, made the following statement:

"On the 8th of July Mr. Van Benthuyzen's company was enjoined in Pittsburgh, he being present and setting up all the defenses which are in the Memphis bill."

This is a deliberate attempt to deceive the public into the belief that all the evidence in the Memphis case has been considered and passed upon by the Pittsburgh court, and is the same evidence.

This is not true, and the lawyer who would make such a deliberate and gross attempt to deceive should be disbarred and not be permitted to practice in any court. In the Pittsburgh case none of the defendant's evidence was examined or considered, and the conduct of the court was of such an extraordinary character that the defendants withdrew all their evidence from the case, and not one particle of it was considered.

When inventions are brought up and then put in interference by the one owner for the purpose of *getting decisions to suit* his purposes to destroy competing patents, and judges deny physical facts, and attorneys misrepresent proceedings in court, it is time for the Department of Justice to lend its aid to undo a great wrong; and I respectfully represent that a company that asserts its claims to be impregnable, and yet is clamorous against being made defendants in a suit wherein they know those claims will be thoroughly investigated and properly weighed, is entitled to no consideration.

If suits can be instituted only after consultation with the Department where a wrong or error originated, it is scarcely possible the remedy would be available, as the presumption is, the Department, under such circumstances, would be reluctant to admit error or wrong.

Fortunately, in this case, the present Commissioner of Patents was not in office when the Bell patent was issued.

If this remedy did not exist, and if, upon application of the Bell company, the courts ought to grant preliminary injunctions on the plea of judicial comity, because of decisions in collusive suits, no final hearing could be obtained until the life of a competing patent is so nearly terminated as to be of little or no value.

EXPERIMENTS IN TELEPHONES BY PHILIP REISS.

Affidavit of Dr. I. Hoffman, Consulate of Paris, France.

Dr. Hoffman says he was present at a lecture (by Philip Reiss, in Geisen, Germany, September 18, 1864), on an instrument Reiss named the "telephone," and that "there cannot be the slightest doubt that words were transmitted and successfully reproduced by the apparatus, and this aroused great enthusiasm," the following professors being present: Magnus, Muller, Eisenlohr, Bohn, Weideman, Holtzmann, Weber, Reusch, Greis, and Ottingen.

Jahres-Bericht des Physikalischen Vereins zu Frankfurt am Main für das Rechnungsjahr 1860-'61, published in 1862, pp. 57-64, "on telephony" by means of the galvanic current, by Philip Reiss:

"How, indeed, could a single instrument reproduce the combined effects of all the organs occupied in human speech. * * * Hitherto it has not been possible to reproduce the tones of human speech with a distinctness sufficient for every one. The consonants are for the most part reproduced pretty distinctly, but the vowels as yet not in equal degree."

Journal of the German-Austrian Telegraph Association, vol. 9, pp. 1, 35, 36, 1882:

"The operation of the apparatus is as follows: 'By speaking into it, or by singing, or introducing the tones of an instrument, chords and melodies were transmitted with marvelous accuracy in the practical experiments hitherto made, while single words in reading, speaking, etc., were less distinctly recognizable, although even in these the inflection of the voice, as interrogation, exclamation, surprise, calling, etc., were clearly reproduced.'"

Reiss prospectus form, Pisko's Neue Apparate der Akustik, Wien, 1865, p. 241:

"Besides the human voice there can be produced, according to my experience, just as well the tones of good organ pipes." And in speaking of the magnetic call attached to the Reiss instrument, Pisko says:

"Simple signals can, by agreement at both stations, be given by opening and closing the circuit one, two, three, or four times. For example: One stroke, sing; two strokes, speak."

Dingler's Polytechnic Journal, vol. 169, p. 399, 1863:

"The experimenters could even reproduce words."

Translation from Didaskalia, May 12, 1863: "Mr. Reiss gave an historical outline of the origin and development of his idea of the practical possibility of the transmission of tones in a galvanic way."

Deutsche Industrie-Zeitung, 1863; Chemnitz, No. 9, April 17, 1862, No. 16, p. 85 and p. 184:

"Mr. Q. writes us that by means of the telegraphic conductor, with which the apparatus of Mr. Philip Reiss was connected, two remote parts of the city were united.

"All present capable of judging," Mr. Q. adds, "who availed themselves of the opportunity of witnessing the experiments, agreed that the possibility is before us of making oneself understood verbally at any distance in the way shown by Mr. Reiss."

Handbuch der Angewandten Elektrizitätslehre, von Karl Kuhn, 1865, pp. 1017, 1021; pp. 97, 98:

"The working of the two apparatus—the transmitter being placed at one station and the receiver at the other—is as follows: By speaking or singing * * * in the practical experiments made thus far it was possible to transmit, with astonishing faithfulness, chords, airs, &c.; while reading, speaking, &c., single words were more indistinctly heard."

Herr Philip Schmidt, brother-in-law of Philip Reiss, and now acting paymaster in the Imperial German Navy at Wilhelmshaven, says:

"He (Reiss) succeeded finally in reproducing at a distance words and whole sentences."

Heinrich Hold says:

"I helped Mr. Reiss to make many of his experiments, and have spoken and sung into the telephone, the same being generally heard and understood."

Das Neue Buch der Erfindungen, vol. 2, p. 400, published by Otto Spamer, in 1872, Leipzig and Berlin, speaking of Reiss's discovery, says:

"It sounds more than fantastic if it is stated that it is possible to converse through the electric telegraph wire to hundreds of miles with a distant person, so that this one should say that his bodily ear perceived our voice with all its peculiarities; that he shall hear the melody which we sing; that if we laugh, he shall feel as if he stood beside us; and yet this possibility has already become an actuality."

Philip Reiss was a professor in a German institute—a consumptive, struggling with poverty and death, and so very poor as to be unable to place his discovery before the world for commercial purposes, to his financial advantage.

This keen appreciation of his gratuitous services to the world, and its want of appreciation of his labor, is very vividly portrayed in the closing paragraph of his autobiography, as follows:

"As I look back upon my life, I can indeed say with the Holy Scriptures that it has been labor and sorrow. But I have also to thank the Lord that he has given me His blessings in my calling and in my family, and has bestowed more good upon me than I have known how to ask him. The Lord has helped hitherto; He will help yet further."

And at this day the drawings and specifications of those instruments, as left by Reiss, are so clearly described in form and measurement, particularly this cone transmitter and electro-magnet receiver, that these instruments, when made now without the slightest change from his directions, transmit and receive articulate speech clearly and distinctly, and they are in every principle the successful telephones of this day.

Very respectfully,

W. VAN BENTHUYSEN.

The CHAIRMAN. Then there is a dispatch from Mr. Van Benthuyesen to the President dated February 13, 1886.

Mr. HALL. That is not set out in that Baltimore record?

The CHAIRMAN. No. It is dated at New Orleans, February 13, 1886.

Mr. RANNEY. Let me see that, if you please. Was it not put in yesterday?

The CHAIRMAN. No, it was printed subsequent to the printing of that volume. It reads as follows:

To his Excellency GROVER CLEVELAND:

A detailed statement from me to you of the origin and circumstances attending the origin and subsequent application to the Department of Justice by me to institute a suit to vacate the Bell telephone patent on the ground of fraud and prior invention

will, I think, stop the slanderous attacks on General Garland, and at the same time will show how Mr. Garland made a mistake in believing that the application was made in behalf of the Pan-Electric Telephone Company. No one connected with the Pan-Electric Company had any connection with my application, nor did any Pan-Electric stockholder sign the second petition, and all statements to the contrary are untrue. If you desire I shall make this statement, I can have it ready to mail Monday evening. Please answer me at my expense.

W. VAN BENTHUYSEN.

The CHAIRMAN. In reply to that the following was sent:

WASHINGTON, *February 14, 1886.*

To WILLIAM VAN BENTHUYSEN,
New Orleans, La. :

The President has no desire to express concerning the matter mentioned in your telegram.

D. S. LAMONT,
Private Secretary.

The CHAIRMAN. I am authorized by the President and by Colonel Lamont to say that that is the entire correspondence, and that no reply whatever was made to the preceding dispatches or to the letter.

Mr. OATES. It is very brief.

The CHAIRMAN. On the one side it is.

Mr. RANNEY. And contains quite a remarkable statement on one side, too—I mean from Mr. Van Benthuyesen.

The CHAIRMAN. Is there any other matter before the committee?

Mr. EDEN. I suppose that all the proofs used in the Interior Department ought to be put in.

The CHAIRMAN. Not all of them, because they fill a large volume—two volumes, in fact.

Mr. EDEN. I supposed that was the arguments.

The CHAIRMAN. No, there are no arguments in it; it is all proofs.

Mr. EDEN. Then there ought to be some selection made. I have not examined them myself.

The CHAIRMAN. A great many of the papers have been produced and marked, but I do not think all of them have gone into the record—indeed, I do not know what is in the record; I have not kept up with it.

Mr. EDEN. Some one had better look that matter up and have it attended to.

The CHAIRMAN. It would be well to have an adjournment for a day or two, so that the members of the committee might inspect the record and see what documents have been put in.

Mr. OATES. I do not see what good it would be, in my own case, unless I had the record of the proceedings before the Interior Department to compare with. I have not got that.

Mr. RANNEY. I understood that the Bell Telephone Company had sent each member a copy.

The CHAIRMAN. That was but one volume of it.

Mr. CASEY YOUNG. I handed two or three copies in to members of the committee. This is the only copy I have left.

Mr. RANNEY. What is that?

Mr. CASEY YOUNG. It is the record before the Interior Department, the first volume, which contains the petition, proofs, &c.

Mr. RANNEY. It is the proofs and reply.

Mr. CASEY YOUNG. I handed in two or three copies of it to the different members of the committee, and this is the only one I have left.

Mr. RANNEY. During the early part of the session somebody furnished members of the committee with the first volume. I had one and several members had one.

The CHAIRMAN. It would take some time to look over the record and this volume.

Mr. EDEN. Are there any witnesses to be recalled? That was a matter we left open.

Mr. RANNEY. There are two witnesses whose examination has not been concluded. I mean the Rogerses.

Mr. EDEN. I supposed we were through with them.

Mr. RANNEY. No; it was distinctly stated that they would be called again; and, as I have said several times, in regard to these letters which we have here produced, which have been printed, there are quite a number of them which I desire to put in.

Mr. EDEN. That does not involve the question of the calling of witnesses?

Mr. RANNEY. Not necessarily, although Senator Harris indicated a desire to be present when the letters from him were put in.

Mr. EDEN. Then I suppose it would be proper to let him know.

The CHAIRMAN. They had better be put in now, and then the witnesses can have an opportunity of seeing them.

Mr. CASEY YOUNG. I do not know exactly the limit of the resolution passed yesterday by the committee, or how far it would allow any additional proof. Under one clause of the resolution of inquiry referred by the House to the committee, I did desire to present what I consider very important testimony in reference to the reason for instituting the Government suit. Little or no testimony has been submitted on that subject, and I have in my possession—it has been furnished me—what I consider very important evidence. The committee can determine whether it is competent or not.

The CHAIRMAN. You may submit it if it is within the terms of the resolution.

Mr. EDEN. Is it documentary evidence?

Mr. CASEY YOUNG. Yes, it is documentary evidence, and witnesses can be called if desired. I have it in the shape of a sworn statement. I have not got it here with me. If you have a meeting to-morrow perhaps it would be better for me to get it all together. I do not happen to have it all here this morning. I speak now in order that I may not lose the opportunity of presenting it.

Mr. MOFFATT. Is it anything which was presented to the officers of the Government at the time of the ordering of the suit?

Mr. CASEY YOUNG. Yes, it embraces facts that were presented at that time.

Mr. MOFFATT. Of course the authority and reason for instituting the suit, if the suit was already commenced, could not be well founded if it was not submitted to the Department.

Mr. CASEY YOUNG. This was submitted to the Department.

Mr. RANNEY. We have gone into everything concerning the first suit, and so far as the second suit is concerned it appears in the record in part, and we cannot go outside of that.

Mr. CASEY YOUNG. If the committee will permit me I will remark that the record abounds with evidence that was not even referred to in the record before the Interior Department as to the reason for bringing this suit. More than a dozen witnesses were interrogated, somewhat in detail, as to why it was necessary to commence a suit of that sort when, as it was maintained, all the questions then presented could have been litigated in a private suit. I could show quite a number of witnesses on that point.

Mr. HANBACK. In regard to the testimony up there? Was it by affidavit?

Mr. CASEY YOUNG. No, I speak of witnesses who have been introduced here who testified as to the reason for bringing the suit.

Mr. HANBACK. I thought you referred to testimony introduced there.

Mr. CASEY YOUNG. Oh, no.

Mr. EDEN. I do not think witnesses were interrogated as to the reason for bringing the suit.

Mr. CASEY YOUNG. Yes, I was interrogated on that point, and so was Mr. Goode, Mr. Garland, and others.

The CHAIRMAN. If it states facts about the bringing of the suit it could be introduced.

Mr. EDEN. I think anything used before the Interior Department would certainly be proper to come before the committee.

Mr. CASEY YOUNG. Neither my testimony or that of General Bradley Johnson or Mr. Goode was taken before the Interior Department, and we have all been examined on the very same point. I can submit it to the committee, and they can determine whether it is competent or not.

Mr. RANNEY. That raises the question whether we are going in to try the question presented before the Secretary of the Interior.

Mr. CASEY YOUNG. No, it does not go outside of the limit of this inquiry so far as it has gone.

Mr. RANNEY. If we are going to revise that hearing and go into all the evidence before them, and see whether the Secretary of the Interior formed a correct judgment in regard to it or not, it is an important question for the committee to determine.

Mr. CASEY YOUNG. If they had been accepted as conclusive reasons for it, there would have been no necessity for investigation. It was all in a public record before this resolution was passed by Congress, and Congress knew it as well before as after the creation of this committee.

Mr. HALL. Mr. Ranney has been insisting all along that there were a great many reasons outside of the record operating upon the officials.

Mr. RANNEY. I am not aware that I have gone outside of the record before the Interior Department, except to show that there was a fraud practiced upon them.

Mr. EDEN. I think if Colonel Young has any evidence that he wants to offer, documentary evidence, he should submit it and then we can determine what to do with it.

The CHAIRMAN. The question can be determined only when the evidence is offered.

Mr. CASEY YOUNG. I only wanted to inquire if the committee were going to have a session to-morrow. I have not all the papers with me.

Mr. EDEN. Can you submit them to-morrow?

Mr. CASEY YOUNG. Yes.

Mr. EDEN. I think we had better have a meeting to-morrow.

Mr. OATES. Yes, if any witnesses are to be recalled.

The CHAIRMAN. I know of none personally. If any gentleman knows of any he can give their names.

Mr. EDEN. I understood that Mr. Ranney wanted to recall somebody.

Mr. RANNEY. There are only one or two questions I desire to put.

Mr. EDEN. I did not know, of course, how many. It can be done as well now as at any other time. One of them was here yesterday.

Mr. CASEY YOUNG. I noticed in the papers this morning that a deposition in this matter had been taken in New Orleans. I never heard of it until I saw it in the papers, and I do not know what it is.

Mr. EDEN. It is the deposition of Mr. Beckwith, I think.

Mr. CASEY YOUNG. I have never seen it, but Mr. Beckwith will be here in a day or two, and it might be proper for him to explain.

Mr. EDEN. If it is necessary for him to make any explanation about it, the resolution the committee adopted yesterday does not prevent that.

Mr. RANNEY. It is his own deposition, giving in detail—

The CHAIRMAN. It has not been presented to the committee yet.

Mr. CASEY YOUNG. I saw by the paper this morning that it was read to the committee. I would like to look at it.

Mr. RANNEY. I thought it was in the record.

Mr. OATES. That was spoken of or suggested, but it was not put in.

Mr. CASEY YOUNG. I was told also by the committee after the close of my testimony that I could look over it and correct any mistakes or inaccuracies that have occurred. I would like to do that sometime. I thought it would be well to note them on a piece of paper, and to mark the passages.

Mr. EDEN. When could you do that?

Mr. CASEY YOUNG. To-morrow. I have not the paper here.

Mr. OATES. Have you not corrected any of them?

Mr. CASEY YOUNG. I have marked the places on the book. They are mere verbal corrections; they don't amount to anything.

Mr. OATES. I think that portion of the testimony is already stereotyped.

Mr. CASEY YOUNG. There are some things there which the committee will see at once are mistakes or omissions. In one place it says thirty-nine millions where it ought to be one million, and you will see at once that that is a mistake.

The CHAIRMAN. You say you are not ready now to make your offer of testimony?

Mr. CASEY YOUNG. No; I have not got it all with me; it is at my room.

Mr. OATES. Is there anything else that you want to testify about that you are ready to go on with now?

Mr. CASEY YOUNG. No, sir.

The CHAIRMAN. Can you not make your corrections now?

Mr. CASEY YOUNG. I have a number of them noted on a piece of paper I have, and perhaps I had better read them from the piece of paper rather than to go through this record.

The CHAIRMAN. Can you do it now?

Mr. CASEY YOUNG. No; I cannot.

The CHAIRMAN. To-morrow you will be ready to do so?

Mr. CASEY YOUNG. Yes; I will be ready to-morrow.

The CHAIRMAN. I have the opinions delivered by the two assistants to the Secretary of the Interior, and also that of the Commissioner of Patents, Mr. Montgomery, and I offer them. They were furnished to me by Mr. Montgomery. I called on him this morning to get authentic, reliable copies.

Mr. RANNEY. Are they the opinions as they were finally left?

The CHAIRMAN. They were so sent to me by the Commissioner of Patents, and I presume they are correct; at least, I should not imagine that they had been altered or changed.

Mr. RANNEY. I did not mean exactly what you seem to imply, that there has been anything altered; I did not mean that anybody has tampered with them. [After examining the opinions.] I should like to have the parties come and verify these.

The CHAIRMAN. I will offer the opinions delivered to the Secretary of the Interior by his assistants and by the Commissioner of Patents under the application for the Government suits.

Mr. RANNEY. I do not object to their going in when they are verified. I am not certain that these are the opinions (if I was I would not insist on it) as they were actually left and acted upon by the Secretary of the Interior.

The CHAIRMAN. Is there any reason to doubt their correctness or authenticity?

Mr. RANNEY. Suppose it be true that they first wrote an opinion and then after-

wards, as finally delivered and used, there were others written? I want those that were finally used.

The CHAIRMAN. These are furnished to me by the Commissioner of Patents as the opinions delivered in the case, and of course they are the final opinions.

Mr. OATES. They would hardly be printed unless they were.

Mr. RANNEY. Well, I would like the fact about it.

Mr. HALL. Do you refer to the printed opinion of Mr. Jenks?

The CHAIRMAN. Yes, and the opinion of Mr. Muldrow.

Mr. HALL. They were produced and identified before the committee by the witness.

The CHAIRMAN. Yes, and by Mr. Goode.

Mr. RANNEY. The opinion of the Secretary of the Interior is already in the case.

The CHAIRMAN. Yes. Is there any objection to these going in? If not, they can go in.

Mr. RANNEY. I shall object until they are verified. I think the ones sent to the Department of Justice should be the ones to go in.

The CHAIRMAN. The original papers?

Mr. RANNEY. Oh, no; certified ones from the Department of Justice.

The CHAIRMAN. If there is any question as to their correctness or genuineness I should like to know it.

Mr. RANNEY. I have reasons which I do not want to state, because they might be erroneous. But the final ones that went to the Department of Justice I do not object to.

The CHAIRMAN. The only way to get them would be to have certified copies made.

Mr. RANNEY. Those I would be content with, if they are certified to.

The CHAIRMAN. I will send these opinions to the Department of Justice to see whether they correspond with those on file. I was about to suggest that perhaps the opinions delivered to the Secretary of the Interior were not sent to the Department.

Mr. RANNEY (after a consultation with the chairman). I have explained to the chairman my reasons, and I think he will recognize the propriety of examining the matter.

The CHAIRMAN. The opinion of Mr. Montgomery comes directly from him with an indorsement on it. I have sent a subpoena for the clerk of the Ebbitt House to come before the committee to-day with his books.

Mr. RANNEY (searching among some papers). There is a letter of Mr. Garland's of September 20, 1883.

Mr. OATES. To whom?

Mr. RANNEY. To Dr. Rogers, I suppose. It was produced among the Rogers letters.

Mr. OATES. It was not produced among the Rogers correspondence, for every one of those from Mr. Garland was returned by the subcommittee. [Referring to printed list.] There is one of Mr. Garland to Dr. Rogers of October 4.

Mr. RANNEY. Don't you find this one there of September 20?

Mr. OATES. No.

Mr. RANNEY. There is a letter from Colonel Looney of September 19, 1885, letter No. 8, referred to on page 2 of the printed document.

Mr. OATES. You had better read it.

Mr. RANNEY. This is the letter.

[Office of Looney & Looney, attorneys-at-law, Masonic Temple.]

MEMPHIS, TENN., *September 19, 1885.*

MY DEAR FRIEND: Your letter received. I am making a desperate effort to sell some stock, but have failed up to this moment, but will still continue my efforts. The last bill filed against the Bell Telephone Company with the approval and consent of the Department of Justice will certainly wake up and startle the Bell people. It is a regular cyclone. The bill is simply carrying out a suggestion of yours made some time ago, and I think it will succeed, but too late, I fear, to do us much good. Young is sick at Hot Springs. He has made a mistake of nearly \$100,000 of my stock. The last \$50,000 sold to Thompson is all charged to me, as well as the Nutz stock. We will make him fix it up when we meet him in Washington. I would like very much to see you and have a long talk. I have announced myself a candidate for governor, and believe I will make the trip. Of course, these things are uncertain, but I will make the best fight I can for the nomination, and hope to win. Remember me to all your family.

Your friend,

R. F. LOONEY.

Dr. J. W. ROGERS.

Mr. EDEN. That is directed to Dr. J. W. Rogers, is it not?

Mr. RANNEY. Yes; from Colonel Looney.

Mr. OATES. For what purpose do you offer that? Wherein is it relevant to the issue or to any of the issues before us?

Mr. RANNEY. It is a part of the correspondence between Colonel Looney and Dr. Rogers in this affair.

Mr. OATES. A good deal of the correspondence between Col. Looney and Dr. Rogers has nothing to do with the matter.

Mr. RANNEY. It is the same class of evidence we have been putting in. He was one of the promoters of this Pan-Electric company.

Mr. OATES. That is all true, but how can it throw any light on the matters we are investigating?

Mr. RANNEY. I think it does; it relates to it.

Mr. OATES. How so?

Mr. EDEN. It has nothing to do with the bringing of the Government suit, and nothing to do with the organization of the company.

Mr. OATES. And neither one of those men was in Government office.

Mr. RANNEY. It is a part of the Pan-Electric scheme which has been under investigation all through here, and the same class of evidence has been put in.

Mr. EDEN. That seems to have been a part of Colonel Looney's scheme.

Mr. RANNEY. He was acting in concert with the rest, and was one of the promoters.

Mr. EDEN. He was one of the promoters, but not in selling the stock.

Mr. RANNEY. Yes; in the sale of the rights.

Mr. EDEN. He never sold any of the stock of the company.

Mr. RANNEY. I do not want to discuss it.

Mr. EDEN. I do not want to discuss it, either, but I do not want it to go on the record unless it has some bearing on the matter we are investigating.

Mr. RANNEY. I prefer to have the chairman here if we are going to act upon it.

The CHAIRMAN (resuming his seat at the table). What is the question?

Mr. RANNEY. I am putting in the correspondence here of Colonel Looney with Dr. J. W. Rogers.

Mr. OATES. And Mr. Eden raised an objection.

The CHAIRMAN. What is the objection?

Mr. OATES. The objection is it has nothing to do with the investigation, and it is unnecessary to encumber the record with it. Colonel Looney and Dr. Rogers had a right to write to each other just what they pleased and anything they wanted to about their private matters. It was their interest.

Mr. RANNEY. It is not a private matter. Colonel Looney and Dr. Rogers were the men attending to this business of selling State rights and putting this thing on the market. It is the official correspondence between those men, who were the active agents and promoters of this enterprise, acting in concert with the company and for the company.

Mr. OATES. Does that show any sales of territorial rights, or tend to show it, even? I think we have got testimony on that point as to all the sales that were made by members of the company.

Mr. RANNEY. I do not want to discuss the weight of the testimony now.

The CHAIRMAN. I think it is of the same character as the testimony which has been given.

Mr. RANNEY. I believe the stenographer took it down as I read it, so that it is already in the record. On page 17 of the printed collection of letters, those reported by the sub-committee as material, there is a letter, No. 248, which I desire to have put in the record. There is also a letter of a previous date, No. 246, on page 16. Letter No. 251 is already in, I believe. I desire to have the letters numbered 246, 247, and 248, all from Colonel R. F. Looney, put into the record at this time, also letter number 250. I think those are all of Colonel Looney's letters that I care to have go in. I will not trouble the committee with any more of them.

Mr. OATES. I object to all of them for the same reason and on the same ground as stated before. Letter No. 247 is not addressed to anybody.

Mr. RANNEY. It relates to the business of the company and speaks for itself—that is No. 248 does. The two next are personal letters; I do not care anything about them.

Mr. EDEN. One has no date to it and is not addressed to anybody.

Mr. RANNEY. Which one is that?

Mr. EDEN. No 247.

The CHAIRMAN. Was Colonel Looney one of the directors of the company?

Mr. RANNEY. He was the man who had charge of all the business in the South in the selling of State rights, and who was given about \$800,000 worth of the stock.

The CHAIRMAN. That was given to him by Dr. Rogers; he held his stock under Dr. Rogers. But it seems that he was recognized afterwards and made a director of the company. I would like to hear about that. [To Colonel Young.] Was not Colonel Looney a director of the Pan-Electric Company a part of the time?

Mr. CASEY YOUNG. I believe so; I am not quite sure about it.

Mr. MOFFATT. Yes; I think he was.

Mr. CASEY YOUNG. I am not sure about it, but can tell by the book.

The letters put in evidence by Mr. Ranney are as follows:

No. 246.

R. F. Looney to Dear Friend.

OFFICE OF LOONEY & LOONEY,
ATTORNEYS AT LAW, MASONIC TEMPLE,
Memphis, Tenn., June 26, 1884.

MY DEAR FRIEND: Your flaming advertisement appeared in the Appeal this morning. It really has started things up considerably, and I will feel the pulse on the subject at once, and will advise you if there is any chance to sell. I will leave for Chicago on Thursday, the 3d of July; wish I could meet you there. We could sell stock, I think. Before I leave I must make some arrangement about the \$2,100-note, which will fall due before I return, as I expect to go to Washington and to Philadelphia to see you. * * * is indorsed as you know and holds the mining stock as collateral. The mining stock is worth a great deal more than the note, but at this time of depression I do not believe it will bring more than the debt. They have notified me, both the bank and the indorser, that it will not be renewed. Write me by return mail what to do about it.

Did you sell to Peyton and Dunn the Pan-Electric stock? I hear good news all around about the telephone. I hear Boyle is moving rapidly towards success. We will come up all right very soon with Georgia, Tennessee, and Alabama, Arkansas, and Louisiana. Answer my last letter at * * * Pennsylvania. What are the New York "fellows" doing? Remember me very kindly to Harry and all the family. I would like to meet you and Harry at Chicago.

Very truly, your friend,

R. F. LOONEY.

Tell Jim I expect him at Chicago.

No. 247.

R. F. Looney. (No address; no date.)

* * * on the 28th of this month. What shall I do with it? I think I can renew it, but can't tell. Advise me at once what you wish done. I am making an effort to raise you some money, and will telegraph you if I succeed. It is hard to get money now since the New York panic, but it is moving off. The banks had a "big scare."

I had a telegram last night from James. The boys will send the money to Washington to-morrow; that is, the \$10,000. I will in a few days, I think, sell Tennessee and Georgia. I have not heard from Saint Louis. I suppose everything is all right there or I would have heard. Will telegraph you if I succeed in raising the money. Keep me posted. Have had nothing from Washington since I left except by telegraph. Remember me kindly to Harry and all the family.

Very truly, your friend,

R. F. LOONEY.

No. 248.

R. F. Looney to Dear Friend.

MEMPHIS, TENN., October 21, 1884.

MY DEAR FRIEND: I am in receipt of your letter this morning in answer to mine written from New Orleans. It does not matter as to the request I made in regard to trading stock for a debt of mine. I could not make it. I felt the pulse and it would not go; in fact, money matters are so tight here that nothing can be done worth doing. But I thought and expected you would not hesitate to grant my request, but it is all right. I have done more than any one else would or could have done towards reaching money out of the telephone, and in one case, in offset to the Thompson matter, to which you refer, I gave you and Harry all the money raised by sale of stock, when one-half was mine, and when I needed it badly. In fact, I have made trades and raised the money when no one else could. Whatever the telephone is to-day, and whatever money you have received, and whatever local stock, and whatever prospects we have, the company is indebted largely to my humble self. My time

and money have been given almost exclusively to the business without compensation or charge by me. Every dollar that has come into the treasury of the company has been through men whose services I enlisted.

I recite these facts as an excuse for the request I made you in my letter from New Orleans. However, I am willing (perfectly so) to abide our contract in the future, and do in the future as I have in the past. But I cannot in the future, as I have in the past, give all my time and pay all my expenses in the service of the company, but I will go on and sell stock to the best advantage as per agreement. Our local company here is complaining greatly about the advertisements in our local papers of the Penn Company. I do not think they hurt, but they do no good, and I wish you would order them out. It would please them here if you would do so.

Well, my old friend, read this below, and read it "slow." I have this morning closed the following trade. I sold to Dr. Samuel Watson 40,000 of Pan-Electric Tel. stock, as follows: 100,000 of San Francisco mining stock, in Mexico, and \$2,500 in notes due the 22d of December, with interest. The notes are gilt-edged, and indorsed by Samuel Watson, who is as good as gold, and I expect to have the money and send your part by the time this reaches you. The mining stock I do not regard as valuable if the mine is a good one, but no money to start it. I would have traded without it on your telegram or without your telegram. It is over \$6 per share, and I could not have sold it at all without taking the stock. As soon as I finish this letter I will go out and hunt the money for the notes. The paper is first-class, and there is no doubt about the money. "Genius," "genius," "genius!" you say. I say, "luck," "luck," "luck!"

It is important that the New Orleans company should be satisfied that no sale of improvements or inventions was made to Ewing.

I have only one-quarter of the Avalanche, and will sell that, I think. We have a lawsuit about the other half, but if I had the Avalanche you could come in. Will talk it all over with you when we meet. Remember me to Harry. I hope he will be well when you receive this. Kind regards to all your family.

Your friend,

R. F. LOONEY.

Move into the city quick.

No. 250.

R. F. Looney to Dear Friend.

MEMPHIS, TENN., May 15, 1885.

MY DEAR FRIEND: Your short note received, and I was very glad to hear from you. I was also glad the "Arkansas traveller" had not wronged me. I have not had a line from "Casey" since I left Washington, except a word inclosing my stock, in which he is short \$50,000 or more. But I fear under the present management it is worthless; hope not. Have you seen Alexander or General Armstrong lately? Write me all about prospects and millions. I have withdrawn my son's application for any office, and feel ashamed that I ever permitted him to apply for any position. I find that it is easier to help others than to have them help you. I have spent my life serving other people, but have generally found them so entangled that they could not help me. But it is all right. I want nothing "unless it comes from the people; A. Johnson."

You will understand this, but say nothing. I can take care of myself.

Remember me to all of the family, and tell Harry I want to hear from him.

Your friend,

R. F. LOONEY.

Mr. OATES. I would like to know what that last letter has to do with this investigation.

Mr. RANNEY. The first part relates to the business of the company. You can strike out the last part of it if you want to.

Mr. OATES. You might find something in almost everything relating to the whole human family. I do not see how it could be considered competent evidence for any purpose.

Mr. RANNEY. It says, "I have not had a line from 'Casey' since I left Washington, except a word inclosing my stock, in which he is short \$50,000 or more. But I fear under the present management it is worthless; hope not."

Mr. OATES. We are not authorized to inquire whether Casey was short \$50,000 of stock or not.

Mr. HANBACK. That relates to the business of the company.

Mr. OATES. Yes, in a certain sense, but it does not prove anything.

The CHAIRMAN. It is a question whether it is material, perhaps. I think we generally ought to adhere to what I before stated, that the correspondence of Colonel Looney with members of the association, or declarations of his to outside parties, would be competent in view of all the testimony offered here.

Mr. EDEN. These letters are not addressed to anybody; we do not know to whom they are addressed.

The CHAIRMAN. Colonel Looney's connection with the company was very intimate. If I am correct in my recollection, he was a director.

Mr. CASEY YOUNG. He was a director, as I see from this book.

The CHAIRMAN. He was? They would be competent, then, if they are material.

Mr. EDEN. That is the point. I say they are not material.

Mr. OATES. It is not everything that a man may admit or say concerning the matter you are inquiring about, but is it an admission or statement that is important or throws light on the question that you are inquiring about? That is the point. I do not see anything in all this that throws any light upon it at all.

Mr. RANNEY. They are a part of the transactions connected with this company which we are investigating. We are not trying specific charges or introducing evidence on specific issues.

Mr. OATES. We have no right to investigate anything except that which we are directed to investigate. I know it is in the line of a great deal that you have offered already and that I have objected to frequently, and there is much in this record that I think is utter trash and not good evidence for any purpose and ought never to have gone in.

Mr. RANNEY. With all respect to you, I do not think you are so familiar with it as you ought to be.

Mr. OATES. I have not made it my study all the time as you have, that is true. But I am familiar enough with it to know something about what is evidence.

Mr. RANNEY. I think it is within the scope of the inquiry and in the line of evidence that has been put in.

Mr. OATES. The latter part of the proposition I will admit, but not the former.

The CHAIRMAN. I think the evidence is competent. As to weight or materiality, we have not drawn the line very closely.

Mr. EDEN. I make another point in regard to these letters. They are not addressed to anybody, and it is not shown that Colonel Looney ever wrote them all, and I want that to appear in the record.

Mr. RANNEY. The original letters are all here, and have been examined by a committee, and these have been selected and taken out as a material, and reported as such.

Mr. OATES. They were reported as possibly material.

Mr. RANNEY. The original letters are here.

Mr. EDEN. The committee did not report these letters as evidence.

Mr. RANNEY. They are reported among the material letters by a subcommittee.

The CHAIRMAN. If there is any question as to their genuineness they ought to be proved.

Mr. EDEN. I do not know whether they are genuine or not. They are not addressed to anybody.

Mr. HANBACK. Those are the letters we examined.

Mr. OATES. I do not think it makes any difference whether they were written by Colonel Looney or not.

Mr. HANBACK. I do not think there is any question about their genuineness.

Mr. OATES. Well, it is just the same whether they are genuine or not; they do not prove anything. My objection is to their irrelevancy and because they will incumber the record.

The CHAIRMAN. I am informed that we cannot get the clerk from the Ebbitt House to-day. He is not at the hotel, and will not be back until 4 o'clock.

Mr. RANNEY. There are some letters from Senator Harris that I desire to introduce at this time, and the first one is dated January 17, 1884, and is addressed to the Hon. A. S. Hewitt. It reads as follows:

UNITED STATES SENATE CHAMBER,
Washington, January 17, 1884.

MY DEAR SIR: Allow me to introduce to you my friend, Dr. J. W. Rogers, and his son, Mr. J. Harris Rogers, who wish to confer with you about a public matter, of which they will explain to you. They were formerly citizens of Memphis, Tenn., but for several years past have been citizens of the city of New York. They are gentlemen of talent and thorough culture. You may and probably will remember the son as the former electrician of the House. I hope that you may find it convenient to grant them an interview.

Yours, respectfully,

ISHAM G. HARRIS.

Hon. A. S. HEWITT.

Mr. EDEN. On what page is that?

Mr. RANNEY. I have read it from the letters published in the World. It was reported by the subcommittee as immaterial. It is No. 53. There cannot be any objection to that. I also find a letter from Senator Harris dated January 12, 1884:

MY DEAR DOCTOR: In answer to yours of the 10th inst., I have to say that I have received and read the poem, and that it requires no bribe to secure its reading. It will be read with interest by all into whose hands it will fall.

Very truly, your friend,

ISHAM G. HARRIS.

Mr. EDEN. I do not object to that. I think it shows the merits of the poetry. I think it should be in the record.

Mr. HANBACK. The poem ought to be put in, too.

Mr. RANNEY. I am very glad there is something Mr. Eden agrees to.

Mr. EDEN. Yes; I agree to that. I want the reporter to be careful and note that correctly.

Mr. RANNEY. And be careful to get Mr. Eden's remark.

Mr. EDEN. And Judge Ranney's, too.

Mr. RANNEY. At last we have got something in that he fully appreciates.

The next is a letter, dated October 2, 1884, from Isham G. Harris to Dr. J. W. Rogers:

DEAR SIR: I will see General Johnston at 10 o'clock this morning and will talk to him about the matter. There is only about \$3,500 in the treasury at this time, and as we have reason to expect more soon, is it not well to leave the question until we have some money worth dividing? I know Young is opposed to dividing. He opposed the last dividend.

Respectfully,

ISHAM G. HARRIS.

Dr. J. W. ROGERS.

Also the following:

UNITED STATES SENATE,
Washington, D. C., February 13, 1883.

DEAR SIR: Yours of the 11th instant reached me only an hour since, in answer to which I have to say that at the first blush your suggestion strikes me with favor, and I see no impropriety in gentlemen holding official positions, as Atkins and myself do, becoming interested in an enterprise such as you suggest. Atkins and I will be glad to confer with you or Harris or both at any time that may be found convenient and discuss the matter further.

Respectfully,

ISHAM G. HARRIS.

Dr. J. W. ROGERS.

WASHINGTON, July 5, 1883.

MY DEAR SIR: I called yesterday and again this morning and again this evening, but unfortunately found Harry absent. Please inform me by note about when the telephonic transmitter will be ready. Direct up to the 7th to the Fifth Avenue Hotel, New York. Colonel Young is going soon to San Francisco, and wants to carry some with him. Both he and I think there is a big thing in these transmitters, and they can be readily introduced. I promised Young to tell him about when they or a part of them will be ready, so that he could fix his time when to start to California. Young and Garland are going to consult and determine this week as to the best law for us to organize under. I go to New York to-night and Boston on the 8th and will reach Bar Harbor, Maine, on the 11th and hope to be here again in fifteen or twenty days.

Respectfully,

ISHAM G. HARRIS.

Dr. J. W. ROGERS.

WASHINGTON, D. C., February 28, 1884.

Messrs. J. W. and J. H. ROGERS:

DEAR SIRS: Your letter of yesterday was received at 11.30 to-day, and shown as soon as practicable to Senator Harris and Col. Young, and it was agreed that I should, Congress being in session, direct Col. Young's secretary to carry the contract for Washington with Messrs. Gustin & Harlan to the colonel. However, the young man was absent, so I left written instructions for him. All this made it evident that the contracts could not be dispatched by to-night's mail, and so I wired you. They will go as soon as possible, however, but I doubt if they can reach you to-morrow. Would it not be feasible for Mr. Harris Rogers to come Saturday, as you have been intend-

ing, while Dr. Rogers remains to attend to the Pennsylvania business? We have several conditional proposals for which instructions are necessary. These people want to see the instrument as it is in common use, they say, not as it is for exhibition, so they went to see Harlan & Gustin's customers using theirs. Myers writes the same thing from Indianapolis. So I was pining to have the result of your recent labors. If you give them to us at once you will find in a short time that the Pennsylvania contract will be a small part of your wealth. Telegraph me your wishes on receipt of this.

Yours, very truly,

J. E. JOHNSTON.

UNITED STATES SENATE,
Washington, D. C., December 2, 1884.

PROFESSOR BAIRD:

DEAR SIR: Allow me to introduce to you Professor J. Harris Rogers, of this city. Mr. Rogers is the inventor of the Rogers or Pan-Electric telephone and several other electrical inventions. He wishes to examine the telephone invented by Philip Reis, one of which I understand to be at the Smithsonian, and will probably be glad to have an opportunity to see if it can be made to talk.

I shall be greatly obliged if you will give him all the facilities for such examination as are consistent with the interest of the Institution. Mr. Rogers is in all respects worthy and reliable.

Respectfully,

ISHAM G. HARRIS.

Mr. HALL. These letters you are introducing are taken from a newspaper publication.

Mr. RANNEY. They are among those reported as immaterial.

Mr. HALL. Is there any objection to having the statement made of the date of their publication in the paper in which they appear?

The CHAIRMAN. It can be stated. They appear in the World of February 3, 1886.

Mr. HALL. Were the others that were introduced in the same paper?

The CHAIRMAN. I think they have all been read from the same paper.

Mr. RANNEY. I next read a letter dated August 5, 1883, from Isham G. Harris to Dr. Rogers:

MEMPHIS, August 5, 1883.

DEAR SIR: Our friend, Col. R. F. Looney, puts considerable interest in our electrical inventions and regards them as of great utility and value. He is, as you know, a man of fine capacity for negotiating and working up an enterprise, and exhibits great energy in such matters. If interested in it, he would, in my opinion, be serviceable to us and our enterprise.

In view of which facts I am in favor of interesting him in it on liberal terms, and think it a matter worthy the consideration of the executive committee, as to whether it is not wise policy to dispose of a part of the undisposed-of one-tenth interest to him on such terms as will put him actively in the field of negotiation. I think it not improbable that he can arrange to unite on reasonable terms our telephonic transmitter and exchange with the Rogers telephone, which in my opinion would be a big thing for us.

At all events, if he becomes interested he will go actively to work in the interest of the company to utilize its property.

Respectfully,

ISHAM G. HARRIS.

Dr. J. W. ROGERS.

Mr. HALL. Mr. Stenographer, I desire you to note by whom these letters are introduced.

Mr. RANNEY. Here is another letter from Isham G. Harris:

UNITED STATES SENATE,
Washington, D. C., February 18, 1884.

J. HARRIS ROGERS, Esq., or Dr. J. W. ROGERS:

Allow me to introduce to you Captain John N. Baffenger, of St. Louis, Mo. Captain B. wishes to experiment with our telephone, and probably contract with us for its use in certain territory.

Please show him all he wishes to see, and oblige,

ISHAM G. HARRIS.

ABELINE, TEX., *September 6, 1883.*

MY DEAR SIR: In answer to yours I have to say that I am greatly gratified at the flattering prospects of the Pan-Electric, and while I would like to see Col. Looney interested, and think he would be of value to us, I would not be willing to give him the tenth interest nor more than \$50,000 of it, or thereabouts.

After consulting with you, Gen. Johnston, Harry, Atkins, and Young, I offered Gov. John C. Brown an interest of \$50,000. He thinks he can be of service to us, and will do his best; and I have no doubt that he can be of very great service to us.

I sent him a note to you to-day, and he will be in Washington about the 15th inst.

I am and have been very busy here, but will leave for Memphis about 20th inst. My kind regards to Harry.

Your friend,

ISHAM G. HARRIS.

Dr. J. W. ROGERS.

UNITED STATES SENATE,
Washington, D. C., May 14, 1884.

My DEAR SIR: Neither Harry or yourself have any occasion for mortification or explanation. I went to New York on the business of the company, and needed the aid of Harry. I had no other thought than that the company would pay expenses, and intended to advance them myself and see that the company paid them.

Hence I have not expected either Harry or yourself to reimburse me. You owe me nothing on that or any other account.

Unfortunately my financial condition is such as to make it impossible for me to make the trade suggested by you.

I am compelled to raise \$4,000 or \$5,000 in the next few days to meet engagements already made.

Respectfully,

ISHAM G. HARRIS.

Dr. J. W. ROGERS.

Mr. HALL. Mr. Chairman, I move that all the letters published in that edition of the World be introduced in the manner in which they were published, instead of selecting a few out of the whole publication, and putting them into the record. That will save the labor of reading them and give us the benefit of them. I do not know that I have seen that edition of the World.

The CHAIRMAN. Cannot the desire of the gentleman be reached by offering all the letters published in that paper of that date?

Mr. RANNEY. I have no objection. They can put in every letter. Several of them are now in. I was only putting in those that were not in. But I have no objection.

Mr. EDEN. Those that have been put in once it is unnecessary to put in again.

Mr. HALL. I was going to suggest, if the motion was sustained, that those that have been already read could be withdrawn so as to put them in the order in which they were published in that paper.

Mr. RANNEY. You may put in the letters themselves, but not the publication. That is the difference. If there is any letter that I have omitted that the gentleman from Iowa wants put in, it can be done.

Mr. EDEN. I should like to inquire at this time whether the gentleman proposes to put in all the letters that the subcommittee decided were not legitimate as testimony?

Mr. HALL. I do not understand that the subcommittee decided that anything was not legitimate testimony, but only that they were not material.

Mr. EDEN. I mean as not material.

Mr. HALL. Instead of culling out letters in this way, I think we should have the benefit of the judgment of Mr. Pulitzer himself in the arrangement he made of them. I call for the question.

The CHAIRMAN. The gentleman from Iowa moves that all the letters published in the World of the 3d of February be incorporated in the record as in evidence.

Mr. OATES. We had better put in all if we put in part.

Mr. EDEN. I do not want to vote for it, but if we are to put in any of the letters let them all go in.

Mr. RANNEY. If they are to go in, I want them to go in as letters and not simply as published letters.

The CHAIRMAN. They go in as letters. Their being published in the World does not make any difference.

The motion was put, and it was agreed to.

The letters in question, in addition to those already read by Mr. Ranney, are as follows:

U. S. SENATE CHAMBER, *Oct. 4, 1883.*

DEAR SIR: Here are the papers returned signed and acknowledged by Gov. Brown all right. You and Harris had better go or send over the papers and have them recorded. I believe you know the officers there. Please see to this as soon as you can. I return the articles I borrowed from Gen. Johnston.

Truly, &c.,

A. H. GARLAND.

J. W. ROGERS, Esq., *City.*

UNITED STATES SENATE CHAMBER,
Washington, Sept. 20, 1883.

DEAR SIR: I have gone through the New York laws and have drawn up a form for an association in the rough, which I send you. Please look it over and make memoranda to fill in the blanks. Be particular in stating the objects and purposes of the company. Make the statement broad and comprehensive. This form covers, as you will see, telephoning. A similar one will be necessary for telegraphy, so make a full statement as to that likewise. Will you do this and have it all ready and meet me with Gen. Johnston here at the Senate Judiciary Committee room to-morrow at 10.30 a. m. ? and we will put it all into shape, and I will have a clerk to draw them off neatly and readably for us. I name this place as I have books and papers all here convenient.

Truly yours,

A. H. GARLAND.

UNITED STATES SENATE,
Washington, D. C., October 62, 1885.

Dr. J. W. ROGERS:

DEAR SIR: I want to see you when you come to the city. But not knowing when you are in, don't know when to call. My object is to talk to you about the telephone, and chiefly to say to you that everything in the way of newspaper, hotel, or street discussion from our side of the question is hurtful, and I beg that you say nothing on the subject through the press or otherwise, except so far as you may choose to discuss the matter with us who are interested.

Respectfully,

ISHAM G. HARRIS.

WASHINGTON, D. C., *February 23, 1884.*

J. HARRIS ROGERS:

MY DEAR SIR: Since writing in reply to your note to the Pan-Electric Telephone Company I have seen several members of the company, who reminded me that the telephones you ordered were expressly for the contractors, mainly those here, and that a gentleman who wishes to purchase our right, in Missouri is waiting to see Mr. Harlan's lines. That is why anxiety for your return has been expressed. I have had that anxiety, without doubting that you would come here when the object of your work in New York was accomplished.

Yours, very truly,

J. H. JOHNSTON.

WASHINGTON, D. C., *February 25, 1884.*

J. HARRIS ROGERS, Esq.:

MY DEAR SIR: I have your telegraph of this morning. You are the judge of the time of your leaving New York, but I give circumstances here that you can consider. There is a gentleman from the West here with \$75,000 in hand to be paid for our privilege in Missouri, on a royalty of \$10. To my mind's eye that is attractive. Think of the necessary expenses that sum would cover, leaving a dividend, and the market value it would give our stock. But this gentleman will not contract until he has seen Harlan's lines in operation. So I beg of you to send as soon as possible eight or ten telephones to sway this customer. Now, we have also to help Myers as much as we can with a small number of instruments that will enable us to show in cities how much it is worth. We promised Harlan fifty, first ten to be delivered as soon as

they could be made, and the use of these by Harlan's customers is to decide our \$75,000 bidder. Now, take these matters in connection with what you have before you and come to us with eight or ten instruments as soon as practicable.

J. E. JOHNSTON.

PARTHENON HEIGHTS,
Bladensburg, Md., September 29, 1885.

Hon. AUGUSTUS H. GARLAND:

DEAR SIR: I notice that the Republican papers are making a desperate effort to show that you are prostituting your office for private ends, and have just written a letter to the Post and one to the New York Tribune, which sets the matter in the clearest light possible. Indeed, the editorial in the Post yesterday (Sunday) was inspired by me. I will still exert myself to keep the matter straight. Meanwhile we must secure the greatest patent lawyer in the world for the United States, or we will be defeated, and they will then raise a greater hue and cry than ever. We must succeed, and it is as certain as that you exist that the art of telephony, claimed and sworn to by Philip Reis and this fraud alone, cancels the patent. But watch your men and Van Benthuyzen, or they will sell out to the Bell company and make it appear finally that the United States never had a case, and that you, as a great lawyer, must have known it. Don't trust it to three or four little squires. Get the biggest lawyers in the world, if the Government should have to pay them \$100,000 apiece. Get Edmunds, who will be the next President, if you are not, or some patent attorney whom he may recommend. If Casey Young is permanently disabled, employ me in his place, and even if I am not a "lawyer to hurt," they can't bribe me.

Yours, faithfully,

J. W. ROGERS.

WAR RECORDS OFFICE, 2005 G STREET, N. W.,
Washington, D. C., October 31, 1884.

Dr. J. W. ROGERS:

MY DEAR DOCTOR: I send the inclosed papers to you at the request of our common friend, Gen. A. B. Upshur, who is one of the finest business men I ever knew, and who ought to be in charge of the company's office in this city. Gen. Johnston was to see me this morning, and I urged on him to open and keep open a Washington office with an intelligent, courteous gentleman in charge. I hope you and Harry will urge this. You have caught several tartars. My dear Rogers, stick to the friends whose "adoption is tried." You have enough to make you a big fortune, but you must have proper confederates. Big names do not always win. Acknowledge receipt.

Your friend,

MARCUS J. WRIGHT.

WASHINGTON, December 22, 1883.

DEAR SIR: Your note of the 21st was received yesterday afternoon, and I saw Mr. J. Harris Rogers immediately in regard to its contents, as officially I can communicate with no one but him in regard to the stock which is borne on the company's records as *his*.

I reminded him that the sale of stock is not permitted by the company, and also that such sales, even if not prohibited, would be very dangerous. For if the enterprise should not succeed, all concerned in them would be considered by the public as swindlers. I mean all concerned, all of us.

Most respectfully, yours, truly,

J. E. JOHNSTON.

Dr. J. W. ROGERS.

UNITED STATES SENATE,
Washington, D. C., Feb. 20, 1883.

Allow me to introduce to you Gen. Joseph E. Johnston. Please show him and explain to him the inventions that you were kind enough to show me on Sunday evening, and oblige, respectfully,

ISHAM G. HARRIS.

Dr. J. W. ROGERS, or J. HARRIS ROGERS.

SUNDAY MORNING, 1883.

DEAR SIR: Shall we retain the charter papers till to-morrow to consult Senator Garland?

Yours, very truly,

J. E. JOHNSTON.

J. HARRIS ROGERS, Esq.

WASHINGTON, *March 23, 1883.*

DEAR SIR: I beg you to let me know when you are ready to commence trials with the rented wire. I am looking forward to them with intense interest.

Very truly, yours,

J. E. JOHNSTON.

J. HARRIS ROGERS, Esq.

MEMPHIS, TENN., *March 25, 1883.*

MY DEAR DOCTOR: I am in receipt of your letter of the 18th inst., which I found awaiting me on my arrival Friday night. I have examined the New Jersey statutes and do not find their provisions so favorable to us as you seem to conclude. Acting upon your suggestion, Senator Harris has prepared and sent to Nashville an amendment for our general laws of incorporation, which will give us all the corporate rights and privileges which we desire. I am afraid, however, that the legislature will adjourn before it can be passed. I find that the Maryland laws in respect to incorporations are extremely liberal, and I think we would encounter no difficulty in obtaining such a charter as we want in that State. Harry must necessarily be incurring some expense and I would suggest that he draw upon the other members of the company for their pro rata share of it; it is better to keep the financial part of the business closed up as we go along. He might draw for the amount each one is to pay in installments of say \$25 or \$50 at a time. In notifying the members of this matter he and General Johnston can use my name if necessary. I am going to Arkansas in a short time and you had better look up your land titles in that State and send them on to me.

Your friend,

CASEY YOUNG.

[Law office of Young & Martin, 254 Second street.]

MEMPHIS, TENN., *April 14, 1883.*

DEAR DOCTOR: I look at the matter as you do—that to fully develop and present to the best advantage the various inventions will require perhaps more money than we could ourselves advance, and that to raise it we had possibly better sell some one or more of the inventions or a sufficient amount of stock for the purpose. I am still of the opinion that we can sell the telephone appliance, as I wrote you before, for enough money to carry our other things along until we can put them on a firm basis, and I recommend the experiment. I think I could sell the right to use them in Memphis for \$5,000.

I had a talk with Henry Montgomery yesterday, who is a practical telegrapher, and moreover a man of very large wealth, and he said if the "cylinder" improvement would do what I told him it would, it was worth millions; but he asked me a great many questions about it which I was unable to answer. I have thought it would be a good idea for us to get him to go in with us if we can.

I will see Senator Harris to-day and confer with him about the charter. We can get one under the Tennessee law as broad as we desire it, but I am afraid that chartering here would not give us very high standing in the financial world.

Yours, truly,

CASEY YOUNG.

WASHINGTON, *April 14, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have just received your letter of the 7th, with your father's to the executive committee, but none from Mr. Young.

I have examined the financial columns of the Herald without finding the name of the "American Postal Telegraph Company," so cannot judge of the value of the offer. Is the "embossed system" that in which the cylinder with tin-foil is used? If so, I

estimate it above all the rest. But can have no opinion in regard to the offer until informed of the value of the stock to be paid in. Please find it in "report of stock sales," and inform me.

Very truly, yours,

J. E. JOHNSTON.

Mr. Young thinks that the use of your telephone may be sold in Tennessee and neighboring States.

WASHINGTON, Feb. 8.

DEAR PAPA: The inclosed was handed to me to-day at the house by Mr. Baffenger. He wants to see the telephone work. He owns the right of Missouri and Louisiana of Bell telephone. He says he will be here until Saturday. Went to see Looney this morning. Gen. Johnston was there. He wanted to know if there were any instruments in the laboratory. I told him that it was locked up. He then said that there was a gentlemen here who wanted to talk. I told him he would have to write or telegraph you, that I was not authorized. Two men called to-day to see about adv.; said they would wait and see you. Am glad to hear Harry caught the thief. Hope you all are making millions. * * *

Affectionate son,

JIM.

Dr. J. W. ROGERS, J. H. ROGERS,
315 Four-and-a-Half street, Washington.

1023 CONNECTICUT AVENUE,
Washington, D. C., Feb. 23, 1884.

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have just received your letter of yesterday addressed to the Pan-Electric Telephone Company within, but to me without.

I think that you are mistaken as to the terms of contracts with Myers and Harlan. But my object in writing now is to say that Mr. Garrett desires to "investigate" our telephone with a view to purchase if satisfied with it. For that reason I hope that you will be able to return very soon, that we may not leave him time to change his mind.

Please telegraph me where to expect you. Or can your brother James give me the patent to show Mr. Garrett?

Yours, very truly,

J. E. JOHNSTON.

WASHINGTON, Nov. 8, 1883.

Dr. J. W. ROGERS:

DEAR SIR: Your note of this morning and inclosures were duly received.

I submitted Col. Looney's letter with Mr. Young's indorsement to Senator Garland, who agrees with me in the opinion that the proposition explained cannot be acted on until our meeting on (about) the 3d. I have telegraphed this to Col. Looney.

The account will be attended to without delay.

Yours, truly,

J. E. JOHNSTON.

WASHINGTON, 10.15 P. M., March 26, 1884.

Dr. J. W. ROGERS and J. HARRIS ROGERS, Esqs.:

DEAR SIRS: On receiving your first dispatch (at 1.15) I sent it to Senator Harris, who keeps our contracts. He replied immediately that he would comply with your request.

Your second dispatch came about three and a half hours after the first. I carried it to the Senator's lodgings, and, he being absent, left the dispatch with a note telling him that I cannot break Col. Young's locks. This I telegraphed to you at once. I regret this very much, for I will do anything for your advantage that does not seem to me wrong.

I do not see, however, how those who insist on the impress of the seal of the party of the first part can be satisfied with its impression by the other party. I do hope that when they see the missing sheet supplied they will be willing to wait until a seal can be obtained without violence.

With best wishes, yours, very truly,

J. E. JOHNSTON.

UNITED STATES SENATE,
Washington, Jan. 25, 1884.

J. H. ROGERS, Esq.:

DEAR HARRY: I have a telegram from the Bell office in Boston, saying that Mr. Vail was absent to day, but would answer me to-morrow, and I have answered saying that we will be there on Monday morning. Hence I go on to New York to-night and will leave there for Boston Sunday, and shall expect to meet you at the Parker House, on Monday morning. His former letters have assured me that he would be pleased to see us at any time, if I would give him a day's notice.

Therefore I have given the notice, and as we have no time to lose, I am certain that it is best to go at once.

Your friend,

ISHAM G. HARRIS.

WASHINGTON, March 24, 1885.

MY VERY DEAR FRIEND: Your kind and characteristic letter was received several days ago. In answering it as I would wish to do I recognize at the threshold the poverty of the English language to in any way adequately express the unfathomable depths of gratitude I feel, and the genuine and sincere thanks that well up in my bosom and overflow the surroundings like a deluge. This may sound like hyperbolic language and gushing homonymy, yet every word of it is true, for in the very innermost recesses of my heart your kindness is encoysted, and will nestle there as its chiefest gem until its latest pulsation will sound the knell of time. "Could I wreak my thoughts upon expression," the burning language necessary to be employed, would light the vestal fires anew and glow forever there as the fixed stars in Heaven shine, bright and beautiful and glowing as a golden burnished sheen. Your letter came to me like the grateful dew upon the parched and withered herbage, renewing its verdancy and rendering its dreariness beautiful. The expressed well-wishes and homage of one kind heart is worth living for, and makes one feel that life is not altogether vain. The experience of life has taught me that it is a boon of priceless value, for when genuine, as I know yours to be, it is a casket adorned all over with flowers, and is as rare in the casket of dear memories as the Koinour is among the family of gems. To say that I thank you with all my heart is but the most feeble portraiture of my feelings. Your letter struck me at a time when "sorrow brooded over me like a funeral pall; when all hope withering fled and mercy sighed farewell." I felt truly sad and isolated, and my thoughts were gloomy and saturnine. Need I tell you, therefore, how timely and welcome your letter was to me, and how fruity and rich were its effects upon my soul, redolent of perfumed souvenirs and dear memories, awakening bright hopes and vaulting aspirations as fresh as the aurora of morn bespangled with its dewy diamonds. In conclusion may I express the wish and breathe the prayer that your life on this earth be so serene and happy and exempt from all its ills, that in its transition from this to a better world the change will scarcely be perceptible.

I am, as I ever hope to be, your true and grateful friend,

R. C. WINTERSMITH.

Dr. J. W. ROGERS, Washington, D. C.

MEMPHIS, TENN., September 30, 1880.

MY DEAR SIR: I think the services of J. W. Rogers, esq., of Washington, D. C., could be used with great benefit to the Democratic party in the present canvass, and I write this note to suggest that they be engaged at once and he sent to speak to the Northern and Western States. He is a gentleman of much scholarly culture, extensive information, and possessed of many superior powers as a popular orator. I know of no man who would be likely to arouse more enthusiasm among the masses than he would.

Yours, very truly,

CASEY YOUNG.

Hon. JOHN G. THOMPSON, Washington, D. C.

MEMPHIS, August 16, 1884.

MY DEAR FRIEND: I have just arrived home, read your letters, and have seen Young. He had received our letter, which had upset him considerably. He denies emphatically that he ever said the Rogers telephone was worthless, and he denies with emphasis that he has any interest whatever in the Harlan-Long attempted swindle; professes perfect loyalty and the deepest interest in the success of our telephone. It

is booming in the West and here. Alabama is finished up and the money will be forwarded next week. I saw Boyle in Chicago Wednesday last. He expected to close Illinois, Iowa, Michigan, and Kansas within ten days. He went to Detroit Wednesday night. He has strong connections with most every State. I believe Young means to be true and stand with us against Long and Harlan. I hope Governor Harris will take hold of the matter, and this fall Harry and General Johnston with him will in some way get rid of Harlan if he does not come to terms. We are on high ground now and should have perfect harmony. I think for all the future we will have Casey's hearty co-operation. He is so situated that he can do nothing else. Should he fail to do this he would incur the displeasure of Gov. Harris, Gen. Johnston, Garland, Atkins, Brown. He is talking for us big now here. I will spread myself next week on the stock and the market is splendid. My son will hand you this. I want him to see Harry and all of your family. He is a chip of the old block, and is the friend of the Rogers family. Trade for that house for me quick and I will be with you. Everything is moving here splendidly. Give my love to Harry. Tell him he must come to Memphis. The Alabama telephones are the best ever made. You can talk 100 feet from them and fire clear every "pop." They go to Mississippi next week and Louisiana. Boyle tested with the Bell telephone in Minnesota 150 miles. None of them could talk ninety miles, failed completely except the Rogers telephone, which talked as well the 150 miles as it did 150 yards. Boyle says he can whisper through it across the continent.

Very truly, your friend,

R. F. LOONEY.

WASHINGTON, *March 28, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have just learned from a note from Dr. Rogers, dated 26th, that you are at work in New York, and regret very much that you did not before leaving Washington inform me of your intention, that whatever service I am capable of might have been rendered.

Very truly, yours,

J. E. JOHNSTON.

WASHINGTON, *March 29, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have just received a letter from your father, the terms of which make me think that he and (perhaps) you have not observed the fifth paragraph of the terms of our association, which makes it necessary that I should at least *witness* the experiments to be made over the rented wire.

It is expedient, of course, that one of us should be at each end of the wire during its use. In that respect we are properly placed now.

Very truly, yours,

J. E. JOHNSTON.

You will see in the eighth paragraph of the "terms" that I am a member of the executive committee.

WASHINGTON, *March 31, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have your favor of the 30th. I should like much to be in your laboratory whenever anything is going along the line. And shall see your operator there this morning on that subject.

I agree with you—that it will be best to exhibit first the automatic telephone, especially in view of our being limited to assessment of \$150 each member for expenses. See 5th par. of "terms."

In reference to sales at nominal prices—I can see no advantage to be derived from it at present.

Very truly, yours,

J. E. JOHNSTON.

WASHINGTON, *April 3, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have just seen your father's telegram announcing your illness.

I regret it much, not only on your own account, but because it prevents trials to-night from which I expected much gratification. I suppose, however, that what I saw last night gave a fair idea of the most important of your improvements.

I am compelled to leave Washington to-night on business that cannot be postponed, in Danville, Va., with W. S. Patton & Sons, bankers. That will be my address.

Very truly, yours,

J. E. JOHNSTON.

Is it necessary to make any other trials on the rented wire?

WASHINGTON, *April 3, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have just received your favor without date.

I observed the broad seam in the tin foil, but was confident that you would correct the arrangement.

As to the sale of stock—I think that we cannot gain, but must lose by selling it at nominal prices. That is the ground of my objection.

Very truly, yours,

J. E. JOHNSTON.

WASHINGTON, *April 7, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have received your letter via Danville and the engraved certificates of stock, also the printed pamphlet intended, as you say, for a substitute for that printed by our association itself.

Let me suggest, in the most friendly spirit, that the association authorized an executive committee to direct its business and that no one member of that committee can act as the whole. I have, as delicately as I could, called your attention to this twice. Let me now beg you to make no expenditures without the consent of a majority of the committee.

In your letter of the 5th you speak in terms of the last trial of the cylinder that I suppose that there is no necessity for further trial. Is it not so?

The pamphlet for which you propose a substitute was the contract upon which our association is founded. No one person, therefore, can put it aside. The association established its office in Washington. In your pamphlet two offices are proposed as permanent, without authority, it seems to me.

Very truly, yours,

J. E. JOHNSTON.

WASHINGTON, *April 7, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have your note of yesterday. It seems to me that we should lose greatly by selling stock before the completion of the trials that will show the value of your invention in rapid telegraphy, at least.

Before I left the laboratory last night a message from you was received to the effect that these trials require improved instruments, the making of which will cost ten days. In that connection let me take the liberty of suggesting to you the financial prudence of it, lessening your daily expenditures and keeping them within the limit of assessments the association imposed on the executive committee.

Could not the transmission by the tin foil be proved as fully with a short wire as a long one, and as well at one place, therefore, as two?

Very truly, yours,

J. E. JOHNSTON.

WASHINGTON, *April 19, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: Your telegram in relation to the American Postal Telegraph Company's stock is received.

I think that after complete experiments show the value of your two chief inventions our stock will be at least equal to any other not yet put upon the market.

I have put the case before Mr. Young, but think the bargain would be very injurious to us.

Very truly, yours,

J. E. JOHNSTON.

WASHINGTON, *April 21, 1883.*

J. HARRIS ROGERS, Esq.:

DEAR SIR: I had not time yesterday to tell you how much satisfaction your letter of the 21st gives me. It adds to my anxiety to witness the trial of the new instruments and of the telephone. Were not the instruments to be ready four or five days ago? And has not a material part of the time of rent of the wire expired? For these and personal accounts I am very anxious for the speedy commencement of the trial.

As we use the wire at night, I suppose the attendance in court cannot interfere.

Very truly, yours,

J. E. JOHNSTON.

MEMPHIS, *April 27, 1883.*

Dr. J. ROGERS:

My DEAR SIR: In answer to yours of 20th instant, I have to say that L. P. Cooper, who holds the claim against you to which your letter refers, was absent from the city until yesterday, when I had an interview with him, and he agrees to accept the Pan-Electric stock at 50 cents on the dollar in satisfaction of the debt and interest. The notes were put in suit and a judgment obtained, which Cooper paid, and the judgment was transferred to him, but when ready to consummate the agreement I will see that the judgment is satisfied and that a receipt is given you in full.

I have talked to my nephew, James M. Harris, about your Arkansas lands. He thinks this a good time to dispose of them if you wish to do so at nominal rates. He has had the control of a great many of those Arkansas forfeited lands, selling them in their forfeited condition at 25 to 30 cents per acre. I authorized him some months since to sell mine, which he did, my opinion being that it was the best possible disposition that could be made of them.

Very respectfully,

ISHAM G. HARRIS.

H.

P. S.—I will be in Washington by 20th May.

WEDNESDAY MORNING, 1883.

DEAR SIR: I presume that Gov. Harris told you yesterday of his intended trip to Texas and the proposition that there shall be a meeting of the association immediately after his return, when Hon. Mr. Young, Col. Looney, and Gen. Brown can be present.

I did not see you and Senator Garfield on the subject yesterday, believing that the governor would do so.

I have written to Col. Looney in relation to the subject of his letter to your father.

Hoping that the above meets your approval, I am, yours truly,

J. E. JOHNSTON.

1023 CONNECTICUT AVENUE,
Washington, Aug. 3, 1883.

J. HARRIS ROGERS, Esq.:

DEAR SIR: To my great disappointment, I find nothing in regard to Philip Reis in the Encyclopædia Britannica nor in a voluminous biographical work. This, however, makes the article you lent me no less interesting. It will be returned by the bearer.

In asking you for a receipt for Gov. Harris's payment I forgot that I had given him one. I beg you, therefore, to interline on your receipt (herewith) after "Received of" my name and the word "for," to relieve me of responsibility to the governor.

Very truly yours,

J. E. JOHNSTON.

I requested Messrs. Atkins and Garland to remit you \$102.87, one-third, and Mr. Young to remit \$97.87, one-third. I forgot to mention this when we were together.

MEMPHIS, *Oct. 4, 1883.*

Dr. J. W. ROGERS:

MY DEAR SIR: I herewith inclose letter to Gen. Johnston. Not having his Washington address, I send it to you for the information of yourself and Harris, and for prompt delivery to Gen. Johnston.

Respectfully,

ISHAM G. HARRIS.

UNITED STATES SENATE,
Washington, D. C., Jan. 14, 1884.

Gen. J. W. DENVER:

DEAR SIR: In answer to your note of this day, I have to say that I have used the Pan-Electric telephone in my rooms for some time, and think it vastly superior to any telephone that I have ever seen.

And upon a somewhat careful examination, my opinion is that it does not infringe the Bell or any other patent.

Respectfully,

ISHAM G. HARRIS.

WASHINGTON, D. C., February 18, 1884.

J. HARRIS ROGERS, Esq.:

DEAR SIR: Your note dated 26th (16th?) is just received. I am very sorry that the Rubber Company is so slow, for we may suffer in consequence. Our Washington contractors are already impatient, and those for Ohio, Illinois, &c., have already asked for instruments.

In reference to an "unanswered" letter of yours to me, I have received but one in the present month, and Gov. Harris undertook to answer that one orally, as he did next morning.

The proposal to pool our stock was duly received, and generally agreed to. So you have no cause for anxiety on that subject. Do urge the workmen.

Yours, very truly,

J. E. JOHNSTON.

HOUSE OF REPRESENTATIVES,
Washington, D. C., Feb. 13, 1884.

MY DEAR DOCTOR: Gen. Johnston and myself both thought it proper to call a meeting of our company at once to consider Harry's letter, and he called it for this evening at 7 o'clock at my room and requested me to notify you.

I still think there is some strange mistake about this matter and that it ought to be corrected if possible before it goes any further. Harry's letter very clearly implies that there has been a demand for the stock alluded to and a refusal to deliver it, but I do not know of any reason whatever for this conclusion. I have in many instances, when you have sent me an order for stock, promptly delivered to the party presenting it exactly the kind of instrument agreed upon by every member of the company as I understand it. If you are in the slightest dissatisfied with existing agreements I have no doubt but all the gentlemen connected with the matter will readily acquiesce in any new arrangement you may desire to make or surrender the entire matter back into your hands. For myself I would not incur the imputation of bad faith towards our friend for all the telephones in the world.

I would like for you to come a little while before the hour of meeting so we may talk the matter over.

Yours truly,

CASEY YOUNG.

HOUSE OF REPRESENTATIVES,
Washington, D. C., Feb. 29, 1884.

J. HARRIS ROGERS, Esq.:

DEAR SIR: I have just received your telegram asking for remittance of \$300, and inclose Col. Young's check on the Sergeant-at-Arms, House of Representatives, for that sum.

Hoping to see you very soon, especially as the question of conflict of patents may be,

I am, very truly yours,

J. E. JOHNSTON.

MARCH 21, 1884—8 p. m.

Messrs. J. W. and J. H. ROGERS:

DEAR SIRS: Your note was received at nightfall, and I have been trying to no purpose to find other directors to accede to your request. I will see enough members early in the morning (to-morrow) to act in the case, and I am not afraid to promise you their assent.

I will communicate their action promptly.

Very truly yours,

J. E. JOHNSTON.

WASHINGTON, D. C., *April 10, 1884.*

J. HARRIS ROGERS, Esq.:

MY DEAR SIR: The meeting of which I advised you yesterday occurred last night, Messrs. Harris, Young, and myself attending. We found, however, that no satisfactory settlement of accounts could be made without your personal assistance, and therefore agreed that I should request you to designate a place and time (outside of the sessions of Congress) at which it will be convenient to you to meet us to settle. We offer for the purpose the places we control, viz, Senator Harris's committee room, or quarters at No. 208 D street, northwest, or Col. Young's quarters, No. 606 Thirteenth street, northwest, or my house, No. 1023 Connecticut avenue.

Yours, very truly,

J. E. JOHNSTON.

WASHINGTON, *July 5, 1884.*

Dr. ROGERS:

I had intended to call and see you about the Cooper matter, but have been so busy that I found it impossible to do so.

I herewith return the postal telegraph stock.

You have a statement of the exact amount of the judgment that Cooper held against you, which you paid in this stock at fifty cents on the dollar. Cooper wishes to exchange this postal-telegraph stock for Pan-Electric.

I have drawn what I suppose to be a sufficient transfer, which you will please have executed and deliver to my son Charlie.

Respectfully,

ISHAM G. HARRIS.

WASHINGTON, *Oct. 18, 1874.*

Dr. J. W. ROGERS and Prof. J. HARRIS ROGERS:

DEAR PAPA AND HAI: Gen. Johnston has just called in reference to a letter from Gen. Gaines, head of our telephone in New Orleans. He gave it to me to read. It's a letter of about ten pages. It all amounted to this—the N. Improved Tel. Co. says that "if your assignment of all your future improvements is not on record in the Patent Office, they have got you down in black and white in a contract made by you to them to give all future improvements." In another part of the letter he says the N. I. T. Co. "says that Mr. Marble did not say that Hall's present patents did not infringe those sold to Ewing—they do," &c. He says also that unless this is disproved in the first place by you in an affidavit setting forth that you never did make such a contract and that Marble shall send them word immediately that he did refer to Ewing's patent, that they will be in a bad way. Gen. Johnston wants you to make an affidavit to the effect that you did not assign your future improvements. He says it's all foolishness to think that you would sell yourself and everything that you might invent in your lifetime. He says he is confident that there is no such thing, but says it is absolutely necessary that you make said affidavit, and wants me to send it to him. I send you other letters from New Orleans people. Am getting uneasy about you all; have heard nothing from you for two days. Am well and hope nothing is the matter. Give my love to mamma and say I will get her dresses so soon as they are ready. If you can make such affidavit send in right away. Aff. son and bro.,

JIM.

Officers:—Joseph E. Johnston, president; Isham G. Harris, vice-president; Casey Young, secretary and treasurer; A. H. Garland, attorney; J. Harris Rogers, electrician.

OFFICE OF THE PAN-ELECTRIC TELEPHONE COMPANY,
Washington, D. C., July 26, 1884.

DEAR DOCTOR: I inclose you, under direction your uncle, Dr. J. W. Rogers, two certificates of stock for fifty shares each—one in the Pan-Electric Telephone Company and one in the Pan-Electric Telegraph Company—which shares of stock have been put to your credit on the books of the respective companies.

I think the stock valuable, and will within a reasonable period be worth in the neighborhood of par. I know all about the business affairs and financial condition of your uncle, and while the enterprises which he has been promoting will, I think, develop most valuable results, he has saved but little money, nearly all which he has realized have been used in making his instruments still more valuable and in bringing his various enterprises before the public.

The Pan-Electric Association proper, embracing all of Harry Rogers's inventions, but no stock books have yet been prepared for that; when they are you will have fifty shares issued to you.

Yours, truly,

CASEY YOUNG.

Dr. J. W. ROGERS,
Memphis, Tenn.

OFFICE OF THE PAN-ELECTRIC TELEPHONE COMPANY,
Washington, D. C., October 18, 1884.

J. HARRIS ROGERS, Esq. :

MY DEAR SIR: You have no doubt observed the published statements of the "National Improved Telephone Company" in New Orleans—to the effect that our instrument infringes theirs and belongs to them—as a condition of your contract with them gave all improvements and inventions you might subsequently make to that company.

Mr. Marble is preparing a statement for us at Governor Harris's request. He is clear on the point of infringement, but thinks that your assistance would be very valuable to him, and therefore begs you to come to his office Monday morning. Before Mr. Marble made this request I saw Mr. James and begged him to ask you to make an affidavit to be sent to New Orleans for publication in our defense. It would be conclusive.

With friendly regards to your father, I am

Yours, very truly,

J. E. JOHNSTON.

WASHINGTON, *February 26, 1885.*

J. HARRIS ROGERS, Esq. :

DEAR SIR: Your note of yesterday came to hand duly. I regret very much the inconvenience to which you are put by your agent's failure to sell the Florida land. But, as the man in the novel says, "Better luck next time."

Did Mr. Marean give any indications during the trials of his opinion of the Automatic Telegraph? He promised me a copy of his report, but seems to have changed his mind, for I have not received one.

Yours, very truly,

J. E. JOHNSTON.

I return the two notes inclosed with yours.

WASHINGTON, D. C., *April 27, 1885.*

Dr. J. W. ROGERS :

DEAR SIR: I fear you have been thinking me very negligent, but the delay in acknowledging your note is due to the difficulty of getting people together to learn their views.

As we have been unable to sell a single share of stock, and therefore have raised no money, we are compelled to conclude that we cannot make our contest with Bell and assist you as we wish to do.

In reference to the application for the consulship, I spoke to the gentleman you named to me, but, to my great disappointment, found that in such matters his hands were tied by some State complications in the distribution of offices. I regret this very much, but still cannot see how you can fail to win, having such advocates.

Yours, very truly,

J. E. JOHNSTON.

UNITED STATES SENATE,
Washington, D. C., December 12, 1885.

Dr. J. W. ROGERS :

DEAR SIR: I shall be glad to see you on Monday or Tuesday next, if convenient for you to come to town.

It is important to our telephone interests.

Respectfully,

ISHAM G. HARRIS.

WASHINGTON, D. C., *January 23, 1885.*

J. HARRIS ROGERS, Esq. :

DEAR SIR: Your note of yesterday is just received.

In relation to the fact that there has been no attempt to bring any of your inventions but the telephone into use, if you will consider, the want of the means is the

cause. We considered the matter of electric light, and the obstacle in the way of bringing it into use in this city was that the expense was too great for our resources.

But we will have a meeting of the board as soon as Colonel Young returns, which it is important that you should attend, where you will, of course, have opportunity to express your wishes. Colonel Y. is expected before Monday. If you should be in the city that day, where could a notice of the meeting find you?

Yours, truly,

J. E. JOHNSTON.

BALTIMORE AND OHIO TELEGRAPH COMPANY.

(No date.)

Dispatch to Mr. Ch. Reynolds, editor Baltimore Herald:

By reference to my letter you will see that I do not say as you state, "That Mr. Garland is indebted to me for getting him appointed," but "for my efforts to get him appointed." Those efforts may be summed up as follows: *Ambages longe sunt.*

J. W. ROGERS.

PARTHENON HEIGHTS,
Laboratory, December 14, 1885.

MY DEAR SENATOR: Your letter requesting me to come and advise about the telephone received. I seldom leave the house and never go to town, but would be happy to see you at any time.

My advice, however, would not be regarded by your board, which has ignored it hitherto and treated Harry as a cipher, even to suppressing his views throughout the book they have published on his telephone and in the whole Pan discussion, while cheek by jowl with his enemies.

My original pamphlet, which was the basis of our original organization, contains all the advice I could now give, and suggests that stock issued on their "patents," and "the future possibilities of electricity," would enable us to raise money enough to monetize and develop the association.

All these inventions are tied up and dormant, except the telephone, the least valuable, in my judgment, of them all. Garland has played the big dog and Casey the little dog—this is not private—and I have instructed an agent to sell my interest in it, about \$300,000, for \$10,000 cash, to meet mine and Harry's pressing liabilities. If not sold in bulk next week I will cut it up in certificates of my own and sell them, for I can get \$10 a share on small certificates, while very few persons would venture so large an amount as to take the whole.

Your friend,

J. W. ROGERS.

P. S.—The above \$300,000 carries with it the Looney stock, placed in his hands as a kind of trust, described in our contract, one-half of which he gets on every sale he makes from about \$600,000 telephone stock.

The CHAIRMAN. Is there anything more for the committee at this time?

Mr. RANNEY. There is one brief despatch or a couple of dispatches in the New York Times, one publishing an interview with Mr. Van Benthuyzen sent from Chicago, which I should like to have introduced, and if there is any question about its genuineness, I want Mr. Van Benthuyzen called to prove it. It is possible that they might be objected to on the ground that Mr. Van Benthuyzen's attention has not been called to them.

Mr. OATES. What interview is it?

Mr. RANNEY. It purports to be an interview with Mr. Van Benthuyzen in Chicago, and published in the New York Times of September 28 and 29, 1885. I have sent to the Congressional Library for a copy and I have sent to the Clerk of the House for a copy of it. The Librarian says it has gone to the binder's to be bound and he has not got it, and I have sent to the Clerk's office, and he has not got it. But the reporter of the Times, who was here, says that he has a copy at his office and will have it here tomorrow.

The CHAIRMAN. If there is any question affecting the admission of them, it can be raised when they are offered.

Mr. RANNEY. One of them purports to be an interview with Mr. Van Benthuyzen, telegraphed from Chicago. Mr. Van Benthuyzen may go away, and objection may be made that his attention was not called to them.

Mr. HALL. I never heard of a proposition to bind a man by an interview in a newspaper without showing the article to him.

Mr. RANNEY. Under the strict rule of law, undoubtedly it would not be competent. Anticipating that objection, I made the suggestion, although there is enough under which it would be competent here as showing the course of the Times, and it might go in as to that fact.

Mr. EDEN. Do you want to prove which side of the question the Times has been on?

Mr. RANNEY. That already appears.

The CHAIRMAN. Is there any other matter to bring before the committee at this time?

Mr. OATES. There is nothing except General Johnson's motion to strike out a portion of Major Gardner's testimony. That has not been disposed of.

Mr. RANNEY. There is another thing. There is what is called the Adams book. None of the witnesses have produced that. It was a part of the documents spoken of by Mr. Goode as coming from District Attorney McCorry. It is a part of the papers he had before him when he acted. Colonel Young said he had a copy.

Mr. CASEY YOUNG. I have one at home, I think; I am not sure. I think General Bradley Johnson would have one.

Mr. RANNEY. We do not want to keep a copy of it.

Mr. CASEY YOUNG. If I had it I would let you have it. I expect if the chairman will write to General Bradley Johnson, or to Dr. Adams himself, he can get one.

Mr. RANNEY. I sent to get a copy of it myself, but I found they were getting scarce, so I borrowed a copy of Mr. Storrow.

Mr. HALL. Of Mr. Storrow, the attorney of the Bell Telephone Company?

Mr. RANNEY. Yes, I borrowed it of him, and he says it is the only copy that he has. It is a very interesting document.

The CHAIRMAN. General Bradley Johnson has made a request or motion that certain portions of the testimony of Major Gardner should be omitted, and he has left a copy of the testimony here, marked with the parts indicated which he wants stricken out.

Mr. RANNEY. With a request to have those portions expunged?

The CHAIRMAN. Yes, stricken out. I submit the matter to the committee, so that any member can make a motion in regard to it.

Mr. RANNEY. I move that the request be denied.

Mr. HANBACK. I second that motion.

Mr. RANNEY. I make the motion for these reasons: Mr. Gardner was summoned here as the clerk or treasurer of the corporation and the proper custodian of the books. He has produced the evidence and put it under the call of the committee. Now, General Johnson, who is president of the company—not the custodian of the books or the dictator of what the man shall testify to—comes and moves to strike it out. The request does not come from the company itself by the authority of the directors. The custodian of the books and the man acquainted with the facts has put the books in, or portions of the books, and now the president, who is not the custodian of the books, moves to strike it out, and he does not come with the authority, so far as shown, of the directors of the company. It is his individual request. In the next place, whatever is put in, is right in the line of the inquiry, is competent evidence in the line of the inquiry that has been made. The chairman—to illustrate—has had the president and treasurer of the Bell Telephone Company furnish portions of their record which has been printed in our testimony without objection.

Mr. HANBACK. I make another point, too, that the committee is to be the judge of the materiality of all the testimony that is offered, and the striking out process could not be permitted in view of that fact. It is not legitimate and should not be considered. Besides, it does not do him any harm.

Mr. OATES. Mr. Chairman, the motion which Mr. Ranney proposes is scarcely necessary, and it seems to me does not put the matter in good form. General Johnson made the motion which is before the committee to strike out, and the question is whether we will do it or not, and I think a vote ought to be taken on the motion made by General Johnson. He put it on the ground that the testimony which he moved to strike out is a disclosure of the private affairs of his company, and on the assumption that it might be used to their detriment, being a private matter, a matter concerning their private affairs, which the committee could not compel a disclosure of, and he wanted it stricken out for that reason. I have looked over the evidence, and while I think it of very little consequence to the committee, in the inquiry the committee is pursuing, I think it also of very little consequence to General Johnson's company that it should be stricken out. And as it went in without any objection, and I do not see any disclosures in it which would be an admission of record which could hurt his company, I cannot see the necessity of striking it out.

Mr. RANNEY. As for the gentleman's criticism about the form of my motion, I think he is laboring under a misapprehension.

Mr. OATES. I merely meant to say that the motion was unnecessary.

Mr. RANNEY. I beg pardon, you made the remark that the motion was made by General Johnston. I made the motion to deny his request.

Mr. OATES. It was a motion made by General Johnson.

Mr. RANNEY. He cannot make a motion; he could make a request. A motion comes from within a body, not from the outside.

Mr. OATES. On that assumption a lawyer could not make a motion in court. The court would have to make it for him.

Mr. RANNEY. No; a lawyer is within the court; he is an officer of the court.

Mr. OATES. General Johnson, as president of the company, stated that he made that motion as counsel for his company.

Mr. RANNEY. That is mere technicality; it is not worth discussing. I do not care whether the vote is taken affirmatively or negatively. I only made the motion to bring the matter up before the committee. Either is proper.

Mr. HALL. I understood from General Johnson's testimony the other day that not recognizing the right of the committee to inquire into the private affairs of his company, he desired to have it go on record that an objection was made. I do not suppose that General Johnson cared specially about it, but felt it was his duty to make the objection, and to protest against any improper interference with the affairs of his company. I think the suggestion made, however, that this record was brought by the clerk, the mere physical custodian of it, amounts to nothing. The president of the company, as the highest officer, would have the right of course to object to its use, and to move that it be struck out. But in view of the fact that no special objection, except that stated by General Johnson, was made, I should be in favor of keeping it in evidence.

Mr. HANBACK. What is the pending motion?

The CHAIRMAN. It is that the request of General Johnson shall not be granted.

Mr. RANNEY. If General Johnson has not produced that correspondence which he said he would produce—

Mr. HALL. Let us settle this question now.

Mr. RANNEY. If he has not produced that correspondence he stands in contempt of the committee, and I will not entertain a motion of a gentleman outside who is in contempt. He has declined to answer certain questions.

Mr. EDEN. I cannot see what difference it makes to General Johnson's company whether it is stricken out or not. Of course it is public now, whether it is stricken out of the record or not. There may be something in the objection he makes that it is an investigation into private matters.

Mr. HANBACK. It is the same thing, in a larger sense, that occurred in regard to the Bell company. A list of the stockholders of the Bell company has been published in our testimony.

Mr. HALL. But this contained the private proceedings of a corporation independently of the stockholders.

Mr. EDEN. The objection that was made to that part of the record was that it would not affect the officers of the Government we are inquiring about. I notice, by looking at the minutes, that I objected to some of this evidence at the time on the ground that it was not within the authority given to the committee. I do not see any good purpose to be accomplished now by striking it out. I think a part of it at least we had a right to keep out.

Mr. RANNEY. As affecting their private affairs?

Mr. EDEN. As not affecting anybody we are authorized to inquire about.

Mr. RANNEY. Why did you not make an objection in regard to the inquiry into the private affairs of the Bell company?

Mr. EDEN. I had met with so much opposition in making objections that I had become timid, and thought probably the objection would come with better grace from the other side. I only want to say that I do not see that anything can be accomplished now by striking it out.

The CHAIRMAN. The request of General Johnson is that all of the testimony on pages 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, and 528, and part of the testimony printed on pages 534 and 535 shall be stricken out. The gentleman from Massachusetts (Mr. Ranney) moves that the request shall not be complied with. As many as favor the motion will say aye.

Mr. OATES. Mr. Chairman, while on the simple motion made as to General Johnson's request I should vote aye, recognizing the motion in the present shape as stating that General Johnson is in contempt, I will vote no.

The question was put and the motion was agreed to.

Mr. RANNEY. I call for the ayes and noes.

The CHAIRMAN. The result has been announced, and it is too late. If there is no objection, the yeas and nays will be ordered.

Mr. RANNEY. Never mind. I will waive it.

Mr. HALL. Is it understood that the clerk from the Ebbitt House will be here to-day?

The CHAIRMAN. I am informed that he will not be here to-day.

Mr. RANNEY (to the chairman). Did you request Dr. Rogers to come here?

The CHAIRMAN. I will do so, or I will issue a subpoena if you desire it. I will send word in some way.

Mr. OATES. I move that the committee adjourn until 1 o'clock to-morrow.

The motion was agreed to, and the committee adjourned until Thursday, May 20, 1886, at 1 p. m.

WASHINGTON, D. C., *Thursday, May 20, 1886.*

The committee was called to order at 1.20 p. m.

The CHAIRMAN. I am informed that the witness from the Ebbitt House is present.

CHARLES E. GIBBS came before the committee, and was duly sworn.

By the CHAIRMAN (Mr. Boyle):

Question. What is your place of residence?—Answer. The Ebbitt House.

Q. What position do you fill at the Ebbitt House?—A. Cashier and bookkeeper.

Q. How long have you had that place?—A. Between six and seven years.

Q. Were you employed there in that capacity during the summer of 1885?—A. Yes, sir.

Q. Have you the Ebbitt House register for the latter part of July?

The witness produced the book called for.

Q. Is the book which you produce here the Ebbitt House register for the months of July and August, 1885?—A. Yes, sir.

Q. Does it run into September?—A. Yes, sir.

Q. Under date of July 29, in this register, I find the name of Charles P. Huntington, of Mississippi. Can you tell whether he arrived at the Ebbitt House on that day?—A. Yes, sir; he did.

Q. At what time in the day?—A. For dinner.

Q. That would be at what time?—A. Any time between 2 and 7 o'clock.

Q. His is the second name for dinner, is it not?—A. Yes, sir.

Q. And that would indicate that he arrived early in the afternoon?—A. That might be, or it might be that he arrived as late as 4 or 5 or 6 o'clock.

Q. Are there not five or six names after his?—A. No, sir; only one after his for dinner.

Q. I see also the name of H. Van Benthuyzen following that of Charles P. Huntington; do you know whether they came together?—A. I do not; no, sir.

Q. Do you know that Mr. Van Benthuyzen came at that time?—A. Yes, sir.

Mr. RANNEY. It is the next succeeding name, is it?

The CHAIRMAN. Yes, one name follows the other.

Q. To what room was Mr. Huntington first assigned?—A. Mr. Huntington was first assigned to room 232.

Q. Was he afterwards changed?—A. Yes, sir.

Q. To what room?—A. No. 7.

Q. Mr. Van Benthuyzen was assigned to what room at first?—A. No. 108.

Q. And was his room changed?—A. Yes, sir.

Q. He was changed to what room?—A. To 232.

Q. I see some marks here following the name of Mr. Van Benthuyzen.—A. I guess those were made by the clerk; he got the names mixed.

Q. Mr. Van Benthuyzen, then, was changed to the room which Mr. Huntington vacated?—A. Yes, sir.

Q. I do not know that it has any significance, but I want to get at all the facts. Can you state how long Mr. Huntington remained at the hotel?—A. Only from the books.

Q. Please turn to the book and ascertain.

Mr. HALL. In his answer let him state what book it is.

The WITNESS. This is my ledger.

Q. The hotel ledger?—A. Yes, sir. It shows the time of arrival, the length of time they stay, and the time to which they settle their bills. Charles P. Huntington came to dinner on the 29th of July, and left after breakfast on the 4th of August; he was there six days.

Q. After dinner, you say, on the 4th of August?—A. After breakfast; that makes just the even days.

Q. How long did Mr. Van Benthuyzen remain?—A. He came to dinner on the 29th of July, and he left after breakfast on the 4th of August.

Q. He seems to have arrived at the same time with Mr. Huntington and to have departed with him?—A. Yes, sir.

Mr. RANNEY. He left after breakfast on the 4th of August?

The CHAIRMAN. Yes.

Q. The entries indicate that they had been there continuously meanwhile, do they?—A. Yes, sir.

Q. I see the name of Gen. Bradley T. Johnson under the date of July 30, 1885; do you know that General Johnson was there at that time?—A. Yes, sir.

Q. What time in the day does the book indicate that he arrived?—A. To breakfast.

Q. That would be before 2 o'clock.—A. That would be before 11 o'clock.

Q. How long did he remain?—A. He went off that day, the same day.

Q. He had no room assigned him?—A. I do not think he had.

Q. There is nothing on the book to indicate that, is there?—A. No, sir.

Q. I see the name of Hon. Casey Young under the same date, July 30. Did Colonel Young arrive at the hotel on that day?—A. Yes.

Q. And also the name of Hon. George Gantt.

Mr. RANNEY. Right under it?

The CHAIRMAN. One following the other.

The WITNESS. Yes, sir.

Q. Can you state what time they arrived?—A. They arrived for lodging, after 10 o'clock at night.

Q. Have you any recollection of the fact of their coming?—A. No, sir.

Q. Can you state how long they remained at the hotel?—A. Yes.

By Mr. RANNEY:

Q. What does the book indicate about the time they arrived?—A. That they came there for lodging.

Q. Do you know what time in the evening the southern train gets in, or did get in at that time?—A. That train gets in, I think, somewhere in the neighborhood of 11.15.

By the CHAIRMAN:

Q. I call your attention to this. Were they the last arrivals on that day?—A. Yes, sir.

By Mr. RANNEY:

Q. 11.15 in the evening you mean?—A. Yes, sir. Mr. Young came there for lodging on the 30th of July, and left after tea on the 1st of August.

By the CHAIRMAN:

Q. Col. Young had room 212?—A. Yes, sir.

Q. What was the length of Col. Gantt's stay?—A. Gantt came there for lodging on the 30th of July, and left after tea August 1.

Q. He came and departed with Col. Young?—A. At the same time; yes, sir.

Mr. RANNEY. Are you looking beyond that, Mr. Chairman?

The CHAIRMAN. I am looking to the 4th of August; I wanted to cover that period.

Q. Do you know whether Gen. Bradley T. Johnson was at the hotel at any other time before the 4th of August?—A. I do not. He comes in and goes out often; simply comes in in the morning and registers his name.

The CHAIRMAN. I do not find his name.

The WITNESS. You will find it at different times through the book along about that time.

Q. I wish you would look at the book and state whether he was there at any other time than on the 30th of July?—A. I couldn't say, and for this reason: Because we don't post up unless they stop there.

Q. I mean on this book (the register.) You can tell from his handwriting very readily.

Mr. RANNEY. Look and see if he was not there on August 1st.

The WITNESS (after examination). No, sir.

Q. Do you say, then, that he was there only once from the 30th of July to the 4th of August?—A. That is the only time he registered.

By Mr. RANNEY:

Q. Does he appear to have staid over night at that time?—A. No, sir.

By the CHAIRMAN:

Q. I call your attention to the date of September 3; was General Johnson at your hotel on that day?—A. Yes, sir.

Q. At what hour in the day did he arrive?—A. In the morning.

Q. Did he remain over?—A. No, sir.

Mr. RANNEY (to the chairman). You will find that Mr. Casey Young and Mr. Huntington stopped at Wormley's; they did not stop at the Ebbitt House. They arrived at Wormley's on September 2, and I have seen their names registered there, and Young swears that they stopped there.

Q. Did he stop over?—A. No, sir.

Q. Now, I want to know whether General Johnson was at the hotel at any other time between the 27th of August and the 11th of September than the time last named. Look at the register and ascertain.—A. (After examining the register.) He was there September 3d.

Q. That day is the only time, is it?—A. That is the only one.

Q. You might extend your examination to the 15th.—A. (After examining further.) That is all.

Q. He was there only the once between the 27th of August and 15th of September, and that was on the 3d of September?—A. Yes.

Q. Does General Johnson usually stop at your house?—A. No, sir.

By Mr. RANNEY:

Q. If General Johnson should come there at any time and not have any room or meal, would he put his name on the book?—A. He would be very likely to do it.

Q. If he came to see some individuals in their own room, without stopping at the house other than to call on the individuals and have interviews with them?—A. Then he might come and not put his name on the book.

Q. Will you look under date of July 30 and see whether there was a Mr. Keasbey there from New Jersey?—A. (After examination.) I find the name, A. Q. Keasbey.

Q. How long did he stay?—A. He did not stop over.

Q. A. Q. Keasbey, Newark, New Jersey; how long was he there by the book?—A. He didn't stop over, and if he didn't stop over that night we wouldn't keep any record of it.

Q. What is B for?—A. Breakfast. He came for breakfast, and went away that day some time.

Q. You spoke of the time the Southern train gets in at night; do you know when it leaves in the morning?—A. The first one in the morning leaves at 6 o'clock—the early train.

Q. What is the next train?—A. At 11 o'clock.

Q. Have you any means of stating whether Mr. Van Benthuyzen and Mr. Huntington, on the 4th of August, left on the 6 o'clock train or on the 11 o'clock? They seem to have been there at breakfast.—A. (After examining book.) No, sir.

Q. You cannot tell?—A. No, sir; they went after breakfast; they may have had breakfast as early as five o'clock, or they may have had it up to half-past ten o'clock.

Q. What is the train usually taken by people going south?—A. The 11 o'clock train.

Mr. HALL. You say they usually take the 11 o'clock train?

The WITNESS. Yes, sir.

Q. Do you know where Mr. Young went to when he left there?—A. No, sir.

Q. Did he take his meals there at the Ebbitt House?—A. I couldn't tell you unless I had my meal-book.

Q. Will not this book show?—A. No, sir.

Q. I suppose you were in no position where you could see who came and visited them at their rooms?—A. No, sir.

Q. Do you know Attorney-General Garland?—A. No, sir.

Q. You do not know him personally?—A. No, sir.

Q. In July you only find General Johnson's name there on the 30th?—A. Only one day, the 30th.

Q. Do you not find it there on the 31st?—A. No, sir.

Q. He swears that he was there on the 31st. Then, it appears that he did not register.—A. He did not register on the 31st; no, sir.

Q. He lives in Baltimore?—A. Yes, sir.

Q. So if he came in and spent a few hours and left it might not appear on the book?—A. It might not appear on the book; no, sir.

Q. His coming, then, to your house at that time was exceptional with him; it was not his regular place of stopping?—A. Oh, no. He often comes in; he has been coming there for quite a long while. He comes in for breakfast, or possibly does not have anything, and simply puts his name on the book.

By the CHAIRMAN:

Q. I think you misunderstood my question. I asked you whether he was in the habit of stopping at your house when he came to this city?—A. No, sir.

Q. Do you know whether he stops at any other hotel?—A. I do not; no, sir.

Q. You do say that he frequently comes to your house?—A. Frequently comes there; yes, sir.

By Mr. RANNEY:

Q. Mr. Keasbey got there for breakfast in the morning?—A. Yes.

Q. Then he came on the night train; the train comes in from New York in the morning.—A. I don't know what time.

Q. There is a night train comes from Newark, and gets here in the morning?—A. Yes, sir.

Mr. RANNEY. That is all.

By Mr. HALL:

Q. In speaking of the arrival and departure of guests at the Ebbitt House, you do not speak of their arrival and departure to and from the city of Washington, do you?—A. Oh, no. You mean in regard to the time they get there and leave?

Mr. HALL. Yes.

The WITNESS. No, sir.

Q. You simply have these books at the hotel, by which you are able to form an opinion of the time they leave the hotel?—A. Yes, sir.

Q. And they may have been in the city before and after the time shown for their arrival and departure?—A. Yes, sir.

Q. As a matter of memory do you recollect the presence of Mr. Van Benthuyzen, Mr. Casey Young, and these other gentlemen at the hotel?

The WITNESS. At that time?

Mr. HALL. At that time.

A. Yes sir.

Q. You remember seeing them?—A. Yes, sir.

Q. Do you remember whether they had any conferences at their room?—A. I do not know.

Q. You do not know anything about that?—A. No, sir.

Q. Consequently you would not know who called upon them and who did not?—A. No, sir.

Mr. HALL. That is all.

The CHAIRMAN. That will do, Mr. Gibbs.

Mr. RANNEY. I have here two copies of the New York Times that I spoke of yesterday, of September 28th and 29th, 1885, containing what purports to be an interview with Mr. Van Benthuyzen in Chicago.

Mr. HALL. I want to make another inquiry of Mr. Gibbs before he goes.

Q. I will ask you whether your attention has been heretofore called to these names on the hotel books?—A. Yes, sir.

Q. By what persons?—A. By Col. Young.

Q. Anybody else?—A. No, sir.

Q. Nobody else has been making any inquiry about them?—A. No, sir.

Q. When was it Col. Young first called your attention to it?—A. The time he arrived and left.

Q. When did he make the inquiry?—A. I guess half a dozen times in the last four or five months.

Mr. HALL. That is all.

The CHAIRMAN. I see Mr. Clay here.

CECIL CLAY recalled and further examined.

By the CHAIRMAN:

Question. Mr. Clay, have you the papers that you were to produce?—Answer. Yes, sir.

The CHAIRMAN. Gentlemen, Mr. Clay produces here a list of the cases in which applications were made for the right to bring suits in the name of the Government, and in which the applications were allowed, together with the letters in each case. He has also produced heretofore a list of cases in which applications were refused, and he will produce another similar list.

Mr. RANNEY. He did produce that.

The CHAIRMAN. I know; and my recollection is that the last I saw of it you had it, and as you are not able to find it he will have to make another. I want them to go in together.

The WITNESS. I am making out a similar list to that, of cases that were refused.

Mr. RANNEY. Let me make another search. [After search.] I do not find them. The statement that I saw was a statement showing what was done with each application.

The CHAIRMAN. I think that is all we want with Mr. Clay to-day. He will please send us a list of the cases refused.

The CHAIRMAN. I have a letter sent me some days ago by Mr. Montgomery, Commissioner of Patents. I do not know that he desired that it should go in. It is furnishing information that we requested him to furnish. I will submit it to Mr. Ranney, because he made the request.

Mr. RANNEY. (After examining the letter.) I think that is already in.

The CHAIRMAN. Young Mr. Rogers is here. Is it desired to put him on the stand?

Mr. RANNEY. Before that occurs, I want to put in the interview in the New York Times of September 28th, referred to yesterday.

The CHAIRMAN. What does it purport to be?

Mr. RANNEY. It purports to be what I stated some time ago, a telegraphic interview with Mr. Van Benthuyzen in Chicago. I also desire to put in the one in the Times of the 29th of September.

Mr. OATES. I suggest that we had better have that identified as being correct, by Mr. Van Benthuyzen, who is present, unless it is admitted.

Mr. EDEN. I do not think that the committee ought to assume the correctness of what purports to be an interview printed in a newspaper. I do not think Mr. Van Benthuyzen or anybody else could be bound by it.

The CHAIRMAN. Mr. Van Benthuyzen is here, and if it is desirable he can be examined.

Mr. EDEN. I think Mr. Van Benthuyzen ought to be allowed to state whether it is correct or not.

WATSON VAN BENTHUYSEN recalled and further examined.

By Mr. RANNEY :

Q. In the New York Times of September 28, 1885, there is an article, which I desire you first to read, purporting to be an account of an interview with you at Chicago. Will you read it and tell me whether that interview occurred.—A. (After the witness had examined the interview referred to.) Well, I have no recollection of any specific interview like this, but I have no doubt it is correct if they say so. A great deal of this is matter taken from a letter I think that I wrote the President; I presume it is correct, but I cannot recollect now any specific interview of that kind. I know I talked to a number of gentlemen there connected with the press, and I presume that is correct; I do not know.

Q. Do you not recollect reading it in the Times after it was published?—A. No, sir; I have no distinct recollection of reading it, though I have no doubt I did so, because I was reading the New York Times daily.

Q. Will you look at the article in the first column of the New York Times of Tuesday, September 29, 1885, and tell me whether you sent that? That article is over your own signature.—A. It is a copy of a letter that I telegraphed to the President. I presume I gave a copy of it to the gentleman who represented the Times there; I do not think I telegraphed it; I may have done so, but I don't think I did.

Q. It seems to be over your own signature?—A. The letter is mine; it is the letter I telegraphed to the President. The date of it seems to be left out, but that is a copy of a letter that I telegraphed to the President.

Q. Did you furnish it to the Times?—A. I presume I gave them a copy.

Q. Are you not aware that it is only a portion of the letter you sent to the President?—A. Only a portion of the letter? No, sir; this is the whole letter, I think.

Q. Have you compared them to see?—A. No, sir; I have not.

Q. Were there not attached to your letter to the President some long extracts from books in regard to the Reis patents?—A. Ah, that was a subsequent letter.

Q. Did you not pay for the insertion of this article in the Times?—A. No, sir; I did not; I was not called upon to do so. I have no recollection of ever paying the Times for anything, except recently, while I was at home. I noticed that Mr. Jones testified here that there was an advertisement of ours put in the Times, and that it had not been paid for by my company. I knew nothing about it. I had been away from New Orleans so much that I knew nothing about any bill of that character not having been paid. But the moment I saw that testimony given by Mr. Jones, I directed the secretary of the company to investigate the matter immediately. He found a bill for \$56, and a draft was sent him at once. That was about two weeks ago, I believe; since Mr. Jones gave his testimony.

Q. Has the Times inserted all of your other articles without pay?—A. Well, I have never had any articles. When they came to me and asked for any information I had or anything I could give them, I have given it to them, and at times I think I have voluntarily offered them matter that I thought was of interest to them. They have never charged me anything except where it was matter put in as an advertisement. These gentlemen came to me and got information sometimes, and they did not charge me for putting it in; I suppose they considered it in the nature of news.

Q. You are aware, are you not, that they have published a great many articles of yours in the last six months; telegraph letters or copies of them, &c.?—A. Yes, sir; but, according to my recollection, they have all been published as news. I have no recollection ever paying for anything except this one bill, and I don't recollect what that was for; I recollect the amount was either \$56 or \$58.

Q. Do you remember saying that the reason you did not send the whole of one of your letters to the President to be published was because they would charge you so much for it?

Mr. OATES. I desire here to raise an objection, as the witness was not recalled to be examined generally.

The CHAIRMAN. On what do you base your object on?

Mr. OATES. Because under the rule adopted by us it is not competent to examine him generally.

The CHAIRMAN. Under the resolution?

Mr. OATES. Yes, sir; he is called for the purpose of identifying the paper, and Mr. Ranney is proceeding to examine him generally, and I object to it.

The CHAIRMAN. I do not recall the terms of the resolution. There is something in it in regard to recalling witnesses, and allowing them to be examined in reference to matter adduced since their previous examination. I do not know whether this would be within the resolution or not.

Mr. EDEN. It is not at all confined to the introduction of the paper.

The CHAIRMAN. It need not necessarily be confined to this particular paper. If it is intended to affect the question raised by the testimony of Mr. Jones, it would be within the resolution.

Mr. EDEN. Mr. Van Benthuyzen having been a witness himself, if there is anything he wishes to explain, or anything that he wants to rebut, he would have the right under the resolution to testify, but that is not what he is being examined for now. This is bringing out new matter.

The CHAIRMAN. I do not understand that the resolution is confined to cases where the witness himself desires to be examined; but the witness may be recalled for examination upon matters introduced since his previous examination. Mr. Jones has testified since the previous examination of Mr. Van Benthuyzen, regarding the publication of one of the articles in the Times, and the charge for it. I think the proof as to pay for the articles published in the Times would be within the exception. (To the stenographer.) Please read the question to the witness.

The stenographer read as follows:

"Q. Do you remember saying that the reason you did not send the whole of one of your letters to the President to be published was because they would charge you so much for it?"

The WITNESS. Who would charge me?

Mr. RANNEY. The newspaper—the Times.

A. No, sir; nothing of that kind ever occurred that I know anything about.

Mr. RANNEY. That is all. I now desire to put in those two articles.

The WITNESS. None of these articles were ever put in by me as advertisements, nor were they ever paid for, so far as I can recollect. They were sought from me, according to my recollection, by the gentlemen representing not only the Times but other papers in Chicago. They were all used and published as news.

Mr. HALL. This is the New York Times.

The WITNESS. I know; but the New York Times has representatives in Chicago who called on me at the hotel.

By the CHAIRMAN:

Q. Have you looked at your dispatch or letter to the President as published in the Times?—A. Here is a letter of mine to the President published in the Times.

Q. Do you say that is or is not complete?—A. That letter, I think, is complete.

Q. Something has been said as to a letter of yours to the President in which reference was made to the invention of the telephone, and citations or quotations from works upon the subject; is that this letter, or some other letter?—A. That was subsequent to this.

The CHAIRMAN. That is already in evidence, I think.

The WITNESS. That was a letter that contained a large number of extracts from German publications showing that Philip Reis invented the telephone and transmitted articulate speech by electricity.

Q. You say that letter was subsequent to this?—A. That is my recollection. According to my recollection, I had intended to send those extracts with the letter, but I subsequently changed my mind, and then wrote another letter and added those extracts to it. It may be that I made mention of something of the kind in this letter.

Q. I show you the letter of October 10, 1885. State whether that is the letter you speak of where the extracts were given. Just glance at it, and state whether that is the letter.—A. Mr. Boyle, I think that is the letter I sent. I will not vouch for the correctness of this publication, of which the letter you show me forms a part, for, as I have said before, I have discovered that publications of this character are not correct as a general thing. But I know that I sent a letter of that character about that time.

The CHAIRMAN. That will do.

The WITNESS. Mr. Boyle, I do not know that it is necessary, but I would like to make a little explanation about a statement that Mr. Von Briesen made here with reference to the payment to Mr. Wilbur. I presume Mr. Von Briesen's statement is correct. When I was on the stand before I was asked if I had paid Mr. Wilbur anything. I never did pay him anything, except I gave him \$2 to pay for the affidavits he made before a notary public. Mr. Von Briesen was employed by our company to gather testimony and evidence, and had a running account with our company, and when he paid out anything he charged it to the company. Of my own personal knowledge I do not know that he paid that money, although I may have been in the room at the time; I did not see it, and I did not know anything about it except that I knew he was going to retain Mr. Wilbur to hunt up some matters here in the Patent Office; so that my original statement was absolutely correct. I have paid him no money, and I knew nothing about any money paid him, nor was I at home when Mr. Von Breisen sent his account; whether that charge was in that account of his or not I don't know.

The CHAIRMAN. That is all. Is there any objection to these newspaper interviews going in? They need not both go in, as one is already in.

Mr. HALL. It ought to be stated, I suppose.

Mr. RANNEY. I want it published as a whole, and not a part of it.

The CHAIRMAN. One thing at a time. Is there any objection to the interview of the 28th of September going in? If not, it can go in. The Chair hears no objection.

Mr. RANNEY. I am not certain, Mr. Boyle, whether the other one is already in or not. I have an impression that only a portion of that is in.

The CHAIRMAN. Then we had better compare and see if it is.

Mr. RANNEY. If it is in you will know where it appears.

The CHAIRMAN. Here it is.

Mr. RANNEY. The whole of it?

The CHAIRMAN. Yes, sir.

Mr. RANNEY (after examining). It seems to be the same published entire in the New York Times of September 29, 1885; it is the same one that was put in yesterday.

Mr. RANNEY. Was this second one put in yesterday?

The CHAIRMAN. Yes, all the communications to the President, three telegrams and the letter, have been put in.

The following is the interview referred to, from the New York Times of Monday, September 28, 1885:

“THE TELEPHONE MONOPOLY—SOMETHING ABOUT THE EFFORTS TO BREAK IT—MR. VAN BENTHUYSEN IN EXPLANATION OF HIS RECENTLY MADE CHARGES AGAINST THE BELL COMPANY.

“Chicago, September 27.—Mr. Watson Van Benthuyesen, of New Orleans, President of the National Improved Telephone Company, of Louisiana, who was instrumental in bringing the suit against the Bell Telephone Company to have its patents declared void, is at the Grand Pacific Hotel, in this city.

“Concerning this suit Mr. Van Benthuyesen said to-day: ‘On the 12th of July last I wrote Attorney-General Garland requesting him to institute suit against the Bell Telephone Company under a law passed at the last session of Congress making it incumbent on him to proceed against patents issued fraudulently, or having fraudulent claims, at the request of any citizen. I charged that A. G. Bell was not the inventor of the telephone. Speaking telephones were invented previously by Reiss, Vanderweier, Pickering, Cross, and Edison, and Bell was not the inventor of any telephone, and the Bell patents are not valid in whole or in part. I also charged that the Bell patent of 1876 is not being used; that it is without value, and that the transmission of speech at the present day by the Bell company is by the use of what is known as the Blake transmitter, which was an infringement of the Edison patent, which latter patent Edison claimed was an improvement on Reiss, and that the Blake transmitter was largely in use in this country three years before being patented, and therefore the patent was void. I charged further that vocal and other sounds were transmitted telegraphically long before Bell was heard of. I therefore requested that proper proceedings be had to relieve the people of the great wrong perpetrated in the issue of claims, giving to these patents the exclusive right to transmit articulate speech by electricity, asking that such proceedings should be instituted in Memphis before Judge Hammond. It turned out, however, that there was no such law as that referred to. It passed the House, but disappeared before reaching the Senate, and is supposed to have been stolen. So I withdrew the letter and followed the provisions of the statute.

“‘The attempt of the Bell Telephone and Western Union Telegraph monopolies,’ continued Mr. Van Benthuyesen, to make it appear that Attorney-General Garland had given the permission to institute the Government suit against the Bell company in Memphis, and that it was improper for him to do so, because he is connected with a competing telephone company, is characteristic of those two concerns. Mr. Garland did not grant the permission. He was not in Washington. He was out in Arkansas somewhere when permission was granted. I had first made written application to have this suit instituted direct to the Department of Justice. After I ascertained that the statutes provided a different course from that I have outlined, I then, with the assistance of others, presented the case to Judge McCorry, district attorney at Memphis, giving him overwhelming evidence that Bell did not invent the telephone, nor did he discover the art of transmitting speech by electricity. These proofs were so convincing that Judge McCorry immediately laid them before the Department of Justice, and asked permission to institute the suit, which was promptly granted. We then applied to have four attorneys appointed special Government attorneys to assist, and J. R. Beckwith, George Gantt, Col. Casey Young, and Gen. Wright were appointed. The permission to institute the suit was given by the acting Attorney-General during the absence of Mr. Garland. If Mr. Garland had been present and had refused to grant permission because of his personal relations to another telephone company, it would have been a great wrong and imposition that he should permit his private affairs to prevent his performing a duty to the public. The Pan-Electric Telephone Company has no interest in the National Improved Telephone Company, and the suit at Memphis was petitioned for by the citizens and not by telephone companies, and the expense attending it is provided for by subscription. Not a single man who is mentioned as having stock in the Pan-Electric company signed the petition for this suit. The Associated Press dispatches from Memphis when the suit was instituted were suppressed. The Bell attorney threatened me with serious consequences for attack-

ing the validity of the Bell patents, and then lied about it, and now they object to being made defendants in a court of justice wherein there will be no opportunity for their peculiar tactics, which make them more dangerous to the liberties of the people than a standing army.'"

The CHAIRMAN. Mr. J. Harris Rogers is here.

Mr. RANNEY. There are some more documents and letters that possibly better go in. In the Tribune there were some letters not published in the World.

Mr. OATES. Whose were they?

Mr. RANNEY. Casey Young's.

Mr. OATES. I suggest that they be left until Mr. Young comes on the stand again.

Mr. MOFFATT. Is Mr. Young to be here to-day?

The CHAIRMAN. He will not be here. I heard from him this morning, and he is quite unwell.

Mr. RANNEY. They could go into the record and be printed, and then if he has anything to say about them he can state it.

Mr. OATES. I think we had better leave them until he comes on in connection with something that he wants to say.

Mr. RANNEY. It is immaterial to me whether they go in now or hereafter.

The CHAIRMAN. Mr. Rogers, will you take the stand?

J. HARRIS ROGERS was then recalled and further examined.

By Mr. RANNEY.

Question. There has been something said here about the American Postal Telegraph Company. What do you know of a combination with that company, and how did your father and yourself happen to have stock of the American Postal Telegraph Company?—Answer. I have not any stock of the American Postal Telegraph Company myself, but my father has, and it was on that account that I declined advising our board as to whether they should consolidate or not. If you desire, I can tell what I know about the propositions that were made.

Q. I saw in a published pamphlet that there was a combination between the two companies, your father's company and that. Have you got that?—A. Yes, sir; I brought it here in the letter book. I think I have it in my office now.

Q. Your father knows best about it, does he?—A. Yes, sir; he knows all about it and the origin of it.

Q. We had something of it in chief. There seems to have been a combination between the two companies.—A. Between the American Postal Telegraph Company and the Pan-Electric Company?

Q. Yes; or the Rogers Telegraph company, one of the two, I do not know which. I think it was the Rogers company in Pennsylvania and the Pan-Electric company.

Mr. HALL. Let the witness tell.

Mr. RANNEY. Tell me how it is.

A. My father put in two millions of the American Postal into the Rogers Telephone and Telegraph Company.

Q. What was that company?—A. That was the Pennsylvania company, a sub-company of the Pan-Electric company.

Mr. RANNEY. That general fact is all that I care for about it. I will put a question in regard to it. I do not know that I remember when that interview was held at which you were invited and your father not invited, and which you did not attend because your father was not invited. When was that?—A. There has been some misunderstanding about that. I never was invited. It was on G street, at Casey Young's rooms. I stated in my testimony that I thought it was on H street, but I suggested that it was near a church with a gold cross on it. It was, in fact, on G street, near the church there.

Q. What do you know about that interview?—A. My brother came out to the country and told me that Colonel Young was very anxious to see me; that Colonel Gantt had come a thousand miles to see me, and that I had failed to meet him, and he had gone home. So I drove in the buggy to the Ebbitt House and called at the office and asked for Casey Young. They told me he had left, and that I could probably get his address, they thought, by going to the baggage or the carriage man of the hotel. I did so and he told me that it was on G street, and having seen Casey Young at a house in that vicinity some ten years previous, the first time I ever met him, I went there, and after inquiring at two or three places I found him. He then went over pretty much the same conversation that he had had previously with us at our house.

Q. You need not repeat all that. That is the time when you say that he told you the same story that he told you before, about the Government suit?—A. It was alluded to. I was with him several hours.

Q. I do not care to go over it only to identify that particular allusion to your father.—A. I was alone at first, and subsequently my father joined us.

Q. Now about the meeting which you had.—A. Well, I was in and out several times during that day and thus saw Colonel Young, who was also in and out. I had made

an arrangement to meet my father there, but left word, in the event my father should come and find me absent, that he would find me at the Ebbitt House. I also said to Colonel Young that I would like for him to remain, so as to tell my father that he need not go to the Ebbitt House, but still would find me at Colonel Young's rooms. The idea of my going to the Ebbitt House! I had not been asked to go there. But this was an engagement I had made with my father. Colonel Young said: "They don't want the old man around there." He said: "Van Benthuyzen and that crowd." I am not sure that he used Mr. Van Benthuyzen's name, but that was the idea conveyed to me, that C. P. Huntington and the National Improved people were at the Ebbitt House, and he said: "I don't want the old man around there; they don't like him; they are angry with him." But I was never asked to go.

Mr. EDEN. The witness is repeating testimony that he gave before.

Q. I only want to fix the place at which that meeting to which you refer was held. It was on G street?—A. Yes, sir; on G street next to F street.

Q. Do you mean the meeting held between you and Colonel Young, or the one at which they did not want your father to come?—A. That was on G street at Casey Young's room, when they were having a conference at the Ebbitt House and where we spoke of the Government suit, and when Casey Young told me that he was drawing up a contract with the National Improved Company, and that we wanted their money, and they wanted our organization.

Q. You need not go over the testimony. I only wanted to fix a date. In regard to that interview to which your father did not go, did Colonel Young tell you what occurred there?—A. No, sir; he told me that he was drawing up a contract so as to avoid any future litigation in the event that we should be successful.

Q. There is one thing more. Since you testified before, Mr. Gardner has been before the committee and stated that he drew up two or three copies of that contract. He says that he never told me or anybody of it. How did I learn that?—A. Through me—I mean indirectly you got it through me.

Q. How did you learn it?

The WITNESS. About the copies?

Mr. RANNEY. Yes.

A. Well, the day after Colonel Young left the place that we are speaking of, I called to see him, and they told me that he had gone. Finding that Colonel Young had gone, I went around to the office of the Pan-Electric company—the Washington company—and I met Major Gardner. I was very anxious to see this contract that Colonel Young was preparing the day before, or that he had mentioned the day before, with the National Improved company. So I asked Major Gardner if he had heard the contents of it, and he said that he had made several copies of it for Colonel Young, and also that Colonel Young had intended to have it copied by a type-writer, but that he did not know any one that he could trust it with, and that he had brought it to him and requested him to make several copies, and he had made them. I asked him what the contents of it were. "Well," he said, "I copied it, and you know how it is in copying; I don't remember what was in it." I said, "Very well, Colonel Young told me about the substance of it," which I related to him, thinking that probably after he saw that I was pretty well posted, he would give me the rest, the full agreement, the contents of it. He said that what I had related was about the contents, but that in copying it he did not remember what it was, and spoke in an off-hand way, so that I saw he did not want to give me the information I desired, and I left.

Q. It was from that that you inferred or understood that he knew about it?—A. Of course. And then I went to Senator Harris's room directly, in my buggy, and I asked Senator Harris the result of the interview at the Ebbitt House. There were several gentlemen present, and he asked me to take a seat. I declined and told him I was going into the country, and just wanted to know about what had been done. He said "They had a conference up there, and I took the responsibility for our company, or the Pan-Electric company." He said, "I do not know that I had any such power, but I was satisfied that all would have agreed to the responsibility I incurred, and Mr. Van Benthuyzen took the responsibility for the National Improved company."

Q. He took the responsibility to do what?—A. The responsibility of signing. Now I want to state here that there were several persons present, and he did not speak of it as the National Improved company. He said, "I took the responsibility for our side, and Mr. Van Benthuyzen took the responsibility of signing for his company." I asked him what was the substance of it, and he said, "We entered into an agreement that we would fight the common enemy together." Several parties were present and he was very guarded in his language. He said, "We entered into an agreement that we would fight the common enemy together, and that no compromise should be made without discussion at which both parties should be present." That is substantially what he told me.

Q. Did he say anything to you about there being a provision in it for a Government suit?—A. No, sir. Other parties were present, and he did not say anything about a

Government suit. I supposed, however, that he knew about it, for I knew about it. Colonel Young told me all about it, and I supposed he had informed Senator Harris.

Q. Is there anything else you want to state? Those are the only two things that occurred to me that I wanted to ask you about.—A. No; I am at the pleasure of the committee. I do not know anything further.

Q. I did not know but what there might be something else you desired to state. I do not remember any of your testimony which has been contradicted.—A. I noticed in Senator Harris's testimony that he was not certain whether he signed that first contract here or in Memphis.

Q. I remember that. Right there let me ask you this: How long was that interview with Senator Harris, where he told you that he had signed, after the interview that you had with Casey Young?—A. It was the next day. I drove from Major Gardner's office down to Senator Harris's. I noticed in Major Gardner's testimony that he said he thought it very strange that I came around to enlighten his mind on the subject of the conversation I had with reference to the Government suit. I saw an article some time after my father's letter in the Tribune, headed "Defense of Garland," I believe, and there was an article in some paper here stating that the whole affair could be settled by Casey Young's coming out and denying what the Rogerses said; that he might deny it, and that would be the end of it. I tried to recall to mind and see who I had told, and I remembered having a conversation with Major Gardner, and I went directly to see him, and when I got there I met a colored man named John at the door, and I said to him, "I am going up stairs to ask Major Gardner some questions, and I want you to come into the room and be a witness to what transpires." I walked in, and proceeded to see whether this gentleman remembered that conversation, and whether he would acknowledge before this witness that he did. At first he apparently admitted that he knew of it, but upon my asking a little more specifically about it, he said, "Well, I don't remember anything about it much." He said, "Mr. Rogers, you know I am a lawyer, and," he says, "the more trouble we make—it won't do any good at all. You know I am a lawyer,"—and I never knew it from that day to this.

Q. You asked him if he remembered what?—A. The conversation I had with him at the time. The very day that Colonel Young went over this affair at his room on G street, Colonel Young sent for me at his room on G street to get a certain instrument, and I then saw Major Gardner and talked about the Government suit with him, and then returned to Colonel Young and told him that Major Gardner knew all about it, and Colonel Young expressed surprise and said, "Confound it; I told General Bradley Johnson and Mr. Henkle about it, and because it is so good they could not keep it."

Q. You went over that before; I do not care to repeat it. Is there anything else that occurs to you?—A. No, sir.

By Mr. OATES:

Q. You speak of a meeting at Colonel Young's room on G street. Do you mean that you met anybody there except Colonel Young?—A. I met Colonel Young first, and subsequently my father, and during the day a colored boy was frequently in there—a mulatto who has waited on Colonel Young for many years.

Q. You do not mean to say that there was any meeting held of telephone people for consultation there?—A. No, sir; except my father, Colonel Young, and myself.

Q. Was there any other meeting held at Colonel Young's room on G street?—A. No, sir; that was the only time I saw Colonel Young there. Previous to that I met Colonel Young at our residence, where he told us that Mr. Garland had determined to bring the suit. I would like to suggest that I noticed in my testimony—

By Mr. RANNEY:

Q. You have been asked if you had any meeting when you and your father were present. I want to understand if you mean to say that the meeting to which your father was not invited was at Colonel Young's room?—A. Was it at Colonel Young's room on G street? Oh, my father came in subsequent to the time I was first there.

By Mr. OATES:

Q. A meeting of whom?—A. Of Colonel Young, my father, and myself.

By the CHAIRMAN:

Q. Was there ever a meeting of the persons interested in the Pan-Electric and the National Improved companies, the parties spoken of here, to which you were invited, and at which it was said your father's presence was not desired?—A. I mean to say that there was a meeting at the Ebbitt House—

Q. At any house.—A. From all this testimony, I will say yes, that there was at the Ebbitt House.

Q. Were you invited to a meeting at the Ebbitt House?—A. I was not.

Q. Then you do not mean to say yes?—A. I was not invited—

Q. You do not mean to say yes, then? I asked you whether there was a meeting of

parties interested in the Pan-Electric and the National Improved companies?—A. I was judging from what I heard then through Colonel Young and other parties that were carrying on negotiations and were in daily consultation at the Ebbitt House.

Q. Were you invited there?—A. No, sir; I was not. Upon my suggestion that I was going around there and that I had made an appointment to meet my father there Colonel Young said, "No; we do not want the old man there."

Q. That was after Colonel Gantt had left?—A. Yes, sir.

Q. Had not the other parties left also?—A. No, sir; I judge not, for a negro boy came and told Colonel Young that Mr. Van Benthuyzen and Mr. Wilbur were waiting at the Ebbitt House for him.

Q. You were not invited there at all?—A. No, sir; I was not.

Q. What was said as to your father's presence not being desirable at any meeting?—A. He said, "They don't want the old man around there; those gentlemen"—referring to the National Improved Company men that were at the Ebbitt House—"they don't want to meet him." He says, "They are angry with him, and they don't want the old man around there."

Q. That, I understand you now, was when you stated to Colonel Young at his rooms on G street that you were going to the Ebbitt House to meet your father?—A. Yes, sir.

Q. And had no reference to a meeting between your father, yourself, and the other persons?—A. Oh, no. But I supposed, being a very heavy owner in the Pan Electric Company, and as our associates were having daily conferences there, that I would be invited and consulted. But upon this suggestion that they did not want my father there, I never went. I would not push myself where I imagined that they did not want me.

Q. My recollection of your former testimony was that it was a formal meeting at the Ebbitt House to which you were invited, and that it was stated that they did not want your father.—A. No, sir; I never stated that it was a formal meeting. I expect you got that from my father's pamphlet, in which he says there was a meeting.

Q. No; I have not read the pamphlet. You have said that after you had learned that the agreement had been written and copies made by Major Gardner, you made some inquiry of Major Gardner as to the contents of the agreement, and then you went to Senator Harris's room?—A. Yes, sir.

Q. And you found other persons there?—A. Yes, sir.

Q. Did Senator Harris say at that time that he had signed the agreement, or that he had made the agreement?—A. He told me that he had taken the responsibility to sign for the Pan-Electric people, for our association or ourselves. I don't remember that he said "Pan-Electric." He said, "I have signed for our company, and Mr. Van Benthuyzen signed for his."

Q. You remember that he used the word "signed"?—A. Yes, sir.

Q. And not the words that he had "made the agreement," or acted for your company?—A. That was very forcibly impressed on my mind.

Q. What was?—A. That he had signed the agreement; that he had taken the responsibility upon himself.

Q. I want to get the words he used; whether he said he had acted for your company in making an agreement, or whether he actually stated that he had signed the paper?—A. I am thoroughly of the belief, and it was impressed on me at the time, that he said he had signed.

Q. Signed the paper?—A. Yes, sir.

Q. What was the date? Do you recall it?—A. It was the day I was told at Colonel Young's room that he had gone.

Q. Do you know anything beyond that regarding the date?—A. It was the day after the conference at the Ebbitt House.

Q. The conference at the Ebbitt House you speak of was when the agreement was made?—A. The day when I saw Colonel Young and he told me that he was writing up the agreement and wanted me to look at it. I left early that day and came back the next morning to his room and he was gone, and it was on that day that I went to Senator Harris's room and Major Gardner's, but not in regard to this information from Major Gardner. I went to Senator Harris and he told me—

Q. You are not able to fix the date independently?—A. No, sir; I think it was about the first of August. I have no data except that.

Q. Do you mean the first day of August?—A. No, sir; I have no data as to that. It was immediately after the conference at the Ebbitt House.

Q. You repeat the words "conference at the Ebbitt House." I asked you before whether you meant the occasion when the agreement was made between Colonel Young or Senator Harris and Mr. Van Benthuyzen.—A. It was the day after —

Q. I say was that the occasion, was that the conference that you speak of?—A. Yes, sir.

Q. Have you any knowledge as to who was present at that conference?—A. I have not—not of my own knowledge, except what Colonel Young told me and what Senator

Harris told me. Here is another point. I did say something more to Senator Harris. I said, "Senator, I am afraid that these men will get the advantage of Colonel Young. He seems to be very uneasy about our patent, and I am afraid that they will get the advantage of him. He is under the impression that the National Improved Company own all our patents, and he told me yesterday that they had told him that the Pan-Electric people did not have any receiver at all, upon which I gave him a number of receivers." Senator Harris said, "You need not be troubled about that. I was down at the Ebbitt House, and those gentlemen said nothing to me about it, and I guess Colonel Young drew a little upon his imagination." He said, "I was at the Ebbitt House and they said nothing of the kind to me."

By Mr. RANNEY:

Q. There is one thing about which there may be a mistake. You have spoken of a meeting at Casey Young's room when you and your father were there only.—A. Yes, sir.

Q. And you have spoken of a meeting at the Ebbitt House, too. I want to know whether, by anything that was said, you understood that they had a meeting at Colonel Young's room also.—A. No, sir; I never heard of their having a meeting at Colonel Young's room.

Q. I misunderstood you.—A. This meeting on G street you seem to confuse because my father was there at one time.

By the CHAIRMAN:

Q. I gathered from your statement that there was no meeting at all on G street, but that you simply called at Colonel Young's room.—A. Yes, sir; I called at Colonel Young's room, my father and I. It was not a meeting of the board at all. He wanted to ask me about Mr. Marble's decision as to whether the New Orleans people owned our patent or not. He asked me about some patents, and he got in the buggy with me and we went down to Mr. Marble's office and got his report upon that subject.

By Mr. HALL:

Q. Who was this, Casey Young?—A. Yes; and he then returned and told me he was going back to the Ebbitt House and would meet me after a short while, on the same day, at his room, and then my father, Colonel Young, and myself were there together on the same day. That is the only day I ever met Colonel Young there.

By Mr. RANNEY:

Q. Were you familiar with that book of Dr. Wellington Adams?—A. I glanced at it when it was published. It seems to be a compilation of what is in most books on electricity. I have glanced at it, but never have read it through.

Q. You have seen it so that you recognize it as Dr. Wellington Adams' book [handing a copy of the book in question to the witness]?—A. I never saw any of the copies bound like this.

Q. You will see that that was published in pamphlet form, with board covers put over the pamphlet covers. Look at the beginning of it.—A. Yes, sir; this seems to be it.

Q. You recognize that as the book, do you?—A. Yes, sir; I do.

By Mr. HALL:

Q. What book is that?—A. The book that was prepared by Dr. Adams, of Saint Louis, for the Pan-Electric company.

Q. Are you familiar with it?—A. As I said, I only glanced at it. It is simply a compilation of what you find in most books on electricity.

Q. You do not know whether that is the genuine book or not, do you?—A. Unless I should read every page, I could not say. It has the general appearance of the book.

Q. You only glanced at the title just now?—A. I glanced at the drawings.

By Mr. RANNEY:

Q. That book was gotten up by Dr. Adams for your Pan-Electric people, and was circulated by your people?—A. I do not think it was ever circulated. I never was able to get but one copy, and Colonel Young told me he did not want anybody to have them.

Mr. RANNEY. There was another copy put into the Public Library here, or should have been.

By Mr. HALL:

Q. I do not quite understand about your going up to Colonel Young's room on this occasion. How did you find out that he had a room there?—A. I told you very clearly how I found that out. I will tell you again if you like.

Q. I should like you to do so.—A. My brother came to my residence in the country—you want to know how I found out? I went to the Ebbitt House, and the clerk told

me Colonel Young had gone, and that the carriage man could probably tell me where he had gone, and I saw him, and he told me it was on G street, and I walked around there, and inquired at several doors and found him.

Q. In your testimony before, you had it on H street?—A. Yes, but I stated it was near a church, with a big gold cross on it, and this is near the church.

Q. You are familiar with that part of the city of Washington, are you not?—A. No. I remember that church, because the first time I came here I went there and I took it to be a Catholic church.

Q. Then you knew where it was, and knowing that, you located it on H street?—A. Yes, sir.

Q. And it is only since you read the evidence that you have found out it was on G street where Colonel Young stopped, isn't it? That is the way you discovered the mistake, is it not?—A. I was not sure when I told you it was on G or H street, and hence I told you it was under the shadow of that church, so that you could find it.

Q. Do I understand that you and your father had made an arrangement to meet at the Ebbitt House that morning?—A. No, sir; I thought you meant with Colonel Young.

Q. You spoke of an arrangement you and your father had to meet at the Ebbitt House.—A. We made this arrangement: that I would wait until he came, but in the event that he should come and find that I had gone, he would then find me at the Ebbitt House. I thought probably Colonel Young would take me over to the Ebbitt House.

Q. I understand you to say that you had made an arrangement to meet at Colonel Young's room before you found out where Colonel Young's room was?—A. No, sir.

Q. That is according to your present statement?—A. I would give you the whole history if you would like to hear it, but it would cover the whole day, and I wanted to save time. My father came in—

Q. Came in where?—A. Into Colonel Young's room.

Mr. OATES. Mr. Hall, if you could suspend your examination at this point, some of the members would like to go into the House and vote on an important question.

Mr. HALL. I do not care particularly about pursuing the inquiry further.

Mr. OATES. Then I move that the committee adjourn until to-morrow at 12 o'clock.

The motion was agreed to, and the committee then adjourned until Friday, May 21, 1886, at 12 m.

WASHINGTON, D. C., *Friday, May 21, 1886.*

The committee met at 12.30 p. m.

The CHAIRMAN. The Attorney-General is present this morning, at the request of a member of the committee, to be further examined.

Hon. A. H. GARLAND then came before the committee, and was further examined, as follows:

By Mr. OATES:

Question. Mr. Attorney-General, have you read the testimony given before this committee by Mr. Von Briesen?—Answer. No, sir. I saw in the Post something that purported to be his testimony.

Q. Look at that part of his testimony on page 924, to which I call your attention, and see whether it accords with your recollection, or whether you have any statement to make about it.—A. There are one or two mistakes in that testimony. He did call at my office, as he states, and submit that this letter of Mr. Van Benthuyzen was not the proper means or mode of beginning such an investigation. I did not express any opinion as to its being the proper mode. Then he expressed a desire to withdraw the letter, and I remarked that I had no objection, but it was out of my jurisdiction; it was in another office. That is all I said in reference to the letter. He is mistaken in reference to my making any remarks about applications being filed there afterwards, and what had become of them. I was positively silent as to that. While I could very well, under section 347 of the Revised Statutes and the precedents in the Department of my predecessors, have said that and have said more, yet I did not choose to say it. I acted just as I did the day before, or the day Mr. Von Briesen and these other gentlemen were there together. I simply stated to them that I could not act in the matter; and questions about the procedure and the practice were proposed, to which I declined to say anything; and Mr. Young, I think it was, said, "the Attorney-General is right about that. He cannot discuss these other questions if he cannot act on the matter." I preserved that silence throughout purposely and with premeditation,

having come to the conclusion, as I stated to the committee before, that that was a proper course to pursue. I did so with Mr Humphreys, when he came afterwards.

Q. Do you say Mr. Von Briesen is mistaken in declaring there that you said of another application that you would refer it or have it referred to some other officer?

—A. I never spoke of any other application; I never said what would become of it or made any declaration about it. I would much rather have taken it and acted upon it myself, as outrageous as that would have been, than to have told him any such thing as that. I think Mr. Von Briesen was simply mistaken. I think he supposed it, and drew his own conclusions. If there is anything I am positive about in this whole matter it is that one point, for I had made up my mind. I was afraid I expressed it to these gentlemen who came to me, Mr. Humphreys and others, a little curtly, too much so, possibly, for a public officer, who ought to be polite to all people. To that extent and on those two points Mr. Von Briesen is mistaken. While I am free to say to the committee that I could have done that, and could have done more under the precedents in my Department and under the law as I read section 347, yet I abstained purposely from saying a word about any other application or any future efforts.

Q. It was at one time alleged and published to some extent that you attended or visited Colonel Young's rooms, 1327 G street, while conferences were being held there between people interested in the Pan-Electric company and in the National Improved Telephone Company. Were you ever at Colonel Young's room, No. 1327 G street?—

A. I never was at Colonel Young's or anybody else's room there. I never was in the house; never in my life. I never was at Colonel Young's room during all these times but on two different occasions, and not then at No. 1327 G street. I never knew Colonel Young had a room at 1327 until I saw, on reading the Post, this matter you speak of. I will repeat in this connection, so that the committee will not forget it, what I stated before, that I do not think I ever attended a regular meeting after the Presidential election in 1884, and I am sure I never did after the inauguration, anywhere. If the committee have any other questions to ask me I shall be glad to answer them, after which—

Q. I will ask you one more question. Did any person intimate to you that there would be an application made, or did you ever intimate to any one that an application could be made or that it would be an opportune time to make one during your absence at your home in Arkansas?—A. Never; no, sir. Nobody ever mentioned that to me, nor did I ever mention it to anybody.

Mr. OATES. I do not desire to put any other questions.

By Mr. RANNEY:

Q. I understood you to say that you told Mr. von Briesen, when he came to ask for leave to withdraw that letter, the same as you told the gentlemen before when several called?—A. No, sir; I say I told him the same as I stated here in my examination before. The withdrawal of the letter was not mentioned on the first interview.

Q. If I remember your testimony before, you were then under the impression that Mr. von Briesen came to you to ask leave to withdraw that letter subsequent to the interview you had with the others?—A. Yes, sir; that was my impression and my recollection in the multiplicity of these matters.

Q. On a subsequent day?—A. Yes, sir. I think he states that he came and called on me the next day.

Q. Is that your recollection?—A. That is my recollection; yes.

Q. That he came separately, on another day?—A. He came separately from those gentlemen, but whether he came alone or not I am not certain.

Q. You have a recollection of an interview when Casey Young, Mr. Van Benthuyssen, Mr. Huntington, Colonel Gantt, and Mr. von Briesen were together. That is the interview you remember?—A. Yes, sir; that is the interview that took place on the last of July or the first of August. I have never identified the date precisely.

Q. Do you remember that interview?—A. Yes, sir.

Q. And you remember another interview with von Briesen?—A. I think it was the next day he came up, probably.

Q. Is your memory distinct enough to tell me the conversation that occurred on each day, separating them?—A. Yes, sir. I think I have told it. I can tell it again.

Q. Take the last one first, if you please.—A. He stated to me he did not think this was a proper letter; he did not think that this letter of Mr. Van Benthuyssen's was a proper mode of starting this inquiry. I expressed no opinion as to that, for I did not have any opinion about it. Then he expressed a desire to withdraw it. I told him he had my permission, so far as that was concerned, but that it was out of my jurisdiction, in another office.

Q. That was the second interview?—A. Yes, sir. He said nothing to me about any future application to anybody else, and I said nothing to him. If he had said it I should have made no reply beyond the one I made on the previous occasion, and that was that they must hunt their own remedy; that I had none to suggest.

Q. Do you think when he said that he was there alone?—A. I have an indistinct recollection that somebody was with him. I do not know particularly that any one was with him on the same mission, but I think there was somebody else in the room.

Q. Going back to the first interview, I will ask you to state who did the talking.—A. I think on reflection it is possible Mr. von Briesen did most of the talking. I was uncertain about that before. I think he did most of the talking until this gentleman—whoever he was—I think Mr. Young—said “the Attorney-General is right about it, and can’t give any opinion.”

Q. When the four gentlemen came together you think Mr. Van Benthuyzen did the talking?—A. I said on a previous occasion I was uncertain whether it was he or Mr. von Briesen. They were both strangers to me up to that time.

Q. I am now speaking of the time when the four gentlemen came together.—A. I know what you are speaking of.

Q. At that time who did the talking?—A. I have just answered that when I was here before I was of the opinion that it was Mr. Van Benthuyzen.

Q. Can you now remember what he said?—A. Oh, yes. The reason I do not recollect distinctly which it was is that they were both strangers to me. I never saw them before that I know of. The other two gentlemen, Colonel Gantt and Colonel Young, I was well acquainted with. He said—whoever it was that spoke—that they wanted to make an application for the use of the name of the United States to have a suit brought to test the Bell Telephone patents; and they had books and papers with them.

Q. Mr. Van Benthuyzen said that, did he?—A. Whoever it was did the talking. I did not inspect any books or papers, and they did not present any to me. They had some. I said I could not consider the proposition. They asked me why I could not, and I said “because I am the attorney for a rival company, and a stockholder in it, and I have never severed my connection with it.” Then they commenced arguing the question with me, whoever it was did the talking, and I told him I could not argue it, and could not hear it argued and would not; and I cut the matter off right there.

Q. As you understood it, they wanted to make an application then?—A. They did not say *then*. They said, “We want to make an application.” I do not know whether they were then going to make it, or were ready to make it, or what.

Q. As you understood it it was to be made at that present time?—A. I did not have any particular understanding about it. I just give you their language.

Q. That was what Mr. Van Benthuyzen said?—A. I do not know, as I repeat to you, whether it was he or the other gentleman.

Q. I beg your pardon. I understood you to say your impression was Mr. Van Benthuyzen said it.—A. That was my impression before when I was here, and I am still of that impression. I am not certain of it. I say it was whoever did the talking.

Q. When he said he wanted to make an application did you say that he had already an application before you?—A. Oh, no.

Q. You knew the fact that at that time there was already a pending application?

The WITNESS. Before me?

Mr. RANNEY. Yes.

A. I knew the Van Benthuyzen letter had been referred by me on the 14th of July to the Interior Department.

Q. If he said he wanted to make an application then, and there was one already in, it would seem to be a little inconsistent?—A. He did not say that he wanted to make it then. He said that he wanted to make it. I did not ask him when, and did not wait for any explanation. I cut it right off.

Q. Did you have in mind then the fact that there was already an application pending which you had referred by letter to the Interior Department?—A. No, sir; I did not think about it then at all. It did not enter into my mind, because that was sixteen days after the letter had been referred, I think; about sixteen.

Q. Did he not object to its having been sent to the Interior Department?—A. Not to me; I never heard of it.

Q. Mr. Van Benthuyzen said he and Mr. Huntington went to see you first alone, and that he expressed a dissatisfaction that it should have been sent to the Interior Department.—A. I have no recollection of it if he did. I had made up my mind, as I stated before, to make short work of this matter, if it came to me, after the letter of Mr. Rogers and the letter of Mr. van Benthuyzen. I studied out the question to see what my relations should be to it, and I came to that conclusion—

Q. I call your attention to Mr. Van Benthuyzen’s own testimony—

Mr. HALL. What was your conclusion? Let us have it all.

The WITNESS. As I stated before, that I should not touch it at all, one way or the other.

Q. I call your attention to the fact that Mr. Van Benthuyzen swears he and Mr. Huntington went to you first, and alluded to the fact that his application had been referred to the Interior Department, and deprecated it, and then a conversation en-

sued, and he told you he should come again the next day with his attorney, Mr. von Briesen, for whom he was waiting; and he says that they went the next day, and Mr. von Briesen had the talk with you; that he was the spokesman. Do you remember how that was?—A. I remember Mr. von Briesen came to ask for permission to withdraw this letter, which I said he had my permission to do, but that I had no control over the letter; it had gone beyond my jurisdiction.

Q. If he had an application before you at that very time, and was asking to withdraw it, he probably said something about another form of application.—A. He did not to me, that I recollect of. I told him I should not hear any conversation about it.

Q. Mr. von Briesen said that he went there after having a day's consultation with his client, and that he was the spokesman. He says he went in with them to see you and said to you that he had examined the matter—I do not give his exact language—and he had concluded that that was not the proper form of application; that he wanted to withdraw the application that had been made, and was going to make another application through a district attorney to whom he was to present affidavits; that the application was to come in that way; and he wanted to know of you whether, when it came, you would act upon it promptly.—A. That is the first I ever heard of it; in this testimony.

Q. And that you said in substance you had always been of the opinion that such applications should be referred to the Interior Department.—A. That is the first I ever heard of it.

Mr. OATES. Wait a moment. I object, unless Mr. Ranney will read from the printed testimony.

The WITNESS. Oh, no, do not object; let it come.

Mr. OATES. He is stating the testimony according to his recollection.

The WITNESS. This is the first I ever heard of it—in reading this testimony. It is all new to me.

Q. I think I recollect distinctly what Mr. von Briesen said. He said you said to him you always thought those applications should go to the Interior Department, but that you did not say whether you would send it there or not?—A. No; I never said anything about it.

Q. Do you remember what you said on that subject?—A. I did not say a word on the subject—I repeat that I did not say a word on the subject—except about the withdrawal of the letter.

Q. If Mr. von Briesen was the spokesman, and those four men were there, what did they ask for?—A. He asked for nothing; only he said, "We want to make an application to bring a suit." He did not say whether he wanted to bring it then or when, and I did not ask, because I had no questions to ask.

Q. Did he not say they were going to apply first to a district attorney and put in their affidavits there, and that they would get his recommendation; that that was the course to be pursued?—A. No; he did not say that to me.

Q. Do you remember what he did say on the subject?—A. He did not say anything on the subject, because I told him I should hear nothing beyond this letter, and I did not even discuss the propriety of the course of Mr. Van Benthuyzen's letter.

Q. If there was a pending application already before your Department, and he came and asked to withdraw that, and that you agreed to?—A. I agreed to it as far as I had jurisdiction. The thing had passed out of my Department.

Q. In the first place he wanted to withdraw that application. What then?—A. I do not know; I never asked him.

Q. Did he not state?—A. No; he did not state to me.

Q. What did he come to you for then?—A. I have no idea; none in the world. I never talked with him on the subject.

Q. Have you any idea what those four men came to you for at that time?—A. Yes, sir; they said they wanted to use the name of the United States to bring a suit. They stated that very fully. There was no misunderstanding their language. They did not state when they wanted to make the application.

Q. You already knew that they wanted to bring such a suit, because Mr. Van Benthuyzen had an application in?—A. His letter had gone to the Interior Department, and he had been informed of the fact.

Q. Mr. Von Briesen says, and you will pardon me for calling attention to it particularly, because here is a conflict of evidence that may be considered serious—

The CHAIRMAN. The gentleman has no right to say there is a conflict of evidence. He may put his question to the witness and let him answer, and the committee will determine whether there is conflict of evidence or not.

Mr. OATES. As Mr. Ranney says there is a conflict of evidence, I again suggest that he read to this witness those parts of the evidence about which he wishes to interrogate him.

Mr. RANNEY. I agree to that. I supposed he was familiar with it.

The WITNESS. No; I have read none of it.

The CHAIRMAN. The chair calls attention to the expression used, "conflict of evidence"—

Mr. HALL. The gentleman assumes that the Attorney-General has read the testimony.

Mr. RANNEY. I thought it was fair to assume that he had read it, and I supposed it would be conceded that there was a conflict, because the Attorney-General says Mr. Von Briesen is mistaken.

Mr. MILLARD. The evidence is on page 924.

Mr. RANNEY. And also on page 929, where it is stated on cross-examination. I will read from page 924:

"I arrived in Washington on the 29th. I looked up Mr. Wilbur on the 30th, and he gave us his affidavit, the one which, no doubt, this committee is acquainted with. On the next day we called at the office of the Attorney-General, and I had that affidavit in my hand when I called. The letter which Mr. Van Benthuyzen had written to the Attorney General did not strike me as a proper means or mode of beginning such an investigation or of starting the machinery for beginning a suit in behalf of the United States. I had previously ascertained how the suit of the United States versus Gunning had been started, and I thought that was a proper precedent for anything to be done in a similar case afterwards. I told the Attorney-General that I thought this letter was not a proper one; that his office could not be set in motion to relieve any citizen or to relieve the public from the pressure of this patent, if it is an unjust patent; that that could only be done upon presentation of proper affidavits to some district attorney, just as had been the case in the Gunning suit; and that if he would have no objection I would see to it that proper affidavits were presented to some district attorney, who could then recommend to the Attorney-General whatever action he saw proper; but that I would withdraw that letter. The Attorney-General told me that he would not be in a position to act in any matter concerning a telephone case, because he was a stockholder in one of the companies; and that if any application came it would be referred to some other officer, as he personally would not like to do anything in it; and as to withdrawing the letter, he coincided with me and said that that was proper. That is about the substance of our conversation."

Now I will read the statement of it on page 929. I assumed the Attorney-General had read it. I asked Mr. von Briesen to state it again, just as though he had not stated it, and this is what he said:

"The exact substance of what I said was, that I had been informed that Mr. Van Benthuyzen had written him a letter which he had referred to the Department of the Interior, and by the Department it had been sent to the Patent Office. That in my opinion that was not a proper and correct means of starting his Bureau in an investigation as to the propriety of bringing such a suit, and that in my opinion the practice pursued in the Gunning suit was the proper one, which was that the district attorney, upon affidavits, and upon ascertainment of the respectability of the parties making the application, would recommend to the Attorney-General then whatever action he thought proper, and the Attorney-General might act upon that recommendation and order the suit to be brought or not. The Attorney-General then replied that he had always thought that any such application should be referred to the Patent Office. I remember replying that I did not think that was a proper mode of procedure, because we charged the Patent Office with dereliction of duty, and to make it sit in judgment on itself in a case of this kind would not, in my opinion, be a proper proceeding; that I thought the other proceeding was better. He did not commit himself in reply, but simply said that whenever a proper application was filed his Department would do with it what ought to be done. He did not say that he would not send it to the Patent Office or that he would. But that he did not choose, apparently, to discuss that question with me. He then said, 'Moreover, if any application is made, I shall not be able to take charge of it, but it will be referred to another officer of the Department, because I am interested in a telephone company.' That is about it. I wanted also to show him this affidavit of Mr. Wilbur, which I told him I had in my hand, and which I said was a paper which would satisfy him as Attorney-General that such a suit ought to be brought. But he declined to see it."

There are some questions following that perhaps had better be read in that connection:

"Q. Did he say what other officer of the Government it would be referred to?—A. I do not remember that he did particularly specify any officer. He may have said it would be referred to the Solicitor-General; I am not sure. I think he mentioned one or several.

"Q. He said he could not attend to it, but it would be referred to another officer of the Department?—A. To the proper officer of the Department.

"Mr. MILLARD. The witness says he thinks he mentioned one or several to whom it would be referred.

"The WITNESS. I am not quite clear whether he mentioned the Solicitor-General only, or whether he mentioned him in connection with some others.

"By Mr. MOFFATT:

"Q. But he mentioned the Solicitor-General?—A. I am not clear about that, either. But afterwards, this action of the Solicitor-General having been had, it was frequently commented upon, and I may say that my recollection upon that subject was not as clear as it ought to have been. He may have mentioned it.

"By Mr. RANNEY:

"Q. What did you say to that, after he had said that much?—A. I had nothing more to say except that I would withdraw that application or letter of Mr. Van Benthuisen.

"Q. You told him at this very interview that you would then withdraw that letter?—A. I told him at the very beginning that I did not think that letter was the proper means of starting it, and that I would withdraw it.

"Q. And that ended the interview, did it?—A. To my recollection it did. It was a very short interview."

I supposed you had read that testimony before you testified.

The WITNESS. No, sir. I read simply in the Post what purported to be his testimony.

Q. You see he says he had but one interview with you, and that he left that very night. You think he had two interviews?—A. Yes, sir; very short ones, both of them. They were shorter than the time it took you to read that testimony, both of them put together.

Q. Four men came in there to have something done, or to do something, or to request something. If you do not consider it as being too inquisitive—

The WITNESS. Not at all.

Q. (Continuing.) I would like to have you state what those four men wanted.—A. I have stated it about thirteen times, but I can state it again. I can only state what they said. I do not know what they wanted.

Q. I call your attention to the interview and to the testimony—A. What they really wanted I do not know. I can only state what they said they wanted: "We want to use the name of the United States to bring a suit to test the Bell Telephone patent." That was the remark. I remarked in reply "I cannot consider that. I am interested as a stockholder and as the attorney of a rival company." Then a question or two was asked about what should be done, and the procedure.

Q. Do you remember what the question or two was?—A. I do not now; something about the way of proceeding; but I turned right away, and then Mr. Young, I think it was, or some other gentleman, said I was right; if I could not consider the original question I could not consider that.

Q. Did they say anything about going to a district attorney?—A. I don't recollect what they said. I paid no further attention to it. I was determined to cut the matter off with some degree of abruptness; I was a little too abrupt, I am afraid, but still I did it.

Q. You have now no recollection of an interview between yourself, Mr. Huntington, and Mr. Van Benthuisen on the previous day?—A. No, sir; not on the previous day. These interviews were at a time when I was visited a great deal, as I stated when I was here before. A great many people came and went, and a good many people would be in the room on different business at the same time.

Q. I want to put one question to you again. It may be a repetition. When they said they wanted to bring a suit, or to have you bring a suit, was it in your mind then that there was already a pending application?—A. No, sir; I never thought about it at all.

Q. Mr. Von Briesen says that at the beginning of the interview he said he wanted to withdraw the pending application. Was it in the same connection that that request was made?—A. I do not recollect that. The only recollection I have, as I stated, is his asking to withdraw the paper. The paper had gone out of my jurisdiction.

Q. Neither have you any recollection, as I understand you; that he told you they wanted to withdraw that application and proceed in another way?—A. No, sir; I do not recollect anything about his speaking of proceeding in another way, but I should have paid no attention to it if he had said it. When he asked to withdraw the letter, I immediately replied, "It is not in my jurisdiction; I have no objection to anything you may do with it." The second conversation I made much shorter, because I thought I had said enough before for them all to understand my position about it.

Q. Mr. Von Briesen testifies that it was at the same interview; that there were not two separate interviews. Are you confident about that?—A. Yes, sir. Then Mr. Humphreys came afterwards, and I made the same reply.

Q. Mr. Humphreys did not come until October?—A. I say away afterwards; and I made the same reply to him.

Q. That was after this controversy arose?—A. Yes, sir.

Q. So that is of no consequence?—A. The only consequence it is to show I was perfectly consistent from the beginning in the position I took about it.

Q. Are you confident Mr. von Briesen did not allude to the question whether certain applications should not go to the Interior Department?—A. I know he did not. It would have been nonsense for him to allude to it, because I had sent it there already. So far as it affected my action it was nonsense.

Q. Mr. Van Benthuyzen says he became satisfied that there would have been an adverse report from the Interior Department, and that is the reason he wanted to get it away. Do you recollect whether he said anything about that?—A. He said nothing of that sort to me. I never knew his reason at all. I never heard him or anybody else state the reason. I supposed, if my suppositions are worth anything, that he withdrew it because he found out there was no such law as his letter was based upon. That was the supposition I had.

Q. But nobody said so?—A. No, sir.

Q. Nothing was said on the subject at all?—A. No, sir.

Mr. RANNEY. I have called your attention to what I call the discrepancies between your testimony and von Briesen's.

The WITNESS. Yes; that is right.

Mr. RANNEY. In my mind they were important, and I wanted to call your attention to the specific points of difference.

The WITNESS. That is right, sir.

Q. Had you known Mr. von Briesen before, sir?—A. No, sir.

Mr. RANNEY. That is all.

The WITNESS. With the permission of the committee, I would like to say a word further. I saw in the Post what purported to be testimony given by Mr. Dana, of the New York Sun. He stated, if the Post reported it correctly, in response to a question put by Mr. Millard, that if he had been in my place he would have protected his Department against this suit; and when questioned further he said he would have smashed it. I do not know that it is testimony that amounts to anything as testimony. It is a supposition, and I will give the committee a supposition in reply. I think possibly that much is due to me, although I care very little about the whole matter, so far as that is concerned, for I have only taken one course from beginning to end. It is conceded upon all sides that I had no proper authority to act upon this matter, because I was a stockholder and an attorney of another and rival company. My relationship to that company had not changed from the 31st of July to the 1st of October, when I got back and found what had been done. The same disability, to use the noun derived from the verb in section 347 of the Statutes, existed as it did when I declined to act in the first instance. If that disability existed then, and I could not institute the suit, I want to put the question to Colonel Dana and the committee, how could I smash it? If I had not the ability or the qualification to institute it, how could I smash it? I thought I would put that in, by way of reply to that part of the testimony.

By the CHAIRMAN:

Q. Your view of it is that you had no power to meddle with the suit at all?—A. None at all. I declined on that ground. I had not been denuded of my disability or disqualification when I came back from my home. The same disqualification existed. If a judge upon the bench says he is disqualified to sit in a case and goes off and the case is tried, in the Supreme Court for instance, and the remaining judges undertake to decide it, and then a motion is filed to reconsider, that judge cannot come up and say, "I will sit in the case and pass upon the motion to reconsider, although I could not try the original case." That would be parallel to my "smashing" (whatever that means) this suit, which Dana had as much jurisdiction to smash under the law as I had.

By Mr. RANNEY:

Q. You did not regard a Government suit as the absolute right of any individual who applied for it, did you?—A. No, sir; but I regarded it as resulting ultimately to his benefit.

Q. But supposing you had been satisfied as a Government officer that the public interests did not require that suit. What was there in the way of your acting against your private interest as an individual and an owner of this stock in favor of the public interest and smashing it?—A. There is no difficulty in the question at all.

Q. Do you think there would have been any impropriety in your acting against your personal interest if you were satisfied the interests of the public would be benefited thereby?—A. There were a number of gentlemen who were differently situated, and who wanted this suit. I was not the only person interested. Here was our company and the other companies. If I was forbidden by my situation in the case to consider the matter in the first instance, I should be delighted for some one to tell me how I could have considered it in the second instance.

Q. Would there not be a difference in a case where no Government suit could properly be brought, unless there were considerations embracing the whole public in-

terest?—A. Yes; and for this reason, as I started to tell the committee when I was here before, and they said they did not want to hear it, I had letters from some of the ablest patent lawyers in the United States saying it was my duty, notwithstanding my interest, to have considered that case and brought the suit.

Q. But I understand you to say that a Government suit cannot be brought in behalf of private interests only; that it must be brought, if at all, in a case where the public interests demand it. I understand you to agree to that?—A. I do not exactly understand the question.

Q. As a public officer, do you understand you would have a right to lend the name of the Government to have a suit brought in private interest only?—A. Yes, sir; we do that very often.

Q. In a case of this kind, to annul a patent?—A. We do that very frequently. We lend the name of the United States to bring suits to annul patents for land. Hardly a week passes without that.

Q. You and I may understand the matter differently. Do you understand it is allowable for the Attorney-General of the United States to lend its name to a suit to vacate a patent in the interest of private parties only?—A. No, sir; not properly speaking; but very often the name of the United States is lent for use upon the relation of a private party.

Q. To annul a patent?—A. Yes, sir.

Q. It may be to annul a patent for land?—A. Patents for inventions also, on the relation of A B to annul a patent that has been granted to C or D.

Q. For an invention?—A. Yes, sir; for an invention.

Q. Then you do understand it is the duty of the Attorney-General to lend the Government name to a suit to annul a patent for an invention in the interest of private parties only?—A. Yes, sir; that is, I understand his interest may be a very remote one. He may derive from it what he expects. Still he can petition for the use of the name of the United States, or I can do so, and it will be given to me, and the suit will then be instituted on the relation of A. H. Garland to vacate a patent for an invention.

Q. In the interest of private parties only?—A. Yes, sir.

Q. You think it is allowable?—A. Yes, sir. It is not, strictly speaking, for the interest of private parties. The Attorney-General is doing a public act on the relation of this man.

Q. Who is one of the whole public?—A. Yes, sir.

Q. And who may be embraced in what you would regard as the public interest?—A. Yes, sir.

Q. But does not this consideration embrace not only him but the rest of the public, in determining whether a suit should be brought?—A. Oh, yes; so far as that is concerned it becomes then public question and not merely a question affecting an individual or a single company.

Q. So that you do not understand that a private individual can make a request to have a suit brought, as a matter of law, for himself alone?—A. Oh, no; it must involve some public question.

Q. Then what harm was there in you as Attorney-General, looking at the question broadly and comprehending in your consideration the whole public, and if you come to the conclusion that the public interest did not require this thing to be done, to say so in your office. That would be against your private interest.—A. Because it was a question that I, on account of my interest was prohibited from considering. It was enough for me to know that here was a rival company that might ultimately be benefited by the procedure.

Q. If you acted against your interest do you think anybody would complain of that?—A. Before I could do that I would have to consider the question, and the disability would arise upon consideration, in the first instance.

Q. Was not the thing you would have to consider one that comprehended the whole public?—A. Yes, sir; and the Pan-Electric company and myself included.

Q. That was but a mote, a single drop in the ocean?—A. But we do not measure disability by the yard or inch, you know.

By Mr. OATES:

Q. If a judge renders a judgment in a case where he is disqualified by statute on account of interest, although the judgment is against his interest it is void, is it not, just the same as though it were in his interest?—A. It would be a question whether it would be void or voidable, according to whether the record would show the interest or not. It would be voidable if the record showed his interest.

Mr. OATES. Some courts hold it to be void and some voidable.

By Mr. RANNEY:

Q. Considering your interest, would you have considered it a dereliction of duty if you had said to Mr. Goode when you went away, "Such an application will come and

I wish you to give it a very careful examination"—A. Yes, sir; I would consider that to be stepping outside of the line of my duty under the law, and my authority too.

By Mr. MILLARD:

Q. I would like to ask you one or two questions, as I was not present during your examination. I understood you to say that you consented to the withdrawal of this letter of Van Benthuyssen's?—A. I consented so far as I had the right to consent, in this language: "I have no objection to you withdrawing it, but it is out of my office and jurisdiction."

Q. It had been referred to the Patent Office under your direction?—A. It had been; yes, sir.

Q. I want to call your attention to this point: Whether Mr. von Briesen stated to you the purpose he had in view in withdrawing it?—A. No, sir; he did not. As I stated to Mr. Ranney, I only had a supposition. I never had any information at all as to why this letter was withdrawn, but I had a supposition, which, as I stated, does not amount to anything.

Q. Of course you knew that the withdrawal would prevent an opinion or a decision by the Patent Office?—A. Yes; I took it for granted it would, if they had not already passed on it, of which I knew nothing.

Q. Did you not understand at that time that the withdrawal was with the view of having an application in a different way?—A. No; I had no understanding about it at all. I just simply took the facts and I drew my own conclusion for what it was worth.

Q. Did you not understand that an application was to be made by these gentlemen.

The WITNESS. To whom?

Mr. MILLARD. Either to Goode or some one else?

A. No, sir; I had no understanding about it.

Q. I ask you that question with reference to a statement in your letter to the President?—A. You asked me about my understanding. I say in that letter "I supposed."

Q. I will call your attention to it particularly, and then you can make such explanation as you wish. You say "After the interview with the gentleman already spoken of, I supposed they would come to me with an application after the statement I had made, to either refer the matter to the Solicitor-General or to present it to you." You did suppose an application would be made?—Ans. Yes, sir. You asked me if I understood. I had no understanding at all about it. I say, as I said in that letter, I supposed that would be the course, because the law indicated that course, and I presumed they knew the law. That was their object. I had no understanding about it. I supposed if they were in earnest about this matter that they were not going to let it rest there, but there was no indication from them to me that they were going to do it, or from me to them that they could do it or ought to do it. You see I used the word "supposed."

Mr. MILLARD. Yes; I see you did.

The WITNESS. I did not use the word "understand" or "understood." It was a supposition based upon section 347 of the Revised Statutes.

Q. You left on the 23d. Did you see Mr. Goode before you left?—A. Oh, yes; I saw him several times; I don't know how many.

Q. Did you see him with reference to the business he would have on hand during your absence?—A. No, sir; Mr. Goode had been absent a long time about a very important case, and we talked about that more than anything else. He brought down the bills of the lawyers that assisted him there, and we were a good deal troubled about how to get them paid.

Q. Is it not customary when you leave town to call the attention of your immediate subordinate to such business as may come up in your absence?—A. There is a misunderstanding about the subordinate; I have no subordinate when I am away, nor, (under section 347 of the Revised Statutes) when I am disabled; Mr. Goode is my equal; he is there just as I was.

Q. He is your equal in your absence?—A. Yes, sir.

Q. But not in your presence?—A. He is no subordinate of mine only when I am here. As he was going to act for himself, I thought it was proper to let him do so. There was nothing lying over; I had finished up the table, in order to give him a clean sweep, so that he would not have much to do after he got back from his long journey. When he is there, you will find by the statute, he is his own master.

Q. I understand that. A witness, I think, from the Department has testified that there was an interview between you and Mr. Goode the evening before you went away?—A. I don't recollect that. There were several. I will make no point on that. I saw him several times, more especially about the cases in the Supreme Court. In Mr. Goode's absence I had anticipated some of that work, and made up the briefs for him, so as to relieve him when he returned, as the court would meet on the second Monday in October. I do not know as to seeing him the day before I left. Very likely it

is so. If I had seen him every day and every minute of the day I should not have mentioned this suit to him or said anything about it.

The CHAIRMAN. I will submit the depositions taken in New Orleans.

Mr. OATES. Is it necessary to put the interrogatories in the record? If not, we can save some printing.

The CHAIRMAN. The witnesses refer to the interrogatories in their answers, and I presume they had better go in. Is it desired that they shall be read?

Mr. MILLARD. By whom were the interrogatories prepared—by yourself and Mr. Ranney?

The CHAIRMAN. Yes.

Mr. MILLARD. I submit that they should be put in.

Mr. RANNEY. We agreed that instead of putting the Government to the expense of bringing these parties here we would forward the questions to them.

Mr. OATES. I regard the testimony just as though the parties had been here and given it on the stand. The question I raised is as to its materiality—whether it proves anything important.

Mr. RANNEY. That is legitimate.

Mr. OATES. I could raise that question if they were here testifying.

Mr. RANNEY. The ground on which they were examined bears on the general question we have been discussing. I say the parties went on and acted upon the assumption, or just as they would have acted if they had ascertained in advance that a Government suit would be brought, that they even prepared the bill before the application came, and got it all ready.

The CHAIRMAN. The deposition explains that very fully and satisfactorily.

Mr. MILLARD. Do you think there is any objection to the evidence?

The CHAIRMAN. None whatever.

Mr. MILLARD. Then let us spend no more time on it. The chairman thinks it is competent.

The CHAIRMAN. I think it is not only competent, but material and important. Is it desired to have it read?

Mr. HALL. I do not want it read.

Mr. OATES. I have read it already.

The CHAIRMAN. It will be given to the stenographer and inserted.

The depositions on questions are as follows:

[Rooms of the special committee acting under the resolution of the House, dated February 26, 1886, investigating telephone affairs.]

HOUSE OF REPRESENTATIVES, U. S.,
Washington, D. C., May 6th, 1886.

The firm of Graham & Co., job printers, or such of them or their clerks or other employes as know all the facts inquired of, are desired to state, on oath, and answer the following questions:

1st. What is your business, and how long have you been so engaged?

2nd. Whether they or their employes printed a bill in equity in the name of the United States against the American Bell Telephone Company, to be filed in the circuit court at Memphis, Tenn., in September, 1885, or any bill on that subject; describe it so far as can be done, and if possible attach a copy.

3rd. When the bill printed came into the office to be printed, and by or from whom did it come?

4th. When did the bill go from the office and was delivered, and to whom it was delivered?

5th. At whose expense was it printed, to whom charged, and by whom paid?

6th. Was any entry made on the books as to the date when the bill came in to be printed, and when it went out and was delivered printed, and give the date of same?

7th. If you have kept the manuscript from which the bill was printed, please annex the same and send it with your affidavit?

8th. Please state in whose handwriting the bill or manuscript printed was, if you know and were acquainted with it.

C. E. BOYLE,
Chairman.

A. A. RANNEY,
Of the minority of the Committee.

[Rooms of the special committee acting under resolution of the House, dated February 26th, 1886, investigating telephone affairs.]

HOUSE OF REPRESENTATIVES, U. S.

Washington, D. C., May 6th, 1886.

To Mr. J. R. BECKWITH,
Attorney at law, New Orleans:

You are hereby desired and respectfully requested to state:

1st. How many times you went to Memphis, Tenn., during August, 1885; the day when you arrived each time, and how long you remained there each time, giving day and date as nearly as you can?

2nd. Who drafted the bill in equity to be filed in the name of the United States for the purpose of vacating the Bell patents; who made the first draft and where and when it was begun and made?

3rd. Who drafted the bill as filed in the court on September 10th, 1885; how far he did it, and what Casey Young did about the drafting of the bill?

4th. What day the bill was carried or sent to the printer in New Orleans to be put in print, and who printed it?

5th. When was the bill printed, and when it came from the printer. Whether it did not go to the printer's on September 1st, 1885; and did it not come from the printer September 4th, 1885?

6th. Who went with the prepared bill; and how and on what day it was sent or carried or sent to Memphis?

7th. Was not the bill sent or carried to Memphis, Tenn., in print, whether you went with it and filed the bill; if not, who did?

C. E. BOYLE,
Chairman.

A. A. RANNEY,
Of the minority of the committee.

Depositions of L. S. Graham and J. R. Beckwith, witnesses residing in the city of New Orleans, La., to interrogatories hereto annexed by direction of the Special Committee acting under resolution of the House of Representatives, dated February 26, 1886, investigating telephone affairs, taken before J. C. Eustis, notary public, at his office, No. 26 Carondelet st., in New Orleans, La., on the 13th day of May, 1886.

L. S. GRAHAM, being first duly sworn, deposes and says:

To 1st interrogatory: My name is L. S. Graham; I am a member of the firm of L. Graham & Son, book and job printers; so engaged since 1865; the witness's connection began 1874.

To 2nd interrogatory: We did print a bill in equity in the name of the United States v. The American Bell Telephone Co. in September, 1885. I cannot state from my own knowledge that it was to be filed in Memphis, Tennessee; my recollection of the work is not clear enough to give any detailed description of it. I cannot now find a copy of the work among our samples.

To 3d interrogatory: The copy of the bill came from Mr. J. R. Beckwith, an attorney of this city.

To 4th interrogatory: The work was delivered on the 4th of September, 1885, to Mr. Beckwith, or at his office, in this city.

To 5th interrogatory: I do not know at whose expense it was printed; it was charged to Mr. Beckwith. I believe he approved the bill as being correct, to be paid for by Fazende & Seixas. I received a check from Messrs. Fazende & Seixas for the amount of our bill.

To 6th interrogatory: Yes; entries are made on our order book of all orders or jobs received, likewise a memorandum is made opposite each entry of the date of delivery. Our order book shows that this order was the first one entered under date of September 1, 1885, and the memorandum entry of delivery is September 4, 1885, under which date it is charged on our ledger.

To 7th interrogatory: We have not now the MSS. copy of the bill; accumulations of MSS. are thrown away a short time after delivery of work. My recollection is that the copy was in "type-writer," with interlineations by Mr. Beckwith.

To 8th interrogatory: My recollection is that the copy was in "type-writer," with interlineations by Mr. Beckwith.

L. S. GRAHAM.

Sworn to and subscribed before me on this 13th day of May, A. D. 1886.

J. C. EUSTIS,
Notary Public.

On this 15th day of May, 1886, J. R. BECKWITH, being first duly sworn, deposes and says:

To 1st interrogatory: I was in Memphis twice during the month of August, 1885. I do not recollect the date of my first arrival, but believe it was on the 15th of August. On that occasion I remained in Memphis until the afternoon of the 21st, arrived back in New Orleans on the 22nd; and on the second visit I left New Orleans in the afternoon of the 25th, and arrived in Memphis on the morning of the 26th of August, remaining there until the evening of the 27th, reaching New Orleans on the morning of the 28th of August.

To 2nd interrogatory: I can answer this interrogatory only by giving a history of the drafting of the bill and attending circumstances. My first visit to Memphis, as stated in my answer to the 1st interrogatory, was made in response to a request of the acting president of the National Improved Telephone Company that I should hold a conference and consultation as its counsel with Mr. Gantt, an attorney residing at Memphis, relative to steps to be taken to resist the demand of the owners of the Bell patents, claiming monopoly of the transmission of articulate speech by or with electricity. I met Mr. Gantt at his office in Memphis, and for several days we considered the questions whether the General Government had authority to institute judicial proceedings looking to the recall of letters patent for inventions or discovery for frauds in procuring the grant, and whether the Federal court at Memphis would have jurisdiction of such an action. After consulting authorities we both agreed in the conclusion that the Government had the right to take such proceedings, and that in the case of the Bell patents it was the duty of the General Government to take proceedings to that end, and that the Federal court at Memphis had jurisdiction to entertain the action.

It was then determined to take steps to secure such action by the Federal Government.

The question of the appropriate manner of proceeding was considered and it was determined that a memorial should be addressed to the United States attorney of the District and the matter put in official channel in that form.

Mr. Gantt and myself settled the form and detail of the memorial with accompanying documents and proofs to be submitted to the United States attorney. I am sure that the suggestion came from me, that it was due to the United States attorney and to the Department of Justice that such an application calling for the institution of a suit should be definite and certain in character, and should not go forward in the shape of a general petition asking action generally; that doubtless the United States attorney when asked to consider the institution of a suit in equity would desire to know exactly what character of suit or bill was to be brought; that the question was a question of law, and that we were dealing with lawyers and in my opinion the memorial should be accompanied with a draft of a bill setting forth in suitable form the supposed vices of the Bell patents, and frauds practiced in procuring the grants upon which the recall or repeal was asked. That a draft of a bill was the best form in which the question of effect of the matters alleged against the patents could be dealt with in considering the question whether the patents ought to be allowed to stand as grants if the matters charged were found to be true after trial.

Mr. Gantt concurred with me in this view and it was assigned to me to prepare the draft of a bill to be submitted to the United States attorney with the memorial. Mr. Gantt assumed the task of preparing the memorial and proofs. I commenced the draft of the bill in Memphis, I think, on the 19th of August, but desiring to consult some books not to be found in Memphis, I returned to New Orleans, arriving there on the 22d of August, 1885.

On the 24th of August, without using any portion of the partial draft made in Memphis, I dictated the bill to a stenographer. During the afternoon of the 25th the stenographer delivered me the bill in type-writer form. I think within an hour I left for Memphis, reaching there early on the next day. I had no opportunity to read over the bill as it came from the stenographer. Without any revision, the bill was on my arrival submitted to Mr. Gantt and given to a copyist to be copied. On the 26th the memorial was completed and I signed it with the others. On the 27th the bill came back to me from the Memphis copyist, and I left for New Orleans, taking the bill with me. On the way to New Orleans I, for the first time read the bill as given me by the stenographer and found it replete with clerical errors, so serious as to require rewriting for full correction. As the expense of printing was but little greater than the expense of new copy in writing, I sent the bill to I. Graham & Son, printers in New Orleans, with directions to print. The bill was printed, making the corrections in the proof. I am quite certain that the bill went to the printers on the 28th of August. Some time during the morning of the 4th of September I learned that suit had been authorized. I was able to procure a few copies of the bill and exhibits from the printer late in the afternoon of the 4th and left for Memphis in the evening, reaching Memphis early on the morning of the 5th. The copy of the bill made in Memphis was made to accompany the memorial to the United States attorney, and

I am informed and believe it was submitted to him and considered with the memorial and other papers. I did not present the papers to the United States attorney and had not heard whether the bill was satisfactory to him. I procured the printed copies of the bill and schedules and took them to Memphis to consult with Mr. Gantt and the United States attorney, whether the bill as printed should be adopted and filed. On my arrival in Memphis Mr. Gantt was not in the city, had left the city for some place where he usually spends the summer months, as I was informed. He did not return to Memphis, I think, until about the 7th of September.

On his return we had a consultation on the bill as printed, and there was some talk of changing the bill in some particulars, but it was finally agreed that Mr. Gantt and myself should go to Jackson, Tenn., where the United States attorney resided and settle the bill in consultation with him. It is my recollection that we left Memphis on the night of the 8th of September, and arrived at Jackson early in the morning of the 9th. In consultation it was settled to file the bill as printed. The United States Attorney, Mr. Gantt and myself signed the bill. Mr. Gantt and myself left Jackson the same day and reached Memphis in the night.

On the morning of the next day we went together to the office of the clerk of the United States circuit court, in Memphis, and filed the bill.

When the bill was drawn and printed it was not deemed certain by either Mr. Gantt or myself that the bill as drafted would be adopted as the bill if a suit should be ordered, but was framed and prepared, as the best form in which the grave and serious charges against, and the supposed vices and nullities of the Bell patents, could be submitted to lawyers charged with determining whether there should be judicial inquiry concerning the validity of the grants. I thought the course proper then. I am of the same opinion now.

To third interrogatory: I have given in answer to the second interrogatory full detail concerning the drafting of the bill. When and where it was done, under what circumstances and for what purpose. It is possible that Casey Young may have given me pencil memorandum of matters he thought should be set forth in the bill, but I have no recollection of any. Certainly nothing of the kind was used by me in preparing the draft of the bill.

To 4th interrogatory. I think the bill was sent to L. Graham & Son on the 28th of August, 1885. I have examined their books, by which it appears that the bill reached them on the 1st of September. I am confident they had the bill on the 28th August. The bill and schedules were printed by L. Graham & Son, of New Orleans; at least sent to them to be printed. A few copies were delivered to me on the 4th of September, 1885, the balance sent to my office during my absence in Memphis.

Ans. to 5th interrogatory. I have fully answered this interrogatory in my answer to prior interrogations.

To 6th interrogatory. I have fully answered all matters in this interrogatory in my answer to preceding questions.

Answer to 7th interrogatory. I have fully answered all matters contained in this question in my answers to preceding questions.

JAMES R. BECKWITH.

Sworn to and subscribed before me on this 1st day of May, A. D. 1886.

J. G. EUSTIS,
Notary Public.

I, John G. Eustis, a notary public, duly commissioned and qualified in and for the parish of Orleans, State of Louisiana, do certify that I caused L. S. Graham and J. R. Beckwith, witnesses hereinbefore named and examined, to appear before me at the time and place above mentioned, and after publicly and solemnly swearing them to tell the truth, the whole truth, and nothing but the truth, in answer to the annexed direct interrogatories, I then and there proceeded to examine them by propounding to them the said direct interrogatories, and reducing in my presence and that of the witness their answers thereto in writing, and I then caused each witness to sign his deposition in my presence, as already stated.

In testimony whereof I have hereunto set my hand and seal of office on this 15th day of May, 1886.

J. G. EUSTIS,
Notary Public.

The CHAIRMAN. I submitted certain interrogatories to Mr. Hubbard, following the suggestion made when he was on the stand that he would give information as to matters I had been asking him about, and instead of replying to the interrogatories he has sent me quite a long statement giving a history of the Bell Company. I will hand it to members of the committee, so that they may read it, and then the question as to admitting it can be raised.

Mr. RANNEY. Is it a statement he was asked to make when he was on the stand?

The CHAIRMAN. No, sir. He stated that he was willing to give any information in regard to any matter that he might be asked about, and I sent him a number of questions as to some of the matters referred to when he was on the stand. Have we any further business?

Mr. RANNEY. There are more letters to be put in.

The CHAIRMAN. I observe in the printed record that Dr. Rogers' letter of the 29th of September to the Tribune has been put in twice. Once will do.

Mr. RANNEY. I wish to put in a letter from Casey Young, for one. Instead of selecting out those from the World, it was suggested that they should all go in together, if not already in. There are some letters from Casey Young that have not been put in yet.

The CHAIRMAN. Are there any other witnesses present? I see Dr. Rogers is here. Is it desired to examine him further?

Mr. RANNEY. There are some questions for him.

Dr. J. W. ROGERS recalled and further examined.

The WITNESS. I want to say to the chairman of the committee that I did not get the notice to come yesterday until late in the afternoon.

The CHAIRMAN. So I understood. I have no questions to ask the doctor.

Mr. RANNEY. I want to call your attention to one or two matters.

By Mr. RANNEY:

Question. Something was said when you were on the stand about a combination mentioned in a pamphlet, that was made with the American Postal Telegraph Company. What combination was that?—Answer. Well, that was made simply by intermingling the stocks.

Q. Intermingling with whom?—A. The stocks of the Pan-Electric company and the Rogers Telegraph and Telephone Company.

Q. I see you sent American Postal Telegraph stock to some of the members, Mr. Beach being one of them?—A. Yes, sir; American Postal. What I mean by intermingling is that a great deal of it belonged to the Rogers Telegraph and Telephone Company; so that was the combination. It was a combination of the stocks of the companies.

By the CHAIRMAN:

Q. The Rogers company was the Pennsylvania company, was it?—A. Yes, sir; that was the Pennsylvania company. It owned a large amount of American Postal stock.

By Mr. RANNEY:

Q. Did the Pan-Electric Telephone Company own any of it?—A. No; but still there was a combination just the same. The Pennsylvania company, as General Boyle calls it, was the owner of a good deal of Pan-Electric stock, I don't remember the exact change, but about a million or two.

Q. I see Casey Young in his letter speaks of your combining and joining forces with the American Postal Telegraph Company.—A. Oh, yes; that was a proposition that was never carried out. We called a meeting at the Metropolitan Hotel to have it done, and they considered it. I presented a proposition to the meeting of the board, but told them I was largely interested in the American Postal, and would withdraw for them to discuss it. My son told me—

Mr. EDEN. You need not state what your son told you.

Q. They did not perfect the organization?—A. No.

Q. But you did have an arrangement with your Pennsylvania company, they holding some of the Pan-Electric stock?—A. Well, I donated the stock to them. There was no particular arrangement. It was put into the company.

Q. Put into what company?—A. Into the Pennsylvania company. That is, the American Postal stock and the Pan-Electric stock were donated to the Pennsylvania company, which made a combination of the stock of all three companies.

By the CHAIRMAN:

Q. You personally gave the Rogers company millions?—A. Oh, yes. There was no combination in the sense of the company's meeting and combining.

By Mr. RANNEY:

Q. I see in the circular you represent the combination.—A. The combination I have just described.

By Mr. HALL:

Q. Have those circulars been introduced in evidence?—A. I think so. I left them here at first.

Mr. HALL. If they have not been introduced in evidence, I shall object until they are produced.

By Mr. RANNEY:

Q. Did you issue a circular representing the matter?—A. Yes, sir; I sent one of them here. It says something about a combination of stocks.

Q. There was a combination of some kind, was there?—A. There was a combination to that extent.

Mr. RANNEY. I do not care to encumber the record with the whole circular, unless it is desired.

Mr. HALL. I object to any quotations from it, because I do not know whether they will be correct or not.

Mr. RANNEY. I allude to it as the inducement and basis of my inquiry to find out what the fact was about the combination.

The WITNESS. The fact was that there was a combination of the stocks, but no action of the respective boards to make a partnership. I do not know as such a thing could be done.

Q. I do not think of anything else that I want to call to your attention. Is there anything that you wish to reply to that has been put in here? I do not recall any part of your testimony that has been contradicted.—A. I think there are some minor mistakes of the stenographer. I wrote a letter to Judge Boyle about it and he sent me word verbally, I think, that it would be looked to, but there are none of any great consequence.

Q. If you can recall them it will be well enough to indicate them.—A. If I had one of the books here I could recall some of them.

By the CHAIRMAN:

Q. Are they material?—A. Well, I don't think for the matter of the evidence they would be. They are not exactly truthful, and I always want to be truthful. I don't know that they are material to the case.

Mr. RANNEY. I would like to have them pointed out.

The STENOGRAPHER. If you sent them in, they have all been corrected.

The WITNESS. Possibly; I do not know. I have not been here for a month.

The STENOGRAPHER. All he turned in or sent in have been corrected.

Mr. EDEN. I suppose you do not want to correct anybody else's testimony but your own?

The WITNESS. No. There are some little minor matters I would like to have the privilege to explain, since the committee has called me here.

Mr. RANNEY. It is your privilege.

The WITNESS. One thing in connection with the question you have just been asking, about that American Postal business and giving the stock to Beach and others.

Mr. EDEN. I do not see that the American Postal business is important in this investigation.

The CHAIRMAN. Were you not examined upon those matters before the committee on a previous occasion?

Mr. RANNEY. He was as to the Beach matter.

The CHAIRMAN. As to all these matters. I do not want to interpose an objection to your making any statement you think material.

The WITNESS. There are some matters of fact that were not then testified—

The CHAIRMAN. We do not care to go over the same matter.

The WITNESS. There were some matters of fact that were not testified to that would probably throw a little more light upon the subject. One of these was, for example, that every person who took any part in any of the organizations, the Pan-Electric company, the original Pan-Electric enterprise, the Rogers Telegraph and Telephone, and the American Postal, had their names published at once. It is a fact that the committee probably did not know. It is a material fact, because I have been accused of having had a Credit Mobilier thing on a small scale. The very moment anybody became identified with it his name was given to the world, without any objection upon the part of anybody, and he co-operated with us. In that old matter of the Credit Mobilier it was difficult to ascertain who were the men. Nobody knew who they were. I think this is a material fact. I say here that everything was published; every name. Another thing. There were a good many persons, and some of them were omitted. I have counted up very carefully since, and I have found that all the persons to whom any stock was ever offered, out of the four hundred men in the House and in the Senate, were fifteen. It has been suggested that the purpose was to buy votes. If it was to buy votes, it is material to know there were only fifteen that were ever approached upon the subject, and there were only about six or seven of them that ever received any stock.

Then I want to say further that the people who did receive that stock were men who were not such as a man who wanted to get up a conspiracy would seek, but they were men pre-eminent for their integrity, such men as Cox, and Hewitt, and Carlisle, and Randall. I think it very significant that while everything was published no men were ever approached but those who were most distinguished for integrity. A fellow that wanted to get confederates and rascals would not publish their names, but would try and find a black sheep in Congress, if there were any. In that case he would not go to the most honorable men in the body if he wanted to run a villainous concern and buy votes. I do not mean any disrespect to Congress when I say there are black sheep in every flock. I think our Congress will compare favorably with the British Parliament, or the Reichstag in Germany, or anything else. I mean no disrespect to Congress; I want that understood; but I would approach bad men, if there any in it that were bad men, if I had any improper purpose.

The CHAIRMAN. We will take that for granted—if you could find any in Congress.

The WITNESS. I certainly would not pick out the fellows that were the very top chips in the pile.

The CHAIRMAN. Is there anything else.

The WITNESS. There is another little matter rather personal. Senator Harris was permitted to go on and tell rather a long yarn about my drinking what Homer calls "the milk of old men," and I think it is my privilege to refer to the facts he stated and give to the committee just what did occur. I say I think it is due to me. I will make it very brief. I was on that occasion, as you have seen me to-day —

The CHAIRMAN. The committee does not consider that necessary.

The WITNESS. But the committee might consider, in justice to me, when I am —

The CHAIRMAN. If you think it is necessary you may state it.

The WITNESS. I think it is, and I will tell you why.

Mr. EDEN. The doctor wants to defend himself.

The WITNESS. It is not a defense. I want to state the facts and the whole truth of the case; that is all. I did go down to the National Hotel, and met there Gen. Upshaw, this Indian Bureau man. His uncle, an old friend of mine, Gen. Williamson, of Holly Springs, who was appointed about that time to something in the Interior Department and was going off West, was there, and also Rolf Sanders, a good-hearted newspaper fellow. I told them I had found some Catawba wine that was the best I ever drank in my life, and they all consented to go in and partake of my hospitality except Upshaw. He said he would go with us, but that he had never been a success at drinking, and that he could not drink. I went in with them, and Rolf Sanders, the newspaper man, said that he preferred old Bourbon; he was no mugwump, and wanted a glass of Bourbon. So I gave him whisky. Then we went out, and I read them some passages in manuscript of what was known afterwards as The Mugwump. Then I walked on and separated from them, except Upshaw.

We went up to the Metropolitan Hotel, where Senator Harris lays the scene for his comedy of errors. I sat there on a settee next to the door that leads on the west side of the bar-room, with Upshaw at my right hand. He was my right-hand man. He asked me to read some more of The Mugwump to them. I began to read it, and several gentlemen collected around. I had a pretty good audience, and felt about as I do now, only a little more jubilant, for I had taken a little more wine than I have taken to-day. I haven't taken to-day, I say upon oath, more than two glasses, and small ones at that; but I had taken a little more then, and I felt comfortable and pleasant, you know. I went in with them, and the good wine was drunken, and it is the only thing, I say on oath, that was drunken in that crowd. Harris was very careful not to state in his testimony that he had ever seen me intoxicated, although he and Col. Young said they had known me for thirty years. I say upon my oath here that he never did see me intoxicated. If he is put upon his oath he will say that in thirty years he never saw me intoxicated. He has had every opportunity, for since he referred to me in that uncalled-for way here recently, I will say to the committee that he has drank gallons of my whisky and brandy and wine.

Mr. HALL. Who are you talking about?

The WITNESS. I am talking about Senator Harris. He has had every opportunity of seeing me intoxicated, and might have told the committee if he had ever seen me intoxicated.

Mr. MILLARD. I think if you have drank as much as that together—

The WITNESS. Understand me, I mean no disrespect to Senator Harris.

Mr. MILLARD. Or he to you.

The WITNESS. I would rather go backward and throw my mantle over him. I only refer to his nudity because he referred to me as being a little jolly on that occasion.

The CHAIRMAN. Is that all?

The WITNESS. There is another little matter, if I am not boring the committee.

The CHAIRMAN. If it is like the last, it is not important.

The WITNESS. It is not. It relates to the evidence of Col. Young. I think he certainly has been misinterpreted in the papers, and possibly by the committee. I have

seen it frequently stated, or heard it insinuated, that when he told me and my son Harry that Genl. Garland had referred this matter to Goode, and had made the promise that Col. Young was guilty of a falsehood. I do not believe any such thing. I state positively—

The CHAIRMAN. Will you allow me to say that the committee is indifferent as to what you believe. Just state all the facts you can.

Mr. RANNEY. We are indifferent, as a matter of evidence.

The CHAIRMAN. Yes.

Mr. MILLARD. He has been all over that.

The WITNESS. I don't think he was perjured at all when he told me and Harry—

The CHAIRMAN. Never mind about that.

Mr. RANNEY. If there is any fact connected with it to show he is mistaken—

The WITNESS. The only fact is what I have heard of von Briesen, corroborating it.

The CHAIRMAN. Just answer the questions. If Mr. Ranney wants any fact from you he can ask you.

By the CHAIRMAN:

Q. You say there was a combination of some kind between the American Postal Company and the Rogers Telegraph and Telephone Company?—A. Yes, sir.

Q. The Rogers Telegraph and Telephone Company held some of the stock of the American Postal?—A. Yes, sir.

Q. That was by gift from you, was it not?—A. Yes, sir.

Q. Two millions of stock?—A. I forget the exact change, as I said just now, but it was something like that.

Q. Did the American Postal hold any of the Rogers stock?—A. No. Some members of it did. I gave it to some of the officers.

Q. Did the Pan-Electric company hold any of the American Postal stock?—A. No.

Q. Did the American Postal company hold any of the Pan-Electric stock?—A. Yes, sir; about a million.

Q. You gave that?—A. I gave that to them.

Q. Did the Rogers company hold some of the Pan-Electric stock?—A. Yes, sir; a million.

Q. You gave that also?—A. Yes, sir.

Q. There was no combination of any kind then between the companies?—A. Oh, no.

Q. The combinations were all brought about through you?—A. Yes, sir.

Q. By donations of a million or two?—A. Yes, sir.

Q. Of the stock of one company to the other?—A. Yes, sir.

By Mr. HALL:

Q. You held a large amount of stock in these companies, which you donated?—A. Yes, sir.

Q. You gave the stock to the Pan-Electric company in order to increase its strength, I suppose?—A. Yes, sir.

Mr. MILLARD. It was a pooling of issues.

J. HARRIS ROGERS resumed the stand.

The WITNESS. I want to answer a question that was not fully finished yesterday.

The CHAIRMAN. Yes.

The WITNESS. I was asked how it was possible for me to make an appointment to meet my father at Col. Young's room when I did not know where Col. Young's room was. It was in this way: I left my father in the morning and found Col. Young at his room, and left Col. Young's room and went with Col. Young to Mr. Marble's office. There I parted with Col. Young, leaving him to go to the Ebbitt House. I went to get my father, and I took my father in the buggy to Col. Young's room. When we got there Col. Young was out, and my father said, "Now, Harry, I will be away for ten or fifteen minutes, and upon my return I want to find you here." I told him I would be there or at the Ebbitt House. It was in that way I made that appointment.

By Mr. HALL:

Q. Then instead of your appointment having been made with your father, as you gave the committee to understand yesterday, before you had been up to Col. Young's room, it was made after you had been there?—A. Yes, sir; after I had been there.

By the CHAIRMAN:

Q. I understood you yesterday that your appointment was to meet your father at the Ebbitt House.—A. At Col. Young's.

Q. Your first appointment?—A. Oh, no, sir. When I left my father I had no appointment with him whatever, except to meet him again—

Q. You spoke of Col. Young going to the Ebbitt House to see your father.—A. Yes, sir; my father went out of Col. Young's room, because Col. Young was not there, and

said he would be back in a few minutes, and Col. Young came and wanted me to go away, and I asked him to remain until I came back, lest my father should come, and then go the Ebbitt House.

By Mr. HALL:

Q. I had not concluded my examination when the committee adjourned yesterday. There were a few questions I wanted to ask. I understood you to say that at the period of the year when these conferences were held Senator Harris stated to you that he had signed an agreement of joint action between these companies for this Government suit?—A. I did not say a Government suit. He did not mention a Government suit; but that, I supposed, was what he referred to.

Q. Tell the committee what he said about that.—A. I called at Colonel Young's room on a certain day, and they told me that he had gone; that he had left the day before. I then went to Gardner's room, and asked him for the contents of that contract. Gardner wouldn't give me any information. Then I went to Senator Harris's room, and Senator Harris told me that he had taken the responsibility of signing for our company, and Mr. Van Benthuyzen had taken the responsibility of signing for his company.

Q. That occurred at his room?—A. At Senator Harris's room.

Q. Whereabouts?—A. On East Capitol street.

Q. That was the room he has been occupying for a good while?—A. Yes.

Q. Was anybody present when that conversation took place?—A. Yes, sir; there were several gentlemen present.

Q. Do you know who was present?—A. No, sir.

Q. You do not remember a single person?—A. No, sir.

Q. Did any of those persons present hear this conversation?—A. They could have heard it.

Q. It was a public conversation, was it?—A. No, sir.

Q. In the presence of other gentlemen?—A. I stated yesterday that Senator Harris was very brief, and I was careful not to trespass, on account of the parties being present.

Q. I understand you to say that it was a conversation that the persons present would not be likely to hear?—A. They could hear it. Every party in the room could have heard everything that was said.

Q. Then it was a conversation without any reserve?—A. There was considerable reserve.

Q. When did you next see Senator Harris that same year?—A. I never saw Senator Harris after that until this hearing was going on before the Interior Department. I met him then.

Q. Was that the fall of the same year?—A. Yes, sir.

Q. Did you ever have any other conversation with him about the existence of that contract?—A. Not any except the conversation then.

Q. Did you ever make any allusion or reference in your conversations subsequent to that, to the fact of his having signed that agreement?—A. No, sir.

Q. So that this one interview was the only one in which that contract was ever the subject of conversation between you?—A. That is all.

Q. Are you sure it occurred after Casey Young had left the city of Washington?—A. I don't know when Colonel Young left. It was the day after I was informed by his landlady he had gone.

Q. It was after all these things had transpired that you have already testified to; when you say you went up and saw the parties?—A. It was the day after I met Colonel Young there. Colonel Young told me he was going away that evening.

Q. Do you know which left the city first, Senator Harris or Colonel Young?—A. I do not.

Mr. HALL. Is there anything more before the committee?

The CHAIRMAN. I understand Mr. Ranney has some letters he wants to introduce.

Mr. CASEY YOUNG. I desire to submit some corrections of my testimony.

Mr. MOFFATT. Did you bring up your stock-book?

Mr. CASEY YOUNG. Yes; I brought the one I think you want; I did not bring them both.

Mr. RANNEY. These letters I have here are those embraced in the list reported by the subcommittee. I regret that they could not have all been put in together. They are most of them letters of Casey Young's. I have them here as clipped from the New York Tribune. Major Clark said that he had compared them with the originals.

The CHAIRMAN. I see Major Clark here; he can possibly state.

S. N. CLARK was then recalled and further examined.

By Mr. RANNEY:

Question. Will you just state whether these letters which you have marked here in this scrap-book have been compared by you with the originals?—Answer. They were

sent from the originals to the paper. I never have made the comparison with the originals, but these were sent from the originals.

Q. Sent by whom?—A. Sent from the telegraph office. They were sent from the originals by the operator. I have never made any comparison since they were printed.

Q. Did you telegraph them correctly from the originals?—A. Yes, sir.

By the CHAIRMAN :

Q. Where are the originals?—A. I suppose I gave them all back to Dr. Rogers at the time that I sent them.

Q. Did you receive them from the Rogerses?—A. I received them from them.

Q. At what date?—A. This is dated February 22. I sent some on two occasions, February 22 and February 23.

Q. Under what circumstances did you receive them from Dr. Rogers?—A. I went out to the house and got them.

Q. Did you pay anything for them?—A. No, sir; I did not.

Q. Did you pay anything of any kind in any way?—A. No, sir; not anything in any way.

Mr. RANNEY. The originals are here in the book. I have been over the most of them. They are on this printed list of dates.

Q. Was that before or after the World published the letters?—A. I think some of the World letters had been published then, perhaps all of them.

Q. The World letters were published on two consecutive days, were they not?—A. No, I think not. My recollection is that several days intervened, but I am not quite certain. I think the World published three batches of letters; I do not recollect now.

Q. Were those letters in large packages, large bundles—in what the doctor calls his album?—A. Part of them were there, and part of them were letters that had been collected after the first publication in the World.

Q. They were letters, then, which had been rejected by the World?—A. Some of them the World correspondent had not seen. Dr. Rogers had not found them at the time he gave them this book. All the letters that were published in the World were contained in a book.

Q. Were not these letters obtained by you all embraced in large packages, one of the two large packages, or in large packages of the Doctor's?—A. They had been taken out and some of them were loose. I do not remember about any large packages of letters at all. Dr. Rogers had obtained his book then from the World, and that was there, together with a number of letters that he had collected subsequently.

Q. Had not the letters that you published been pasted in some book or pasted on something?—A. Perhaps they had; I do not know about that. Some of them were handed in loose. I went over them pretty carefully to see if there was anything that I regarded as material which had not been published.

Q. I understood Mr. Crawford, of the World, to testify that all the letters had been submitted to him.—A. All the letters that had been found up to that time.

Q. And the two large books had been submitted?—A. I do not remember whether there was one book or two.

By Mr. HALL :

Q. You remember the other day the Tribune had a comment upon the testimony of Mr. Garland, about the reporter, and its being revised and certain portions omitted?—A. I do.

Q. Did you send that information to the Tribune?—A. I sent a dispatch about it; yes, sir.

Q. How were you enabled to make a comparison between the testimony that was given by the Attorney-General and the supposed report of it for the committee?—A. I had this document, this printed report of the record, and I obtained also, from the stenographer who sits over there [indicating], a copy of it.

Q. That is, you were furnished with a copy by the Bell Telephone Company's agent here?—A. I purchased it from a stenographer here. I do not know whether he is the Bell company stenographer or not. I purchased that part of the testimony.

Q. You say you do not know whether he is the agent of the Bell Telephone Company?—A. I do not know whether he is. I presume that he is employed by them.

Q. Don't you know that he is understood and generally recognized here as such?—A. I have heard you say so and others.

Q. You have reason to believe that he is?—A. I have reason to believe it, but I do not know personally.

Q. And you were permitted access to his report and made that the foundation for charging in your paper that the report of the committee was inaccurate and garbled in order to make a favorable report for the Attorney-General, did you not?—A. I had access to that report the same as anybody else has access to it, if they are willing to pay for it.

Q. Do you mean that that thing is in the market?—A. I mean that the stenographer will sell that report to any one who will pay him for it.

Q. As a newspaper correspondent you found that out, did you?—A. Yes, sir; I find out everything.

The CHAIRMAN. Now we will proceed with the letters.

Mr. EDEN. It is not worth while to read them.

The CHAIRMAN. No; just indicate them by dates.

Mr. RANNEY. There is a letter of Casey Young's, dated August 1, 1883, relating to the company entirely.

The CHAIRMAN. To whom addressed?

Mr. RANNEY. To Dr. Rogers, I suppose. Then on August 30, there is a letter to Dr. Rogers from Colonel Young, from Hot Springs, Ark. The next letter is one dated March 25, from Colonel Young. The next one is dated July 1, 1883, from Colonel Young to Dr. Rogers. The next one is dated August 5, 1883, from Colonel Young to Dr. Rogers. The next one is from Casey Young, and reads as follows:

“DEAR DOCTOR: The resolution has just been sent to our committee. We do not meet again until Tuesday, and in the meantime we have a good deal of work to do. Come to my room at 7 o'clock to-night. I want to see you about it.

“Yours, truly,

“CASEY YOUNG.”

The CHAIRMAN. They need not be read.

Mr. RANNEY. That was a short one, and does not seem to be dated. The next one is dated July 29, and is from Casey Young to Dr. Rogers, and another one, dated Memphis, August 5, 1883, from Casey Young to Harry Rogers.

Mr. OATES. Are you not getting in some that are already in the record.

Mr. RANNEY. Those are the ones I believe I omitted to put in. I think some of them were referred to in the testimony, but I do not think they have gone in. The next one is dated Hot Springs, September 9, and is from Colonel Young to Dr. Rogers. I believe those are all that are not in. [To the stenographer.] If you find any of those in you need not copy them.

The following are the letters introduced by Mr. Ranney, except the one dated March 25, 1883, which is already printed on page 1073 of the record:

Casey Young to Dr. Rogers.

AUGUST 1ST, 1883.

I agree with you perfectly in the conclusion that we should “be up and doing.” The present disturbed condition of the telegraphic world presents a peculiarly favorable opportunity for us to put our system before the public. But we should be careful to do it in such a way as would start it on a solid basis so far as commending it to public confidence is concerned. It seems to me that we might make some favorable terms with the “Am. Postal Telegraph Co.” for these reasons: If Harry's repeating system is what we think it is, and can be put into practical operation, the A. P. T. Co. could, by cheapening the cost of telegraphy so much as that would enable them to do, compete upon more equal terms with W. U. Then if the Govt., as it certainly will, should establish a postal-telegraph system of its own, it would be in a better condition to sell to the Govt. its plant, improvements, &c., than any other company; or if it should not sell to the Govt., but conclude to keep its lines operating, no other company could successfully compete with it. I think I see what Gould proposes to do. He sees that the days of the W. U. are numbered, that it must go. Hence his indifference to the strike which at one time reached such formidable proportions. He is therefore switching off on the telephone, and is every day engaged actively through his agents in buying out all the different exchanges in the country and putting them under one management. One of his agents bought all in this State a few days ago; and, by the way, they have gotten hold of some invention by which they can talk over long lines, and are now putting Little Rock in communication with nearly every town and village in the State. I talked from here to Little Rock yesterday. What is this? Perhaps they are infringing Harry's patent.

But to resume on Gould. He sees plainly enough that the next Congress will establish a postal telegraph, and he is arranging to sell the plant of the Western Union to the Government for that purpose, and to accomplish this object he will put in the field the largest lobby army he has ever had in Washington, and the company we may be associated with will be the only one that will have the ghost of a chance to compete with him. So it seems to me that if these views were presented to the American Postal Company they would at once see the importance of joining forces with us. I impressed all this on Colonel Looney, and supposed he would have laid it before the company at once. I hope Looney will be able to raise the necessary amount of money as easily as he expects he can, but I am afraid he will find it a more difficult undertaking than he at present imagines. While he is possessed of great energy,

fine business capacity, and most engaging manners, yet you know he is a most sanguine man, and is so happily constituted that everything to him has the tint and perfume of the rose. Every cloud has a silver lining, hence he sometimes gets in the clouds. I, on the contrary, see things as through a glass darkly (vide Saint Paul, I believe), and walk more in the shadow than in the sunshine. I take a more conservative and realistic view of things. In respect to the interest in the matter which he should have, that is a matter which, so far as I am concerned, you are at perfect liberty to determine as you see proper. I am indebted to your generosity for what interest I have in it and am willing that you should manage the entire matter just as you please, and my personal feelings would lead me to extreme liberality with Colonel Looney. But I present the question in a practical, business point of view—not the amount suggested in my letter to General Johnston—a most liberal donation as a retainer. If Colonel Looney should succeed as well as he anticipates, it could be increased to an amount commensurate with the service that he may render to the association. But suppose he should fail. Would we not need all our available resources to interest the services and influence of some one else? Would it not be safer as well as juster for his interest to be contingent?

These suggestions present themselves as reasonable precautions, such as ordinarily business prudence would dictate. What is Colonel L's programme? How does he expect to raise the money? I think your suggestions practical, to stock some of our contemplated enterprises and sell enough of the stock to put the others afloat. The telephone is the greatest and easiest method of doing it. If Harry can by any possibility invent any kind of a telephone system that will not be a practical infringement of any existing patent, we can start it on a small scale and dictate terms to Gould; for such a purpose I could in this town before sundown to-day get subscribed half a million of dollars. Everybody is looking to the telephone as the coming means of rapid communication. I am of opinion that we had better incorporate as soon as possible, and if you deem it necessary for that purpose, will come to Washington City by the 1st of September. We will have to go to New Jersey, Connecticut, or New York. I know of no other State where the laws on that subject are broad enough to cover all we want. Has Colonel Looney seen Ewing? I think it important for him to do so. Tell Harry to put his telephone instruments to work. That is the broadest thoroughfare to fortune.

Your friend,

CASEY YOUNG.

Casey Young to Dr. Rogers.

- AUGUST 30, 1883.

DEAR DOCTOR: I received your letter this morning. I think our alliance is as should be with the American Postal people, but if they will not give fair terms we can go to some other. There is a gentleman here from New York who has become enthused over our scheme, and is anxious to become interested with us. He is, I am informed, a man of large means and he seems to have intimate relations with many moneyed men of New York, such as Cyrus Field, Russel Sage, Rufus Hatch, and others. He says if what I tell him is true it is the biggest thing of the age, and that he can raise all the money needed to give it a start and that he will undertake to do it for an interest of \$100,000, one hundred thousand dollars upon the basis of a capital stock to the amount of five millions, in case he succeeds; if he fails, to have nothing. I think this a fair proposition, but I do not know what Colonel Looney is doing nor what his plans are, so do not know what to say to this gentleman, as I would not in any way interfere with Colonel L.

Casey Young to Dr. Rogers.

JULY 1ST, 1883.

I received your letter a day or two ago, but was in the midst of an important lawsuit at the time and could not answer until now.

Agreeing with you as to the importance of an early incorporation, I had an interview with Senator Harris, and finding him of the same opinion, I agreed, at his suggestion, to prepare the necessary papers for incorporating under the laws of Tennessee, but when I came to make a close examination of the acts of our legislature on the subject I reached the conclusion that they were wholly inadequate to meet the requirements of our case. In other words, I do not think that we can secure under it as enlarged corporate powers as we desire and as will be needful. I have, there-

fore, promised Senator H. that I would go to Little Rock in a few days and confer fully with Senator Garland in respect to organizing under the laws of the State of Arkansas, or of some other State whose laws may be more favorable to us. In this connection I would make this suggestion: It is only four or five months now until the members of Congress will begin to assemble in Washington. All of our company will be there then, as well as people from everywhere, and we could thus understand perhaps more advisedly, and possibly to more advantage. We could start off better, and we could not likely do much before then no way, as this is the season of suspension of active operations in every kind of business. I will, however, in a short time prepare articles of incorporation under the laws of some State and send them on to you.

I am very strongly of the opinion that we can do well with the "transmitter," which we are getting ready for more extended operations. I believe I could sell one of them to every man who has a telephone in Memphis, and the same, I think, could be done elsewhere, and we could derive a very considerable profit from it. I want to go to San Francisco and other Pacific slope cities this summer, and if I can get samples of them before I start, I think I could introduce them there. Senator Harris left for Washington last night. Will confer with you fully.

Casey Young to Dr. Rogers.

AUGUST 5, 1883.

DEAR DOCTOR: Our old friend, Colonel R. F. Looney, is about going to New York and other points East by way of Washington City, and Senator Harris and myself, after a full conference with him on the subject, are of opinion that he can be of great service to us in carrying out its objects, and that we had better interest him in the Pan-Electric Company. You know his energy and business capacity in things of this kind, and his recent connection with large capitalists in operations of considerable magnitude gives him facilities in the line of our undertaking that may be turned to our mutual advantage. I think now is the time for us to move in the general direction indicated in my recent letters to you and Harry, and I do not know any one better fitted to open negotiations than Colonel Looney.

Senator Harris and I both think it would be to our interest and advantage to give him such amount of stock in the company under the provisions and upon the basis of the third paragraph of our articles of agreement as will enlist his active efforts in behalf of the association—say fifty thousand dollars, with a prospective increase to one hundred thousand dollars in case he should succeed in making an arrangement by which the properties of the company are made valuable. These are, of course, mere suggestions of ours, and we expect you to advise just such action as you think it proper to take, and will be content. If it is not true, as I suspect, that Ewing has sold out to the Bell Telephone people, I think we could make an arrangement with them to unite our interests, and I am of opinion that Colonel Looney had better see him on the subject, and see what can be done, provided it meets your views. You can explain the whole matter to him. The telephone field is the most inviting one I know of. I gave Colonel Looney a letter to General Ewing, which you can read, and if you approve he can deliver. I have also written by mail to General Johnston and Harry, authorizing them to use my name in any arrangement you and they may deem it proper to make with him.

Casey Young to Dr. Rogers.

JULY 29, 1883.

It occurs to me that the recent strike of the telegraph operators presents a most favorable opportunity for us to *strike* at some of the several companies to the Western Union. Let them have our rapid system so they can compete with this big corporation. Public feeling throughout the country is strongly against it now, and if some other company had appliances by which the cost of transmitting messages and conducting operations generally, it could compete with the W. Union. Everybody now wants to see it destroyed. I think it is a good time to open negotiations with some of its rivals. I have just written very fully to Senator Harris on the subject, who, I understand, is in Washington, and he will, of course, show it to you. If I thought I could do any good I would come to Washington, but I do not see that I can.

Your friend,

CASEY YOUNG.

Casey Young to J. Harris Rogers.

MEMPHIS, August 5, 1883.

DEAR HARRY: Senator Harris and myself both wrote to your father to-day in respect to Colonel Looney becoming interested with us in the "Pan-Electric," giving some of the reasons which induced us to think we had better take him in. Colonel L. leaves for Washington to-night and will carry these letters with him, which will, no doubt, be shown to you, when you will understand the whole matter, hence I do not write you more at length. I enclose you a letter to General Johnston, which will answer for you both. You can read it, and if you approve it forward to him wherever he may be. Senator H. tells me he is not in W.

Your friend,

CASEY YOUNG.

Casey Young to Dr. Rogers.

SEPTEMBER 9, 1883.

DEAR DOCTOR: I have received both your letters and think you are pursuing the proper course in respect to the telephone transmitter. Get the indorsement, if possible, of the Smithsonian Institution, and that, of course, gives it a send-off it could not otherwise get. I am very sorry Colonel Looney did not go to New York and see Ewing, as he promised me he would. I have a letter inquiring why he did not, as I had written that he would. I suppose it is time we were incorporating, and I would suggest that you see Senator Garland, who is now in Washington, and get him to prepare the charter. It is my judgment that he will not lose anything by doing nothing for the little time longer that will intervene between now and the meeting of Congress, and I am quite sure that it is not our interest to dispose of any stock before that time for reasons which I will explain when we meet.

The CHAIRMAN. Colonel Young indicated a desire to be heard in regard to some corrections in his testimony.

Hon. CASEY YOUNG was then recalled.

The WITNESS. I just desire to correct some errors in my former testimony. I have gone over it and have noted them on some sheets of paper here, and I had probably better refer to the page and the line of the record where it appears, so that the committee will understand it. I want to say in reference to the letters just called out, that I have not read all those letters and do not know what is in them, but I do not want to be going on the witness stand every day. I want to say this in reference to them, that I never had any corrupt or improper purpose in any letter I ever wrote to Dr. Rogers, whatever letter it may be. I have not seen them and have had no time to read them, but I will state that I made no improper proposition and was actuated by no corrupt or improper motive.

On page 123, line 29, I want to insert after the word "since" the words "from the newspapers." It seems that a question was asked me about the Bell Telephone Company, and I said I had learned something about it, but I want to add that it was what I learned from the newspapers. After the word "since" in line 19, page 123, the line reads thus: "I provided in this article that we might incorporate with a capital stock of \$5,000,000, thinking we had a right to do that, though I have found out since that we had not." I just want to add to that so that it will read, "I have found out since from the newspapers that we had not."

On line 4, from the bottom of page 138, I am made to say that Washington is my home. I spoke of a suit being brought, and I say here that I want it brought at Washington. I think I said I wanted it brought at Washington or at Memphis, where I lived. It would be inferred from that that I said I lived in Washington. I want to add "or in Memphis;" that is where I live.

On line 3, page 154, I see I am made to say that I was in Pittsburg on the 12th or 14th of July. If I said that it was incorrect, because I got there on the night of the 8th, and it appears that I left on the 11th or 12th. I was not there, I am sure, on the 14th.

Mr. RANNEY. How do you leave it?

The WITNESS. I leave it that I got there on the night of the 8th and left on the 11th; my memorandum book shows that. And I am made to say in the record there that I was there on the 12th or 14th. That is not correct. I was not there as late as the 14th, I know.

On the same page I say I think, Mr. Van Benthuyssen, Mr. Briersen, and Mr. Huntington came to Washington after I arrived on the 30th of August. I find that was incorrect, and that they were here when I came.

Mr. RANNEY. You do not mean August there; you want to change "August" to "July," do you not?

The WITNESS. Yes, that is correct; I want to change that. I was under the impression at the time I was, and testified the other day that they came after I did. But I find upon examining the register at the Ebbitt House that they came before, and that I was mistaken.

After the word "as" in line 9, page 155, I want to insert "J. W. Rogers" instead of "Harry Rogers." I was talking there about Dr. Rogers and not Harry Rogers. It is a mistake in the name, that is all.

On page 164, at the end of the fourth paragraph, I am made to say that Mr. Taylor used to be in my office. That is a mistake. I meant that he was in my office as a friend. He was not there as a clerk or partner or anything of that sort. He was a friend of mine; a lawyer of some distinction. It might be inferred from the testimony that he was in my office as a clerk or something of that sort.

In the 10th paragraph on page 169, I want to insert after the word "gentlemen" \$100 each instead of \$300 each. That is when I spoke of the assessment made by Dr. Rogers and General Johnston.

The CHAIRMAN. How does the paragraph begin?

The WITNESS. It is not important to the committee, but it is important to me. The paragraph commences in this way:

"Q. Did that transaction occur before you became the secretary and treasurer?—A. No, sir; I was secretary and treasurer then."

Mr. RANNEY. What change do you make in that?

The WITNESS. I want the alteration made to \$100 instead of \$300. I was speaking of the amount of money that Harry Rogers, and General Johnston had assessed on us when I was in Memphis. I intended to say \$100. I find by looking at the book that the amount was \$102; that is the exact amount.

In line 6, page 175, I want to insert the word "not" after the word "proper," so that it will read "and if the Attorney-General should see proper not to bring suit under this bill," etc. If you will read the sentence you will see that it makes no sense without the not being in it.

At the bottom of paragraph 5, on page 179, I want to insert "thirty-nine millions," instead of "one million."

The CHAIRMAN. What are the first words of the paragraph?

Mr. RANNEY. It is the last sentence there in the paragraph which reads, "The newspapers said we got from those local companies—but it is something short of that—about a million, but that is not much difference."

The WITNESS. I intended to say about thirty-nine millions short. I meant to say that they had made a mistake of thirty-nine millions. It was published that we had received forty millions of stock, and we had received only one million, and I intended to say that they had made a mistake of thirty-nine millions.

Mr. OATES. Do you mean to say a million short or a million in all?

The WITNESS. I mean that the newspapers were mistaken in saying that.

Mr. OATES. The newspapers you speak of have not been put in evidence, and we do not know anything about them.

The CHAIRMAN. My question there calls attention to that. You want to say that there was one million instead of forty millions, and therefore the newspapers have made a mistake of thirty-nine millions.

The WITNESS. Yes, that is it. On page 181, at the top of the page, I am made to say that I had received a telegram from Mr. Van Benthuyzen's clerk. I do not think I used the word clerk; I said from Mr. Van Benthuyzen himself. I never received any telegram from his clerk.

Mr. RANNEY. Didn't you mean Mr. Seixas?

The WITNESS. No, sir; I meant Mr. Van Benthuyzen. I received a telegram from him about that time. In line 40, on page 183, I want to insert \$146 instead of \$446. You will find that I spoke of paying Harry Rogers some money, and it was \$146 instead of \$446 that I paid him.

Mr. RANNEY. Is this the place, "April 26, expenses \$446"?

The WITNESS. Yes; that should be \$146. In line 22, from the bottom of the page 185, I am made to say, in speaking of Senator Harris, Mr. Atkins, General Johnston, and Senator Garland, that all of them agreed to issue stock. That is incorrect. I said all of them were opposed to it. I am made to say that they favored the issuance of stock. I should have said that they were opposed to it.

Mr. OATES. How does the paragraph begin?

The WITNESS. It reads in this way: "Q. You, Senator Harris, Mr. Atkins, General Johnston, and Senator Garland were opposed to the issue of stock?—A. Whenever it was discussed at the meetings of the board, every one of them agreed to it." I meant to say every one of them opposed it.

Mr. OATES. You want to strike out the word "agreed" and put in the word "opposed"?

The WITNESS. Yes, sir. In line 15, on page 91, I am made to say that Mr. Van Benthuyzen signed a letter which I had written to the President. It should be that he was to sign it, as the committee will remember.

Mr. RANNEY. What part of the page is that?

The WITNESS. About the middle of the page. Mr. Millard is making the examination. It says: "Q. At Mr. Van Benthuyzen's request at Memphis?—A. Yes, sir; his name is attached to it, not mine." That should be "was to be attached to it."

Mr. MOFFATT. That is the way it reads; it says: "Q. Who penned this letter to the President?—A. I wrote it myself.

"Q. From Memphis?—A. Yes, sir; I wrote it, and Mr. Van Benthuyzen was to sign it."

The WITNESS. But in the next sentence I am made to say that he did sign it.

Mr. RANNEY. The name was to be attached to it?

The WITNESS. Yes, that is what I said. In the third line from the bottom, on page 191, I am made to say that Mr. Van Benthuyzen was in Washington at that time and went with me to the Department of Justice. He was not in the city at the time. If you look at the answer you will see that the question was put.

Mr. RANNEY. This is the question: "Didn't you and Mr. Van Benthuyzen go up and see Mr. Goode and ask him if he had received the papers?—A. Yes, sir."

The WITNESS. Yes, but he was not in the city at all, and I did not intend to say that he went with me.

Mr. MOFFATT. Probably you were referring to Mr. Huntington?

The WITNESS. Yes, probably it was Mr. Huntington.

Mr. HALL. How do you change that?

Mr. RANNEY. This has been stereotyped, so that it will have to go in as a correction. That was the 2d of September when Mr. Van Benthuyzen was not here.

The WITNESS. Then Senator Harris went with me.

Mr. OATES. You can just say "no" to that.

The WITNESS. Yes, but Senator Harris went with me at the time.

Mr. RANNEY. The next question says that Senator Harris was with you.

The WITNESS. Well, that is what I thought. It was a mistake if I said Mr. Van Benthuyzen went.

Mr. OATES. Strike out "yes" and say "no."

Mr. RANNEY. No, I would not do that. You get it as he says.

The WITNESS. In the second paragraph from the bottom of page 192, I stated that no application to bring suit in the name of the Government had ever been referred to the Interior Department. I stated that only two or three had ever been so referred, and I arrived at this conclusion from an examination of the register of the Department of Justice, but I did not look at the original applications upon which it seems by the testimony of General Clay that many such applications were so referred. I want to put in that correction in justice to myself, because I had stated in my argument before the Secretary of the Interior, and I stated to the committee, that it was not the custom of the Department of Justice to send these things to the Interior Department. But after General Clay testified here, I examined and found upon the original applications that it had been done upon some sort of applications, but on the register in the Department there is no reference to it at all. I had not examined them.

Mr. RANNEY. Mr. Clay swears that he found only one instance where it was not referred.

The WITNESS. I had not examined the original applications, but simply the register, and that is the way I was led into that mistake.

Mr. HALL. You were governed by the register, and not by the applications?

The WITNESS. Yes, and I was led into that mistake.

Mr. RANNEY. You want to say simply that you were mistaken about that?

The WITNESS. Yes, and to state the way I happened to be led into it. In line 16, on page 193, I am made to say that Senator Harris was present when certain instruments were being made—these telephone instruments at Dr. Rogers's house. I said they were being operated, not being made there. That is when they were testing them.

Mr. HALL. You probably used the word "experiments" instead of "instruments."

The WITNESS. Yes, sir. In line 24, on page 213, I am made to say that I found my reputation, etc. It should be "felt" my reputation. It comes in this sentence: "Q. Didn't you have curiosity enough to inquire what it related to?" My answer is, "Not the slightest."

Mr. HALL. It is about one-third of the way down the page.

The WITNESS. I was asked if I didn't have curiosity enough to inquire what it related to—that is curiosity about certain letters, and I said, "not the slightest. I felt my reputation was above anything of that sort." It is in the print here, "found my reputation." I want to strike out that word and insert the word "felt."

Mr. RANNEY. You want to substitute "felt" for "found?"

The WITNESS. Yes, sir. In paragraph 7, on page 226, I am made to say that we were conferring every day from the 30th of July to the 7th of August. I did not mean to say that the conference lasted up to the 7th of August, but during the time the gentlemen with whom I conferred remained in Washington. But I find now from the register of the hotel, that Colonel Gantt left on the 1st of August, and Mr. Van Benthuyzen and Mr. Huntington on the 4th of August. Colonel Gantt left the hotel the same day that I did.

Mr. RANNEY. And Mr. Von Briesen left on the 31st.

The WITNESS. I do not know; he did not stay at that hotel.

Mr. RANNEY. He says he left on the evening of the 31st.

The WITNESS. I think he did. On page 227 it would be inferred from my answer that I sent two telegrams to Mr. Van Benthuyzen at New Orleans, but I did not send but one. It is on page 227, near the top of the page.

The CHAIRMAN. You say here you sent only one.

The WITNESS. It would appear from the question that I had sent one previous to that. That is the way the question reads.

The CHAIRMAN. You say "only one; I have not sent any since."

The WITNESS. That would infer that I had sent one before. I never did send but one. The inference would be that I had sent one previous to that time.

Mr. OATES. You want to strike out, then, "I have not sent any since"?

The WITNESS. Yes; or you might say, "I sent but one." On page 231 it appears that I said in respect to Mr. Van Benthuyzen's letter to the Attorney-General of the 12th July that I never heard of its being withdrawn until long afterwards. That is true, but I advised the abandonment of the suit as there asked for, but did not particularly advise the withdrawal, as a matter of fact, of the letter, as I remember.

Mr. RANNEY. What part of page 231 are you referring to now?

The WITNESS. It is about the middle of the page. It is in answer to a question which says, "You did not know of it from the time you came there until you left?—A. I never heard of it until long afterwards." I never heard of the actual withdrawing of the letter, but I advised the abandonment of that character of suit.

Mr. RANNEY. Do you mean to say that you do not know now that the letter was withdrawn?

The WITNESS. I did not know actually of the withdrawal of the letter until long afterwards.

Mr. RANNEY. Right there—perhaps the question may be admissible. It was said by Mr. Von Briesen that he asked for the withdrawal of it on the 31st in that interview.

The WITNESS. I do not remember hearing anything about it. He may have done so.

Mr. RANNEY. Mr. Van Benthuyzen and Mr. Von Briesen both said so.

The WITNESS. It seems they were there the day before I was there; I do not know what occurred then; I heard nothing about it at the time I was there.

Mr. RANNEY. Mr. Von Briesen was not there the day before.

The WITNESS. Well, I do not know anything about it. I was only there once. On page 234 I am made to say that General Luke Wright and Colonel Gantt, in their conferences with Mr. Van Benthuyzen and Mr. Beckwith, in Memphis, were acting for our company.

Mr. RANNEY. It says: "You and Gantt and Wright were the attorneys of your company?—A. Yes, sir."

The WITNESS. I only meant to be understood that they were our attorneys at that time, but not specially authorized to act in that matter. At page 238, in speaking of bringing models from Pittsburg, I am made to say that they were brought by Mr. Beckwith. That is incorrect. They were brought by Mr. Van Benthuyzen. On page 239 I am made to say that I did not think the Government had the power to bring suit without a special statute. I did think the Government had power to bring it without a special statute.

Mr. HALL. You want to strike out the words "did not"?

Mr. OATES. Yes; the word "not."

Mr. RANNEY. His correction of the fact will fix it. We cannot strike out; it has to go in as a correction. He now says that that is a mistake.

The WITNESS. Now, here is a very unimportant matter to the committee. I am made to say on page 291 that I am "heeled." I do not think I ever made use of any such slang as that. If I did I ask the committee to strike it out.

Mr. RANNEY. It says, "On the law of this case I am 'heeled.'"

The WITNESS. I would like the committee to strike it out. It is a vulgarism that I am not in the habit of using. On page 300 I am made to say that I had no idea the President would order a suit to be brought. It should be that I had no idea about it at all.

Mr. RANNEY. It says here: "Q. What reason had you to suppose that the President of the United States, without any precedent in that regard, would order the Attorney-General to commence that suit?—A. I did not suppose he would do it." Right

there, if I recollect right, in the interview of the 31st of July one of the witnesses said that you remarked that the Attorney-General was right.

The WITNESS. That is a mistake; that was Colonel Gantt. I do not think I said a word at all; I do not remember saying anything. I think that remark was made by Colonel Gantt. I am made to say that I had no idea that he would do it. I meant to say that I had no idea on that subject.

The CHAIRMAN. It says here "I did not suppose he would do it."

The WITNESS. That is incorrect. I had formed no conclusion about it at all. I had supposed that if an officer of the Government declined to execute a law or perform any official duty, that it would be within the power of the President to instruct or direct him to do it in some way. That is the general idea I had about it; I had formed no conclusion about it. On page 316 I am made to say that I was introduced to Professor Gray by Mr. Von Briesen. That should have been Mr. Van Benthuyzen. Mr. Von Briesen was not here at the time.

Mr. RANNEY. What part of the page is that?

The WITNESS. It is the second line from the top of page 316. It will be found that I say there that I was introduced to Professor Gray by Mr. Von Briesen; it was Mr. Van Benthuyzen; that was the mistake of the stenographer, I think; the names sound something alike. On page 327, I am made to say that I had shown the agreement between myself and Mr. Van Benthuyzen to all the members of our company; I do not think I said I had shown it; I meant to say I had told them all about it.

Mr. RANNEY. What page is that?

The WITNESS. On page 327.

Mr. OATES. Read the beginning of the paragraph.

The WITNESS. I am asked, "Don't you think you did do it?—A. Yes, to those I saw; but we had no meetings of the board of directors; I know I communicated it to Senator Harris, to Dr. Rogers, to General Johnston, and to everybody I saw." Wherever the word "shown" occurs, I desire to change it to the word "told."

Mr. OATES. How does the paragraph begin; who is questioning?

The WITNESS. I am asked, "Q. Now, what I want to know is"—

Mr. OATES. Who were you asked by?

The WITNESS. I think by Mr. Ranney. I do not see the name for some pages back. I will commence on the bottom of the page at page 326, and you will probably get the sense of it. Here is a question propounded to me: "Q. Now, what I want to know is whether, having done that, having made such an arrangement as that, verbal or in writing, yourself, without previous authority from the directors, and without their present concurrence, would you not consider it your duty to communicate what you did do to your codirectors for their sanction or rejection?—A. Undoubtedly. Q. Don't you think you did do it?—A. Yes; to those I saw. But we had no meetings of the board of directors. I know I communicated it to Senator Harris, to Dr. Rogers, to General Johnston, and to everybody I saw." Somewhere I am made to say that I showed it to everybody. I do not remember that I showed it to anybody. I want to say I told them.

Mr. OATES. This says "communicated."

The WITNESS. Well, in one place I say it was shown. I meant to say that it was told.

Mr. RANNEY. I do not find any such thing, where you say that you showed it. But you make the correction that you did not show it.

The WITNESS. Yes; I did not; I only told them.

Mr. RANNEY. Do you mean by that that you told them it embraced the Government suit?

The WITNESS. No, sir; I do not think I ever did, for that had passed entirely out of my mind. I had no recollection that it embraced anything about it until Mr. Van Benthuyzen showed it to me, and I was greatly surprised to find it in there; I had forgotten all about it. On the same page, page 327, in reference to this agreement before, it would appear that I was speaking of the supplementary contract. But I was not; I was alluding to the agreement of August 4, and you will find on the succeeding page that that was stated in the further examination, somebody asking me which I was referring to, and I said the one of August 4, and not the one of August 27. I had no conversation with anybody about the agreement of August 27 until I came before the committee, that I remember, for I had forgotten all about it until I found it in my trunk. It was the first agreement that I was speaking of, the one of August 4 and not of August 27.

The CHAIRMAN. What page is that?

The WITNESS. I do not find it on the page now, but I desire to make that correction. When I was speaking of showing the agreement to any of my associates, I was referring to the agreement of August 4 and not to the one of August 27. If you will look at the top of page 330 you will see that explained in answer to a question of Mr. Ranney's. I will just read those questions there and that will explain what I am trying to arrive at: "Q. Was an agreement made in Washington?—A. Oh, yes, sir; that

agreement was. This was not; this was made in Memphis. Q. This is the one I mean.—A. I never mentioned it to a human being until I found it the other night. I had forgotten all about it, as I have explained.” That is speaking of the one of the 27th of August. Previous to that time the answers and questions would lead to the conclusion that I was speaking of the latter instrument when I was speaking of the former one. On page 186 it appears that I said I had talked to a number of members of Congress about buying and selling stock, etc. That is incorrect to this extent: I do not remember that I ever said anything to any member of Congress about his buying stock or my selling stock. I had general conversations with them, but it was not in reference to buying and selling stock, except the conversation with Mr. Dunn that he referred to the other day. I talked with them, but never offered to sell them stock.

Mr. RANNEY. You remember what Mr. Payne, of New York, said?

The WITNESS. Oh, yes, I remember his conversation. I never offered to sell him any. I met him in private, confidential intercourse, and had conversation with him, but my memory is not so accurate as to recall what it was.

The CHAIRMAN. My recollection is that he did not state that you offered to sell him stock.

Mr. RANNEY. I think he said you offered to let him in “on the ground floor.”

The WITNESS. Well, some such conversation may have occurred; I do not remember it. On page 277 I am made to say, when the question was asked me, if I told the Attorney-General of an agreement between myself and Mr. Van Benthuyzen, that I did.

Mr. RANNEY. On what part of page 277?

The WITNESS. It must be a mistake in my reference. I do not see it on page 277 at all. But wherever it does occur, I am made to say that I told him about the agreement. It should be that I did not tell him about it.

Mr. RANNEY. Tell who about it?

The WITNESS. The Attorney-General. You asked me if I had told the Attorney-General about this agreement between myself and Mr. Van Benthuyzen, and the testimony makes it appear that I said I did. But I said I did not.

The CHAIRMAN. What page is that?

The WITNESS. I have it marked page 277, but I have no doubt that is wrong. But that is the correction I desire to make wherever it does appear.

Mr. RANNEY. ON page 276 I find this question: “Q. Why did you report it to every other director and not to Mr. Garland?—A. I never spoke to Mr. Garland about it since he has been Attorney-General. Q. Why?—A. I will tell you the reason, if you will allow me to do so. I did not desire to talk to him at all about this matter after he was Attorney-General, and never did.”

The WITNESS. You will find somewhere there that I said I did, but it should be that I did not.

Mr. RANNEY. I think you are in error about that.

The WITNESS. Well, if I said I told him, it was a mistake.

Mr. OATES. Let me call your attention to language on page 323. You had been questioned by Mr. Ranney about the board of directors of the Pan-Electric Company, to whom you communicated a knowledge of that agreement entered into with Mr. Van Benthuyzen, and in answer to a question by Mr. Hall you say, speaking of seeing Mr. Garland, “If I had seen him, it is possible I might have mentioned it to him.” Do you mean to say there that you *might* have or *would* have mentioned it to him?

The WITNESS. I meant that possibly if I had met him anywhere I might have mentioned it to him.

Mr. OATES. You do not mean to say that you probably did?

The WITNESS. No, sir.

Mr. OATES. You mean to say that you *would* probably have mentioned it to him?

The WITNESS. No, I do not mean that I would, but that I might have done so.

Mr. OATES. The way it reads now, that part of it reads that you might possibly or did possibly.

Mr. RANNEY. It says here “there were seven directors, and four would be a majority. If I had seen him, it is possible I might have mentioned it to him, but I never saw him during this time at all.”

Mr. HALL. That means if you had met him you would have spoken to him about it?

The WITNESS. I do not think I should.

Mr. HALL. But did you?

The WITNESS. No, sir; I did not. I did not see him at all. In fact I never thought about mentioning it to him. I had no conclusion about it in any way.

Mr. RANNEY. You say down below there, in answer to my question: “If you had a reason for withholding it from Mr. Garland you will tell what it is?—A. No, sir; I did not have any reason for withholding it, and I did not withhold it any more than I withheld it from you.”

The WITNESS. I meant by that that I did not see him, and had no conversation with him.

Mr. RANNEY. The next question is this: "If you had any reason for not giving him the information, state what it was.—A. With the greatest pleasure in the world; I did not see him."

The WITNESS. That was one of the reasons. On page 331 I speak of the Bell Telephone Company as controlling the courts. I do not want to be understood by the committee or the country—

Mr. RANNEY. Where on the page?

The WITNESS. It commences with the long paragraph. The question was asked by Mr. Hanback. It is within that paragraph.

Mr. OATES. What is it?

Mr. HALL. The answer is: "I had not become satisfied that it had become such a monopoly that it controlled the newspapers of the country and the courts."

The WITNESS. I do not wish to be understood by the committee or by the country as intimating—

The CHAIRMAN. It seems that question had been asked before, and Mr. Hanback called your attention to it. It was read as an answer to a previous question.

The WITNESS. I suppose I may put in the correction here as well as anywhere else. I just want to say that I did not mean to intimate that any court had been controlled by corrupt means used upon the court. What I meant was, that the courts had been imposed upon, in my judgment, by collusive records. I did not mean that any court had been bought or that any judge had been corrupted.

Mr. OATES. It is explained here: "I was asked that the other day, and I stated, I believe, that I had no facts in my possession that I could prove; but there is such a belief."

The WITNESS. That is about the newspapers, I believe.

Mr. OATES. It goes on: "I think I have facts now that do authorize me in making the statement, and when the proper time comes I propose to submit those facts to the committee."

The WITNESS. That is about the newspapers.

The CHAIRMAN. That relates to the courts too; the newspapers and the courts.

The WITNESS. If any inference could arise from that statement that I meant to include the courts or the judges of courts in any corrupt or collusive combination or conspiracy, I will say that I did not mean anything of that sort. I believe the judiciary is honest. I think judges may be imposed upon and misled and deceived, but I do not believe the Bell Company or any other company have bought any judges.

Mr. OATES. What next?

The WITNESS. Those are all the corrections, I believe, that I see in my testimony. I do not think of any more. I have some testimony I would like to put in in addition to what I have testified to myself. There are some parts of this record that I think ought to go in and that have not been put in.

Mr. RANNEY. What record?

Mr. YOUNG. The record before the Interior Department. There are other things in the record that I think as pertinent to the inquiry, and perhaps more so than those extracts which have already been included, and I think it is but fair that the others should also be embraced. I call the attention of the committee to it, and I ask that these extracts from the record shall also go in. Here are certain facts—

Mr. RANNEY. Do not recite the facts.

Mr. YOUNG. I am going to state what I am going to put in. I will ask the stenographer not to put it down, and I will state what it is.

Mr. RANNEY. Identify it by the page of the record.

Mr. YOUNG. There are three or four things on the page. It is not a fact I am going to state. There are certain things—

The CHAIRMAN. If you want to make any offer to the committee let it go down.

Mr. YOUNG. I want to offer facts admitted during the hearing before the Interior Department that appear in this record on page 391. If you will permit me, I will read it.

Mr. OATES. It is the best way, so that we may know what it is.

Mr. RANNEY. If you want to put in a part, the whole should go in.

The CHAIRMAN. We have a part already.

Mr. YOUNG. I want to put this in.

Facts admitted during the hearing.

That in the cause of the American Bell Telephone Co. *et al.* vs. The Pan-Electric Telephone Co. and the Rogers Telephone and Telegraph Co. of Pennsylvania, in the U. S. district court for the eastern district of Pennsylvania, at Philadelphia, the bill was dismissed, upon proof and argument, as to the Pan-Electric Telephone Co., for want of jurisdiction of the court over said company.

That in the cause of the American Bell Telephone Co. *et al. vs.* the Pan-Electric and Washington Telephone *et al.* in the U. S. district court for the eastern district of Maryland, at Baltimore, there had been no service upon any officer or agent of the Pan-Electric Telephone Co., and that no proceeding had been taken and no order made as to said company.

That during the hearing of this matter before the Secretary the American Bell Telephone Co. has instituted suit in the district court of the U. S. for the eastern district of Louisiana, at New Orleans, *vs.* The National Improved Co.

And that the American Bell Telephone Co. has also brought suit during the hearing against the Globe Telephone Co., in the U. S. district court for the eastern district of New York; but it was explained by the counsel of the American Bell Telephone Co. that these suits had been directed before the commencement of the proceedings now pending before the Hon. Secretary of the Interior.

That is all of that. I want to put in also the pleas offered in the suit of the Pan-Electric Telephone Company against the American Bell Company in the United States circuit court for the western district of Tennessee.

Mr. EDEN. Is that in the record before the Interior Department?

Mr. YOUNG. Yes; the pleas put in by the American Bell Telephone Company. They are as follows:

[United States circuit court, western district of Tennessee. The Pan-Electric Telephone Company *vs.* The American Bell Telephone Company *et al.*]

I, C. W. H. Heiskell, hereby move to strike out and set aside so much of the marshal's return as purports to relate to the American Bell Telephone Company, and to dismiss the bill as against them for want of jurisdiction and for want of service; and in support thereof, I refer to the annexed affidavits of Henry N. Cook and William H. Forbes, and I appear specially for that purpose only.

[Endorsed. No. 397.]

Circuit court of the United States, western district of Tennessee. Pan-Electric Telephone Company *vs.* American Bell Telephone Company *et al.* Motion of defendants. Filed Sept. 7, 1885.

BELL W. ETHERIDGE, *Clk.*
W. B. WEISINGER, *D. C.*

Affidavit of Henry N. Cook.

Henry N. Cook, being duly sworn, deposes and says:

I am the Henry N. Cook named in said bill, and in the marshal's return of service, as appears by his return, a copy whereof is annexed; no service was attempted to be made on the American Bell Telephone Company, except by leaving a copy of the subpoena with me, and it is not alleged in said return that said the American Bell Telephone Company was an inhabitant or resident of or found in this district by the marshal.

Said the American Bell Telephone Company is, as I am informed, a corporation chartered and formed by virtue of the laws of Massachusetts.

I am not the manager nor agent of said the American Telephone Company, nor an officer of that company, and I never have been; I am not employed by it and never have been.

When the subpoena in this case was left with me the marshal asked me if I was manager of the American Bell Telephone Company, and I said that I was not.

H. N. COOK.

Subscribed and sworn to before me this Sept. 7, 1885.

W. B. WEISINGER, *D. C.*

The CHAIRMAN. Why do you offer that?

Mr. YOUNG. Perhaps the committee may decide it to be irrelevant, but I will state the object I have in view and the reason why I think it is exceedingly pertinent. It has been maintained throughout this whole inquiry that the American Bell Telephone Company was ready to litigate all these questions in a private suit and we could have settled them in that way. They have been running away from private suit ever since we filed the bill, by dilatory pleas. We have not been able to get a hearing yet. I want to put it in for that purpose, and I think it is competent; if the committee do not, very well.

Mr. RANNEY. The party pleaded to the jurisdiction, in pursuance of their rights.

Mr. YOUNG. Exactly; like we did in Pennsylvania and Baltimore.

Mr. RANNEY. That was a suit not to test their patents, but a suit to restrain them from slander of title.

Mr. YOUNG. And also to annul their patents. It was not alone for slander of title.

Mr. RANNEY. In your testimony you said your own opinion was that the suit could not be maintained.

Mr. YOUNG. I do not know. I am not the judge. Here is what the court said.

Mr. RANNEY. Were you going to try to vacate a patent by bringing a bill to restrain them from slander of title?

Mr. YOUNG. That is another feature of the bill. The statute under which it was filed authorized the annulling of the patent. The other was an incidental feature.

Mr. RANNEY. You say the statute authorized the annulment of a patent in a bill like that?

Mr. YOUNG. Yes. I believe it is the 16th section. I don't remember. It is the law that authorizes a judge to annul patents upon sufficient evidence that they have been improperly or fraudulently issued. That has been actually done in a number of cases.

Mr. RANNEY. Is there a statute of that kind?

Mr. YOUNG. Oh, yes. Judge Treat in St. Louis——

Mr. RANNEY. I would like to see that statute. My judgment is that if the law so provides, that is the exclusive mode.

Mr. YOUNG. If you have my brief there, you will see that that question was discussed before the Department of the Interior. It was insisted by Mr. Storow that that was the exclusive remedy, but after a full discussion of the question and an examination of the authorities the Secretary of the Interior thought differently.

Mr. RANNEY. I should like to have you refer me to that statute.

Mr. YOUNG. If anybody will go up to the Library——

Mr. RANNEY. It must be in the Revised Statutes.

Mr. YOUNG. I will hand it to you to-morrow. I have a little pamphlet containing it.

Mr. RANNEY. It is a law the Judiciary Committee did not have under consideration, and it has not been called to my attention.

Mr. YOUNG. It is unquestionably the law.

Mr. RANNEY. That is the law to annul patents?

Mr. YOUNG. In that way. The law expressly provides. It only takes effect as between the parties to the suit—the immediate parties. It does not affect anybody else but the immediate parties to the suit. That is the express provision of the statute.

Mr. RANNEY. It does not annul the patent?

Mr. YOUNG. Oh, yes; there is no doubt about that.

The CHAIRMAN. It does not annul the patent as to all the world?

Mr. YOUNG. Oh, no; not as to all the world. I mean as to the parties. It provides for annulling the patent as between the parties to the suit.

Mr. OATES. I would like to see it.

Mr. YOUNG. I will bring it here. Now, I want to offer the marshal's return.

Mr. OATES. What is the use in putting that in?

Mr. YOUNG. I do not know as that is necessary. Here is the affidavit of W. H. Forbes, on page 398:

Affidavit of W. H. Forbes.

[United States circuit court, western district of Tennessee. The Pan-Electric Telephone Company vs. The American Bell Telephone Company, et al.]

William H. Forbes, of Milton, Commonwealth of Massachusetts, being duly sworn deposes and says:

I am the president of the American Bell Telephone Company named in said bill and in the marshal's return of service. Said the American Bell Telephone Company is a corporation chartered and formed by virtue of the laws of said Commonwealth of Massachusetts, as appears by said return; service was attempted to be made on said company by leaving a copy of the subpoena with one Henry N. Cook. The said Henry N. Cook is not now, and was not at the time that the subpoena was left with him, nor at any time theretofore, the manager or agent of said the American Bell Telephone Company, nor an officer of said company; and he is not now and never has been employed by said company in any capacity whatsoever; and he is not now and never has been, either directly or indirectly, authorized or empowered to act for or represent said company in any matter or regard whatsoever.

WILLIAM H. FORBES.

COMMONWEALTH OF MASSACHUSETTS, County of Suffolk, ss:

BOSTON, Sept. 2, 1885.

Subscribed and sworn to by the said William H. Forbes before me.

[SEAL.]

PHILIP S. STONE,
Notary Public, Suffolk County.

Mr. RANNEY. Have you got through with that matter?

Mr. YOUNG. That is all.

Mr. RANNEY. Did you ever try that question of jurisdiction?

Mr. YOUNG. At Memphis?

Mr. RANNEY. Yes.

Mr. YOUNG. No, sir. It has never come up for a hearing. I have been away most of the time.

Mr. RANNEY. They put in a plea which you never tried.

Mr. YOUNG. The court has never heard it. The death of Judge Baxter has delayed business down there recently, and before his death Mr. Storow was——

Mr. RANNEY. Is that suit on the docket now?

Mr. YOUNG. Yes, sir. Mr. Storow and Mr. Dickerson have been down at New Orleans arguing a suit there for two or three months, and I presume those things combined have kept the case being heard. I have not been at home myself. On page 400 I desire to offer a letter from the chief clerk of the Interior Department to myself in reference to the issuance of the Bell patent. It is a part of the record considered in the Interior Department, a letter directed to me, giving a history of the successive steps taken in the issuance of Bell's patent. It is in answer to a letter which I addressed to the Commissioner of Patents, asking for that information.

Mr. HALL. Let us have it.

Mr. EDEN. Whose letter is it?

Mr. YOUNG. A letter from the chief clerk of the Patent Office.

Mr. RANNEY. Is it understood that the committee is admitting this evidence?

The CHAIRMAN. No question has been raised on it.

Mr. MOFFATT. I do not see its relevancy.

Mr. OATES. It is like a great many other things that have come in.

Mr. EDEN. The letter can be read.

Mr. RANNEY. I only ask whether we are admitting it or not.

Mr. EDEN. Let it be read.

The CHAIRMAN. Do you make any objection?

Mr. OATES. It will be subject to any motion to rule it out afterwards.

Mr. YOUNG. I can state before I read it why I think it is pertinent, and if the committee differ with me they can rule it out without the trouble of hearing it.

Mr. OATES. You had better go ahead and read it, and let us judge.

Mr. YOUNG. The letter is as follows:

DEPARTMENT OF THE INTERIOR, UNITED STATES PATENT OFFICE,
Washington, D. C., November 24, 1885.

SIR: The Commissioner instructs me to say in reply to your letter of yesterday's date that an examination of the records in the matter of letters patent No. 174465, granted to Alexander Graham Bell, shows that the application was filed in this office on February 14, 1876, and reached Examiner Wilber on that day, and it is presumed that it was entered upon his register immediately after its receipt by him, although the records do not disclose this fact. The application appears to have been considered by him February 19, 1876, and was submitted to Commissioner Spear February 24, 1876, and was considered by the Commissioner and returned to the examiner February 25, 1876. It was passed by the examiner to issue March 3, 1876, and was countersigned, by authority of the Commissioner, on the same day. The circular of allowance was issued March 3, 1876, the final fee was paid March 4, 1876, and the patent was issued March 7, 1876. As to what date the proof was examined in this office, the records do not disclose. No model of the apparatus covered by the patent named appears to have been filed in this office.

Very respectfully,

SCHUYLER DURYEE,
Chief Clerk.

Hon. CASEY YOUNG,
Ebbitt House, Washington, D. C.

Mr. YOUNG. I also desire to insert from the record before the Interior Department, commencing on page 403 and extending to page 406, a list of the cases taken from the records of the Department of Justice, in which suits have been ordered by the Government.

Mr. EDEN. We have that, I believe.

Mr. OATES. We have that information already.

Mr. YOUNG. You haven't this.

The CHAIRMAN. It has not yet gone in. We have a list partly prepared. The Department of Justice is to furnish us further information.

Mr. EDEN. Where was it prepared?

Mr. YOUNG. It was prepared at the Department of Justice and sent to the Department of the Interior and considered by them in connection with the question of the propriety of bringing the suit.

Mr. RANNEY. Our examination here shows that the list is erroneous.

The CHAIRMAN. The purpose is to put in a fuller statement of those cases than that.

Mr. YOUNG. If it is a fuller and more correct statement it would be proper, of course. The inquiry was directed to the reason for instituting the suit.

Mr. RANNEY. I have no objection to putting it in to show what an incorrect statement they made.

Mr. YOUNG. I do not deem it important enough to insist upon it. I submit it to the committee.

Mr. OATES. We have enough trash in now.

The CHAIRMAN. We will put it in in better shape than that.

Mr. RANNEY. It might go in to show the incorrect statement made by the Department of Justice at that time.

The CHAIRMAN. We are not concerned about that.

Mr. YOUNG. I want to put in, commencing at page 406 of that record, the statement of Gen. Duncan Walker, in reference to the torpedo and barbed wire cases.

Mr. RANNEY. Those we have got in now.

Mr. YOUNG. No; you haven't them in the shape that they are in here. You haven't a history of them, the action of the Department and summary of those two cases, as to the suits that have been brought and the questions that have been considered in connection with those two patents. Suit was instituted by order of the Government in those cases. I deem the evidence exceedingly important in this inquiry, and I desire it to go into the record. It commences on page 406 and terminates on page 431. I deem the accompanying exhibits quite as important as the statement. Those were two parallel cases to this one.

The CHAIRMAN. What is the purpose?

Mr. YOUNG. The purpose is to show to the country and to Congress the authority for bringing this suit, and the strongest precedents that can be found in the judicial history of the country. It is a parallel case with this case precisely in all its steps excepting the investigation by Congress. They did not get that far, but they did everything else in those two cases that has been done in this case, except to have an investigation by Congress. The same effort was made to defeat the suits.

Mr. RANNEY. That was the one where Gen. Butler settled it after he got the use of the Government name.

Mr. YOUNG. One of them.

Mr. RANNEY. Just as you wanted to do.

Mr. YOUNG. If I could have done it on the same terms Gen. Butler did, I would have done the same thing. I think he did perfectly right. I would like to have this statement and the accompanying exhibits go into the record. I deem them important. They are pretty long, and if the committee does not desire to hear them read, the stenographer can take them without reading.

The CHAIRMAN. Has this statement been verified in any way?

Mr. YOUNG. Gen. Walker's statement?

The CHAIRMAN. Yes; what makes it testimony?

Mr. YOUNG. My impression is that he has sworn to it, but that is a matter of little concern. There have been a hundred things put in here unsworn to—letters, telegrams, and newspaper articles and everything else.

The CHAIRMAN. They were put in as the writings of parties to be affected.

Mr. HALL. This information appears in the record as having been before the Secretary of the Interior, to affect his action.

Mr. YOUNG. Yes; it was used in the same way, and furnishes the very strongest reason why he should have come to the conclusion he did, when we come to read it.

Mr. HALL. The materiality and propriety of the Secretary's action may be shown by the paper.

The CHAIRMAN. It is given in evidence as one of the papers before the Secretary of the Interior?

Mr. YOUNG. Yes.

The CHAIRMAN. On which he advised the bringing of this suit?

Mr. YOUNG. Yes, and the accompanying documents.

Mr. MOFFATT. The whole record is admissible on that ground as evidence on which the Secretary acted.

Mr. YOUNG. If I may be permitted to express an opinion on the subject, I think none of this record should have gone into your record.

Mr. RANNEY. I suggest, in regard to the Walker matter, that we had all the papers here in that case, and the facts were gathered from those papers and put in.

Mr. YOUNG. Only the Attorney-General's letter was put in.

Mr. RANNEY. We put in Walker's letter also, I think.

Mr. YOUNG. I did not see it.

Mr. RANNEY. We put in all that was deemed material at that time as showing

what sort of case it was, and why it was the only case that was not referred to the Interior Department.

Mr. EDEN. I think no attention was called to this particular document that Mr. Young refers to.

Mr. YOUNG. It is material in this view, I think, if the gentleman will allow me to make a little statement without having it taken down: We have been arraigned before the country as resorting to an unusual and extraordinary method, and it is claimed that there is no precedent in the whole history of the Government to warrant such a proceeding. Here are two cases where precisely the same steps were taken; where a suit was ordered upon a mere application or letter of an attorney. After it was ordered the parties to be affected by it, the patentees, came forward and protested against that suit being prosecuted, just as has been done in this case. They asked to be heard, and they were accorded a hearing, just as they were before the Interior Department. They employed three of the ablest patent lawyers in this country—Mr. Crowley, Mr. Conkling, and Mr. Harding. The matter was argued for two or three weeks elaborately, and after that argument occurred the same course of proceeding was had as in this case. Suits were directed to be proceeded with. The evidence is exceedingly important in justification of our conduct, if it is to be criticised.

Mr. HALL. What is the date of the proceeding?

Mr. YOUNG. It is a very recent one.

Mr. OATES. Mr. Chairman, I do not think we should admit any evidence merely because somebody has been arraigned before the country.

Mr. YOUNG. What is this inquiry for?

Mr. OATES. I am speaking to the chairman now. I think as we are to inquire concerning the suit or suits that have been brought and the expenditures of the Department, that anything that will throw any light on the matter should be admitted in that view. We have had some of it admitted already, and I move that this go along in as a part of the history of the case.

Mr. EDEN. I understand it is a document which was before the Interior Department. I have not examined it at all. If so, I think, if it has any bearing on the case, it should go in.

The CHAIRMAN. I hesitate to hold that the papers—

Mr. HALL. Before you speak, I want to say that this investigation involves the order of the Secretary of the Interior. It involves the question whether it was brought about by improper influences. A good deal of evidence has been introduced tending to show that there was some secret or hidden motive behind his action. Here is a proceeding that was had just immediately preceding the one involved in this suit, and it appears by the record that the matter was brought directly and immediately before the Secretary of the Interior as a precedent and as a justification for the action proposed. It is a fact that must have gone into his consideration in making the order. It tends to show whether it was a proper order or an improper order, and consequently it must of necessity be competent evidence.

Mr. OATES. Parts of it have been admitted from the original papers.

The CHAIRMAN. As a case which has been passed upon by the Department of Justice and the Interior Department, this would stand upon an equality with the other eight or nine or ten cases, and would be admissible upon the same ground. But I want to say that I would hesitate to hold that it is admissible simply because it was submitted to the Interior Department at the time of this hearing. If that is sufficient reason, then these two volumes could be put in bodily, because they are made up of papers which were before the Department at that time. I would not hold that they were admissible because they were produced before the Interior Department; but it has occurred to me that the mere statement of Gen. Walker, although inspected by the Interior Department, is not evidence, and would not be the correct way of proving what had been determined by those two Departments or either of them. That ought to be proved, if the question is raised, as the proceedings in the other cases were proved. I do not think it would be well to hold here, at this stage of the investigation, at all events, that a paper is to be admitted simply because it was before the Secretary of the Interior. I hold that the facts in the torpedo case may be given in evidence as showing what had been the practice before the bringing of the Government suit that we are now inquiring about. If there is no objection as to the manner of that proof, these papers can go in.

Mr. EDEN. I have not examined the papers, so that I am not prepared to speak on the subject.

The CHAIRMAN. I will not hold that these two volumes could be given in evidence.

Mr. RANNEY. We have put in a part already.

The CHAIRMAN. If there is no objection made to the method of proving it the paper can go in.

Mr. RANNEY. If you do not admit it on that ground I shall make objection, because we have already put in what was deemed important in that book.

The CHAIRMAN. Upon what ground?

Mr. RANNEY. As being a part of the proceedings before the Secretary of the Interior.

The CHAIRMAN. The gentleman ought either to make an objection that he thinks is a good one, and that he is ready to stand upon, or he ought to let it go in. I do not want to make a conditional ruling.

Mr. RANNEY. On the ground you admit it I shall object to it as incompetent proof, and I do it because a part is already in.

The CHAIRMAN. I do not understand there is any objection to the method of making this proof, and therefore I hold the papers are admissible, and are in evidence.

Mr. RANNEY. I object on that ground.

The CHAIRMAN. If the objection is made that the facts in regard to the case are not properly proved, I shall sustain the objection.

Mr. RANNEY. I make the objection.

The CHAIRMAN. The objection is sustained.

Mr. HALL. I appeal from the decision of the chair. I want that record that has been offered introduced in evidence, and I want to make this statement—

The CHAIRMAN. I will first state the question. From the ruling of the chair the gentleman from Iowa (Mr. Hall) appeals, and the question is, Shall the decision of the chair stand as the judgment of the committee?

Mr. HALL. The point I make is that examination has been made again and again to show what was before the various Government officers in making their decision. When Mr. Goode was on the stand his attention was called with great detail to the cases he had before him and he considered, and to cases he did not have before him; and he was asked if he did not know about this case and about that case. The whole direction of the examination was with reference to whether the order of the officer was in the ordinary course of business and supported by proper precedents. Here is the order of the Secretary of the Interior, which is one of the orders that we are investigating. There has been a great deal of evidence as to what procedure was had and the matter involved. I hold with reference to that feature of his order that it is proper to show what precedents he had before him, and whether it was in accordance with a very recent precedent, which had received more or less consideration.

Mr. EDEN. Mr. Chairman, without having examined the paper itself I would not feel disposed to vote to overrule the decision of the chair. The others may have read it. I have not.

The CHAIRMAN. I have not examined the paper. I only speak of the manner in which it is authenticated.

Mr. HALL. It is not introduced necessarily for the purpose of establishing facts. It is like any other authority. I may take a decision of the Supreme Court and introduce it here for the purpose of establishing the law or precedents as founded upon a given state of facts. It would not be introduced for the purpose of proving the facts stated as the foundation of the opinion, but what the precedents might have been.

Mr. OATES. I think it ought to be admitted for this reason: We have all along treated the papers appearing on that record as being authentic. Mr. Ranney, the gentleman who raises the objection now, has offered several of them, which have been admitted on his motion. Now he takes advantage of an intimation of the chair that unless they are properly authenticated the chair will not admit them. I shall vote to reverse the ruling of the chair on that matter, because it is not standing alone. If he will take the question, and let it stand alone, I think the ruling of the chair right. Wherever gentlemen heretofore have wanted anything in we have admitted it, if we adjudged it to be pertinent and relevant, from that volume, as being authentic. For that reason I shall vote to admit this.

Mr. EDEN. Following the precedent with reference to the admission of other matters in that record, I will vote to admit it.

Mr. RANNEY. If we are to test the correctness of Secretary Lamar's ruling, I agree that the whole of it is competent.

Mr. OATES. Do you admit it to be correct?

Mr. RANNEY. That decision?

Mr. OATES. Yes.

Mr. RANNEY. That is asking me in advance to express my opinion, which I decline to do at this stage of the case. I suppose that is a proper subject for consideration.

Mr. OATES. This is pertinent, is it not?

Mr. RANNEY. It is admissible in that view.

Mr. EDEN. I think every document offered by Judge Ranney from that record has been admitted.

Mr. RANNEY. Only as a matter of convenience. If the province of our inquiry is to scrutinize the opinion of Secretary Lamar—

Mr. EDEN. Then, why do you object to this paper?

Mr. RANNEY. Because it was admitted in a restricted way. I said if it was admitted in the other view, I would not object to it.

The CHAIRMAN. That would have been in a restricted way also.

Mr. EDEN. I think in order to do justice all around, the other documents having been put in—

The CHAIRMAN. The trouble with the gentleman is that it is not admitted on a ground that suits him. The question before the committee is whether it shall be admitted at all, for any reason; not for the reasons given by the chair.

Mr. RANNEY. I make my objection on the ground the chair puts.

The CHAIRMAN. Shall the ruling of the chair stand as the judgment of the committee?

Mr. MOFFATT. As the gentleman wants that record in, I am perfectly in favor of its going in. I dislike to say, by voting to overrule the chair, that the reasons of the chair were not good. I think the reasons of the chair were perfectly good.

Mr. RANNEY. I agree with the gentlemen on the other side in their claim that it is admissible. I agree it is admissible on that ground. If it is put on that ground, I have no objection.

Mr. EDEN. If it is admissible on any ground, it should go in.

Mr. RANNEY. I want you to live up to the rule you adopt, that is all.

Mr. EDEN. I would not take the responsibility of voting against the admissibility of a paper I was satisfied was proper and ought to be admitted because I was afraid some other member of the committee would not vote to admit some other paper I wanted admitted. I would decide each question as it arises.

Mr. RANNEY. On the ground on which it is offered I make the objection. It is not competent for that purpose.

Mr. OATES. I do not know what it is worth.

Mr. RANNEY. It is not competent on the ground on which it is offered, as the chair rules.

The CHAIRMAN. The gentlemen knows if it is competent upon any ground, either that on which it is offered or that on which the chair puts it, that it should be admitted; otherwise it should not.

Mr. RANNEY. I have made my objection and the chair has ruled, and I shall vote to sustain the chair in his ruling.

The CHAIRMAN. The gentlemen of the committee will understand that the chair in ruling on this question is simply discharging an official duty. He is not regarding what has been done heretofore by the committee when no objection was made. The chair is merely passing upon this objection raised by Judge Ranney. If the committee think that the paper ought to go in, in view of what has heretofore happened in the course of our investigation, they will vote to admit it.

Mr. RANNEY. I wish to be perfectly fair about it, and wish to be understood. It is not captiousness on my part. The gentlemen on the other side have argued that the conduct of the Secretary of the Interior in granting this second suit is a matter that is open to our supervision and revision. That would lead to this idea, and I have had it in mind before: That either side may put in what it likes; Mr. Young may put in what he likes, and the committee have a right to put in everything on which that judgment was based. If you go into it on the ground of revising the opinion of the Secretary of the Interior, you have got to have everything in on which that opinion was based. Now, if the committee desire to go into that, then what I say is this: If it goes in on that ground of course it opens up the whole record. Mr. Young cannot be permitted to select a portion of it and put that in, but everything that bears on that issue and on the correctness of the judgment of the Secretary of the Interior should go in, and we must revise it. I am willing to go into it. I think it is open to us. I think it is within the scope of our inquiry, and further, I think the whole record is competent evidence if the committee are going to determine on the correctness of that decision or the reasons for it. That is why I make this objection. I do not mean that only a part of the record should go in.

Mr. EDEN. We have a part of it in already.

Mr. RANNEY. It has been offered. I have not heard the committee rule on it.

Mr. HALL. You have been offering fragments of the record ever since the investigation first commenced, and now after you have got in what you want you ought not to object to other parts being put in.

Mr. RANNEY. I claim that the whole record is competent.

Mr. HALL. That question has never been raised before.

Mr. RANNEY. I do not mean that you shall select a portion.

Mr. HALL. I do not mean that you shall.

Mr. EDEN. I do not understand that an appeal is to be taken from the Secretary of the Interior to a committee of Congress who is to revise his judgment. This committee is directed to inquire into the reason and authority on the part of the Government for the institution of the suit. I suppose under that provision he would have a right to see upon what ground it was ordered.

Mr. OATES. The language of the resolution in that regard is as follows:

"What contracts have been made, what moneys paid or to be paid to any person or persons as assistant counsel to the Attorney-General or Solicitor-General of the

United States, the reason and authority for constituting the United States as a party to said suit or suits, and all matters connected therewith."

The CHAIRMAN. Gentlemen, the question has already been stated. Those who favor sustaining the decision of the chair will vote aye; those opposed will vote no.

The clerk called the roll, and the vote was as follows: Ayes, Messrs. Ranney and Moffatt. Noes, Messrs. Oates, Eden, and Hall.

So the decision of the chair was overruled, and the papers were admitted.

They are as follows:

Statement of Gen'l Duncan Walker in reference to the "Roberts torpedo" and "barbed wire" cases.

On the 31st day of May, 1882, General B. F. Butler addressed the Attorney-General of the United States a letter on behalf of the citizens of the oil regions of the United States, requesting him to file a bill in equity, in the name of the United States, against Walter B. Roberts, of Pennsylvania, and others, to test the validity of the Roberts torpedo patent (reissue No. 6258), alleging the invalidity of the patent as reissued, the universal use of the Roberts method by oil producers, the multiplicity of suits brought by the patentees, "quite five thousand pending;" the "ruinous costs" charged the defendants in these cases, the "refusal of the patentees to fix any royalty for the use of their patent," and their requirement that any person who "may desire to explode torpedoes at the bottom of an oil well should use their men and their means, and pay therefor extravagant prices and exorbitant charges." General Butler tendered proof of these charges if required, but stated he did not deem this an essential element to obtain the relief sought. (Exhibit Butler 1.)

Subsequently General Butler filed, in the Department of Justice, a list of 2,113 suits brought in the circuit court of the United States for the western district of Pennsylvania by the patentees, against alleged infringers, together with a memorandum of Reuben Carroll, business director of the Oil Producers' Association, to the effect that probably half as many more suits had been commenced. (Exhibit Butler No. 2.)

At the same time he filed a printed pamphlet, signed by said Carroll, alleging the invalidity of the Roberts patent, because a patent could not be legally issued covering a claim so broad and general; because the first reissue included more than the original patent; because the second reissue included more than the original patent. As to the decision in the circuit court for the western district of Pennsylvania, sustaining the validity of the patent, and the *second* reissue thereof the pamphlet stated that "some of the material evidence before that court can now be shown to have been false." (Exhibit Butler No. 3.)

These papers were referred by the Attorney-General to Mr. A. R. Dutton, law clerk, who reported their contents. (U. S., No. 1.)

The Attorney-General then had under consideration the request in another case (known as the "barbed wire" case), which Mr. Dutton had reported that the remedy to set aside a patent "is by a proceeding in chancery instituted by the Attorney-General," and had recommended the bringing of a suit by the United States for that purpose. (See paper in "barbed wire" case, marked memorandum, and endorsed in the handwriting of Attorney-General Brewster, "Barbed wire fence.") Several authorities were cited by Mr. Dutton to sustain the position that a bill in equity would lie at the instance of the United States to set aside "patents granted by the Government through fraud, mistake, or inadvertence." (U. S., No. 114.) Also paper marked "memorandum" in "barbed wire case."

The Attorney-General referred these papers to the United States attorney for the District of Columbia, on the 25th day of June, 1882. (U. S., No. 2.)

On the 29th of June, 1882, the United States attorney for the District of Columbia recommended that the matters complained of be examined carefully by a member of the bar, to report whether suit should be brought, and suggested General Duncan S. Walker as a competent person to make the examination. In this recommendation the Attorney-General concurred. (U. S., No. 3.)

No investigation, however, was made under said recommendation, General Butler, for his clients, declining to pay any expenses attending the same, which expenses the U. S. attorney for the District of Columbia had recommended should be borne by the parties complaining. General Butler contended that the United States ought to pay the expenses of sifting the law and facts of the case. (Similar action was taken in the "barbed wire case.")

July 3, 1883, General Butler, in behalf of the oil producers, again addressed the Attorney-General, called attention to his previous letter, reiterated statements therein contained, urged immediate bringing of suit by the United States to test the validity of the patent, and enjoin all litigation against alleged infringers, pending the suit. With this, he enclosed a letter of Reuben Carroll, business director of the Oil Producers' Association, alleging that Roberts (patentee) was pressing his infringement suits, etc. (Butler, No. 4.)

August 3 Mr. Reuben Carroll addressed the Attorney-General in writing to the effect that Roberts, patentee, was guilty of various extortions; that there were thousands of suits pending, and the number daily increasing; that Roberts' original patent was procured by fraud, and that the reissue was invalid, because claim broader than the original claim. He enclosed, also, copy of pamphlet already referred to as Butler, No. 3. (Butler, No. 5.)

On the 7th of October, 1882, General B. F. Butler filed in the case of Schreiber *vs.* Roberts *et al.*, in the Supreme Court of the United States (it being an appeal of Schreiber from the decision of the circuit court of the United States in an infringement suit brought by Roberts against Schreiber) the petition of said Schreiber to have the appeal advanced in the docket, and General Butler withdrew from the files of the Department the papers in the case, proposing to use them in said motion. Being unsuccessful in his effort to advance the Schreiber case, he returned the same to the Department of Justice with a letter to the Attorney-General (Butler, No. 9), enclosing a copy of Schreiber's petition (Butler, 10; Butler, 11), together with an affidavit of Hon. Hamilton Ward, ex-attorney-general of the State of New York, that 160 cases had been brought by Roberts in the northern district of New York; that suits were threatened in a large number of other alleged infringements; that the litigation would be interminable until the final decision of the Supreme Court, &c. (Butler, 11, pp. 5 and 6; Butler, 15.) Also filed statement of clerk of United States circuit court of the northern district of New York, as to the number and condition of Roberts' infringement suits (Butler, 11, p. 28; Butler, 12); tabulated statement of said cases (Butler, 11, pp. 18, 19, 20, 21, 22, 23; and Butler, 13); list of said suits, &c., Butler, 11; Butler, 14); and affidavit of Reuben Carroll, explaining the expansions of Roberts' claim, the institution of five thousand suits against individuals, firms, and companies, aggregating in number of defendants "fifteen thousand people," most of which were pending, and but one of which had been tried; that the cost and expenses of these suits are enormous, the sums at stake vast, and the business of oil-producing crippled and impeded thereby; that only one case had been tried, namely, that of Schreiber, and that he was delayed in that case by dilatory proceedings on the part of Roberts. (Butler, 11.)

December 6, 1882, General Butler again wrote the Attorney-General, urging immediate action.

All these papers were referred to Mr. A. R. Dutton, law clerk of the Department of Justice, who, on the 9th of December, 1882, reported to the Attorney-General at length, giving authorities, showing the right of the Attorney-General to file a bill in equity to set aside the patent, and recommending the same. (U. S. No. 4.) Also a memorandum in "barbed wire" case ordered by the Attorney-General.

Thereupon the Attorney-General wrote Mr. Reuben Carroll, informing him that suit would be brought in the District of Columbia to vacate the Roberts patent by some special counsel, to be paid by the oil producers, the litigation to be at the expense of the oil procedure. (U. S. No. 5.) (Similar action was taken by the Att'y Gen. in the "barbed wire" case.)

Up to this time I had made no examination of the case, and the conclusion of the Attorney-General to bring suit to vacate the patent had been based entirely upon the papers filed in the case, together with the two reports of the law clerk of the Department of Justice, Mr. Dutton, and the recommendation of the U. S. attorney for the District of Columbia.

January 11, 1883, I was directed by the Attorney-General to commence proceedings, to exercise my discretion, having due regard to the averments on file in the case, and to such as might be made by the parties through their counsel, General Butler. (U. S. No. 6.)

After consultation with General Butler, at my suggestion, it was arranged that the suit should be instituted in the District of Columbia, provided service could be had upon Mr. Roberts here, otherwise in the western district of Pennsylvania, where the parties resided. This arrangement was assented to by the Attorney-General in an interview with him at his office, General Butler and myself being present.

A bill was prepared by me, and filed in the western district of Pennsylvania to vacate the patent, March 6, 1883, and sworn to by W. A. Walley. The bill was brought in the name of the United States, by its Attorney-General, on the relation of W. A. Walley, and signed by myself as special assistant, and subsequently, at my suggestion, by the U. S. attorney for the western district of Pennsylvania, who also appeared in the case as the representative of the United States.

On the 8th of March, 1883, by direction of the Attorney-General, I advised Mr. Richard Crowley, of New York, who was then in the city of Washington, acting as counsel for Roberts, that his bill had been filed, and asked him to communicate any facts or reasons why the proceedings should be abated. (U. S. No. 7.) The same day I had an interview with Mr. Crowley, at which the subject-matter was discussed, and on the 16th of March, received a letter from the Attorney-General, placing in my

hands the reply of Mr. Crowley, of that date, with accompanying documents, and instructing me to make report thereon. (U. S. No. 8.)

To this I replied, asking further instructions from the Attorney-General as to the character of my proposed report (U. S. No. 9), and received a reply of March 17, directing me to report on the case as it stood. (U. S. No. 10.) To this I replied on the 17th, advising that the litigation should go on. Mr. Crowley, in behalf of the patentees, claimed that the proceeding should be withdrawn, because the Roberts patent would expire in a few months, viz, on the 20th of May, 1883. To this I replied that, under the language of Mr. Justice Miller, in *Maury v. Whitney*, Wall., 434, that even after the expiration of the patent in a case where the patent was used to sustain suits in infringement during its vitality, the suit might be brought to vacate it. I cited, also, Curtiss' Law of Patents, section 504, to the same effect, and called the attention of the Attorney-General to the fact that the language used in the bill filed by me in behalf of the United States was identical on this point with the language of Mr. Justice Miller's decision. I then said: "If it is proper for the United States to bring a suit to vacate a patent after its expiration, in order to declare it void *ab initio*, under the circumstances mentioned by Mr. Justice Miller, when in the nature of things such suit could only prevent the patentee, or his assigns, from collecting judgments or prosecuting suits for infringement, which infringement had occurred during the life of the patent, so much more appropriate in the remedy in the case of an expired patent, for the same purposes, and for the additional purposes of restraining pending or proposed litigation."

Mr. Crowley alleged that the suit should be dismissed because the validity of the patents had been passed upon in the circuit court of the United States for western district of Pennsylvania frequently, and had always been sustained. And filed in support of this, a number of exhibits, showing the course of the litigation, and that the validity of the Roberts patent had been uniformly upheld by the United States courts from the year 1870 up to date (1883).

I replied, *first*, that the cases stated had never been decided as yet by the Supreme Court of the United States, and that the presumption was (as recent decisions of the United States Supreme Court on the question of reissued letters patent showed), that the decisions referred to would be reversed by the Supreme Court, and that "even if the court decided correctly in that case, upon the evidence before it, and the law as it then believed it to be, that decision does not affect a suit for a different purpose, upon different allegations, alleging fraud, false swearing, and deceit in the proceedings before the Commissioner of Patents, looking behind the mere face of the patents, as only the United States can do, looking behind the decision of the Commissioner of Patents, to see upon what facts he based his decision, as only the United States can do."

2. The circuit court, upon the evidence in that case, material parts of which are now alleged to have been false, and looking only at the face of the two patents, the original and reissue, declared the reissue valid, and decided that Roberts was the original inventor. The Attorney-General upon the allegations of fraud in procuring the original patent, fraud in procuring the reissues, and upon new allegations of want of priority of invention, and in view of the thousands of suits pending and threatened, decided to enable the thousands of complainants to attack this patent in one suit once for all."

Mr. Crowley further insisted that the proceeding should be dismissed because the suit brought by the United States could only determine the same facts as would be determined by the Supreme Court of the United States in the Schreiber case, then on the calendar of the Supreme Court. To this I replied that it was quite possible that the Schreiber case might never be tried, since by collusion between Schreiber and the patentee, it might be dismissed at any time, and beyond this, I said that the two cases could not be identical in their very nature. "*First*, because the results to be accomplished in each case are different. The Schreiber case will only decide the matters in issue between Roberts and Schreiber, and leave each of the thousands of other litigants to contest his particular case. The case of the United States, if successful, will vacate the patent *ab initio*, and settle the question once for all. The court, in the infringement suit, cannot vacate or declare void an existing patent, but in the latter case 'no such judgment or adjudication shall affect the right of any person except to the suit, and those deriving title under them, subject to the rendition of such judgment.'" (Rev. Stat. U. S., Sec. 4918.)

Second. "That as to the question of novelty, the bill of the United States attacks the patent on the additional ground not named in the Schreiber case, for example, the United States alleges that the same process as that patented by the said Roberts was put in practice by one John F. Harvey, of Cow Run, Ohio," and it turned out during the course of this litigation, that Roberts actually paid said Harvey, after the proceeding had been brought by the United States against him to set aside his (Roberts) patent, the sum of five thousand dollars (\$5,000) for the assignment to him, (Roberts), by the said Harvey of his (said Harvey's) patent, and upon the further condition that

said Harvey would not testify in the United States cases then pending in the United States court.

I also stated to the Attorney-General as follows: "The bill of the United States also alleges as to want of novelty, that Roberts obtained a previous patent number, 47458, for a device for use by the same processes and methods and for the same purpose and effecting the same results, said invention subsequently secured by letters patent, 59936 (letter reissue 5434 and 6258), and therefore said letters patent reissue are void. (*Odiorne vs. Amsbury*, Nail Factory Company, 2 Mass., 28; *Treadwell vs. Bladen*, 4 Wash., C. Cl. 703; *James vs. Campbell*, 104, U. S., 536.) And this is true even where the second patent was granted upon a claim previously filed, the present case. (*Suffolk Co vs. Hayden*, Wall., 315.)

Third. The proceedings are unlike again in this, that Schreiber, the respondent in the infringement suit, cannot look behind the patents, and the question raised by him as to the validity of issues must be determined by an inspection of the face of the patents.

I then quoted to sustain these points the following authorities: *Seymour vs. Osborne*, 11 Wall., 488, where the Supreme Court expressly decides, "Where the Commissioner accepts the surrender of the original patent and grants a new patent, his decision in the premises in a suit for an infringement is final and conclusive and it is not re-examinable in such a suit in the circuit court unless it is apparent upon the face of the patent that he has exceeded his authority; and there is such a repugnancy between the old and the new patent that it must be held as a matter of legal construction that the patent is not for the same invention as that embraced and described in the original patent." * * *

"On the contrary, the United States under its bill proposes to show *by testimony outside of the patents*, partly on file in the Patent Office, partly that of persons acquainted with the various stages of the progress in the art of producing oil, that the re-issues are for different patents from the original, and were fraudulently procured." I also replied further, that "Schreiber could not allege fraud in procuring the *original* patent or its reissue. It has been frequently decided by the Supreme Court that fraud in procuring a patent cannot be examined into by the court in an infringement suit. In the case of the *Rubber Company vs. Goodyear*, 9, Wall., 788, the court decided that in the extension case the decision of the Commissioner of Patents 'must be held conclusive until the patent is impeached in a proceeding had directly for that purpose.' And the court declined 'to enter upon the examination of the evidences of fraud' in obtaining it. And to the same effect is the *Eureka Co. vs. Railway Co.*, 19 Wall., 448, and Chancellor Kent says, in *Johnson vs. Lawton*, 10 Johnson, 23, that unless letters patent are absolutely void on the face of them, or the issuing of them was without authority, or was prohibited by statute, that only could be void in the regular course of pleading in which the fraud, irregularity, or mistake is regularly put in issue. The principle has been frequently admitted that the fraud must appear on the face of the patent to render it void in a court of law, and that when the fraud or other defect arises on circumstances *dehors* the grant, the grant is voidable only by suit. The regular tribunal is chancery, founded on a proceeding by *scire facias*, or by bill or information. Or, as the Supreme Court say in *Mowry vs. Whitney*, 14 Wall., 434 (which arose on demurrer to a bill charging that the extension of a patent was procured by fraud), a bill in chancery, brought by the Attorney-General, either directly or by authorizing the use of the name of the United States, is the only remedy. Because the fraud, if any, has been practiced upon the Government; and, second, because a suit by an individual could only be conclusive in result as between the patentee and the party suing, and it would remain a valid instrument as to all others. As further difference between the two suits, I beg to add a few facts set forth in the bill of the United States, which could either not be examined at all by the courts in an infringement suit, or could only be examined upon the face of the patents, and upon them decided as a matter purely of legal construction. The bill alleges that on the 18th of November, 1864, Roberts filed his original application, specification, and claim in the Patent Office, and that the same having been rejected, he withdrew the claim, and substituted an amended claim, much narrower than the claim by him withdrawn. Upon this latter claim the patent was finally granted. It appears in the records of the Patent Office that a substantial part of the original claim, to wit, the use of fluid as a tamping for torpedoes to be supplied in oil wells, was inserted in his reissued letters patent, number 6258. In the case of *Legget vs. Avery*, U. S., 101, 259, the Supreme Court cast very grave doubts upon the legality of such a proceeding. It says: "If any case where an applicant for letters patent, in order to obtain the issue therefor, disclaims a particular invention, or acquiesces in the rejection of a claim thereto, which we greatly doubt

* * * * *

"The allowance of claims when formally abandoned by the applicant in order to get his letters through, is the occasion of numerous frauds against the public. It not

unfrequently happens that after an application has been carefully examined and compared with other inventions, and after the claims which such an examination renders admissible have been settled with the acquiescence of the applicant, he, or his assignees, when the investigation is forgotten, and perhaps new officers been appointed, comes back to the Patent Office, and under pretense of inadvertence or mistake in the first specification, gets inserted in the reissued letters all that has been previously rejected. In this manner, without an appeal, he gets the first decision of the office reversed, steals a march on the public, and on those who before opposed his pretenses (if, indeed, the latter have not been silenced by purchase), and procures a valuable monopoly to which he has not the slightest title. We have more than once expressed our disapprobation of this practice. As before remarked, we consider it extremely doubtful, whether reissued letters patent can be sustained in *any* case where they contain claims that have been formerly disclaimed by the patentee, or rejected with his acquiescence, and he has consented to such rejection in order to obtain his letters patent."

I further reported to the Attorney-General material allegations in the bill which the United States alone could make, some of which allegations, as then reported to the Attorney-General, are as follows:

"The bill after reciting the first application and claim for the original patent, also asserts that the second claim was filed by his attorneys, Mason, Fenwick & Lawrence.

"These allegations are made to show the care with which the application, specification, &c., were prepared by Mr. Roberts, and most competent patent attorneys, skilled in the practice of drawing up applications, specifications, and claims, and to negative the presumption of the truth of the oath which Roberts took nine years later, in 1873, to secure an expansion of his patent by reason of an insufficient description, specification, &c., which error has arisen from inadvertence or mistake. Now, there is no proof of this error, inadvertence, or mistake. On the contrary, it is shown in the record that Roberts was careful to employ the most competent attorneys; filed first one claim, and then, afterwards, by his attorneys, amended it with another, leaving out what was claimed in his first claim, and which, subsequently, he secured in his last reissue. On this question the Supreme Court say, in the case of *Burr vs. Dwyre*, 1 Wall., pp. 575, 577: 'Since the date of this act (the act of 1836, which authorizes the reissue of an invalid patent on the ground of an insufficient or a defective specification, arising from inadvertence, accident, or mistake) not only the Patent Office but the bar, can furnish gentlemen fully competent to the task of drawing up proper specifications, but little liable to commit blunders from inadvertency. Specifications now seldom issue from the Patent Office, to which such an implication could be made. * * * Formerly, when, in course of investigation in a court of justice, it was discovered that a patent was invalid, for any of the reasons mentioned in the act, it was resorted to for protection. Now, after a patent has been declared to be valid, the specification without defect, and the claim for nothing more than an invention, after it has undergone examination for many years, and courts and juries have decided that the patent is not invalid through inadvertency, accident, or mistake, assignees come forward and make oath that the inventor's original patent is unavailable for some purpose unnecessary to be divulged. In the present case the purpose is transparent. * * * The surrender of valid patents and the granting of reissued patents thereon, with expended or equivocal claims, where the original was clearly neither inoperative or invalid, and whose specification neither defective or insufficient, is a great abuse of the privilege granted by the statute, and productive of great injury to the public. This privilege was not given to the patentee or his assignee in order that the patent may be rendered more elastic or expensive, and, therefore, more valuable for the suppression of all other inventions.'"

I also then reported to the Attorney-General as follows: "The bill then alleges that having thus secured his original patent, Roberts, on the 24th day of May, 1873, seven years after the first issue, and nine years after the date of his first application, filed in the Patent Office an application for the reissue through his attorneys, Messrs. Bakewell, Christy, and Kerr, of Pittsburgh, and Messrs. Fisher and Duncan, with amended and enlarged specifications and claims, and not content with the enlarged claims, then filed again, to wit, on the 28th day of May, 1873, other claims amending those filed on the 23d of May, together with the oath that the said patent was not valid on the ground of an insufficient or defective specification, which error, he swears, arose from inadvertence, accident, or mistake; and this oath the bill alleges to be false.

The record then presents the original specification and claim, filed by competent attorneys on the 14th day of February, 1865, and a claim for reissue filed by five competent attorneys on the 24th day of May, 1875, and upon the amendment the reissue granted.

It is plain from this record that there was no inadvertence, accident, or mistake, and the record shows that the greatest care and deliberation was taken in each stage of the case to perfect the specifications and correct the claims with the aid of compe-

tent counsel. And it has been decided by the Supreme Court that the error of "judgment" could not be relieved by the reissue. Now, whilst the respondent in the infringement suit could not attack this proceeding, but could only look at the face of the patents, the United States, as an original bill to vacate the patent, can do so.

"2. The pretense that the original patent was invalid by reason of an insufficient description or specification is negatived by the very assertions of the complainant in this case, that it was valid, and decisions sustaining it were rendered in the circuit court of the western district of Pennsylvania, and by the further fact that the specification and description in his last reissue are almost identical as to the claim with those in his first patent.

The bill then alleges that, having obtained reissue letters patent No. 5434, Roberts, on the 21st day of January, 1875, by his attorneys, Bakewell and Kerr, filed his application for a reissue on the ground that reissued letters patent 5434 were invalid by reason of an insufficient or defective specification, and that the error had arisen from inadvertence or mistake, to which he made oath. And this oath the United States alleges to be false, and that therefore the letters patent reissue 6354 should be vacated. The examination of the two reissues shows that the second is far less comprehensive in its claims and descriptions than the first reissue. It shows clearly that the patentee was satisfied that the first reissue was void upon its face, by reason of its plain violation of the act under which it purported to have been granted. This view is also sustained by the fact that we find no recoveries under this first reissue. It was abandoned, and the original patent being lifeless by reason of its surrender (*Peck vs. Collins*, 103 U. S. p. 660), the patentee, in defraud of the public and of the laws, under pretense of defective specification, swore out what he had previously sworn in, on both occasions on the same pretense."

As sustaining this position, the following were quoted:

Burr vs. Duryea, 1 Wall., 531; *Seymour vs. Osborne*, 11 Wall., 516; *Russel vs. Dodge*, 93 U. S., 460; *Powder Co. vs. Powder Works*, 98 U. S., 120; *Leggett vs. Avery*, 101 U. S., 256; *Ball vs. Langles*, 102 U. S., 128; *Garneau vs. Dozier*, 102 U. S., 230; *Manufacturing Co. vs. Ladd*, 102 U. S., 408; *Manufacturing Co. vs. Corbin*, 103 U. S., 787; *James vs. Campbell*, 104 U. S., 356; *Miller vs. Brass Co.*, 104 U. S., 358; *Heald vs. Rice*, 104 U. S., 737.

This report was delivered to the Attorney-General March 24, 1883, and a strenuous effort was made on the part of the patentee to convince the Attorney-General that the suit brought by the United States to vacate the patent should be dismissed. The patentee, in his litigation in Pennsylvania and New York, had employed most eminent counsel, including the Hon. Roscoe Conkling and Mr. George Harding, and in the proceedings before the Department of Justice to have the suit dismissed, had employed, as I have before stated, the Hon. Richard Crowley. The patentee was a Pennsylvanian of large wealth, and with numerous influential acquaintances, and no effort was spared by him to induce the Government to stop proceedings to vacate the patent.

Immediately upon receipt of the report, the Attorney-General referred the same, with the accompanying papers, to the Hon. William A. Maury, Assistant Attorney-General of the United States, who, after an elaborate investigation, reported to the Attorney-General in favor of continuing the proceedings to vacate the patent, a copy of which is hereto appended, marked "W. A. M." In this judgment of Assistant Attorney-General Maury the Attorney-General of the United States concurred, and I was directed to continue the proceedings, always at the expense of the parties complaining, without expense to the United States, and did so until the parties complaining, without my knowledge or assent, compromised their grievances with the patentee, since when I have taken no action in the matter, the patent having long since expired, and no request having been made by any one to do so. It will be observed that proceedings to vacate the Roberts torpedo patent were not commenced hastily, or without serious and proper consideration. In the first place, the Attorney-General had before him the several allegations before referred to as to the invalidity of the patent, fraud in procuring the alleged patent, fraud in procuring several reissues, the new evidence in relation to want of priority of invention, the fact that many thousand suits had been brought by the patentee, and the vast interests involved. These papers he referred first, twice to the law clerk of the Department of Justice, who reported in favor of bringing a suit to vacate the patent; second, to the United States attorney for the District of Columbia, who recommended an investigation upon which to base a suit. Third, a second time to the law clerk of the Department of Justice, and finally, upon the papers in the case and the reports of his subordinates, concluded to bring the suit, as requested. It will also be seen that after the suit had been commenced and an application filed by the patentee for the dismissal of the suit, the Attorney-General again took up the question, required elaborate reports to be made thereon, referred the same to the Assistant Attorney-General for report, and finally reaffirmed his first decision as to the power of the United States to vacate the patent.

Considering the vast interest involved, it was thought that the only course to pursue was to test the validity of the patent once for all, by a suit brought by the

United States, the result of which, if successful, would have been a final settlement of the question for all parties.

Besides the invalidity of the patent on account of fraudulent reissue, the United States attacked it upon allegations that an individual or company could not make use of. The United States averred in its bill that the first reissue and the second reissue were granted upon affidavits which were false, and that the Commissioner of Patents was thereby deceived. The United States also attacked the patent on the ground of want of priority of invention, a fact of which any complainant might have availed himself, but with this difference, that in an infringement suit, the result would only have affected the parties to the suit, whereas, in a direct proceeding by the United States to set aside the patent, the decision vacating the patent on the ground of want of priority of invention would have been conclusive on all the world.

In relation to the cases known as the "barbed wire" cases, the proceedings were the same up to the point of bringing suit, the parties in the "barbed wire" case declining to submit to the rule of the Attorney-General requiring them to indemnify the Government, etc.

The Attorney-General pursued the same course in the "barbed wire" case that he did in the torpedo case, namely, he referred the papers in the case to Mr. A. R. Dutton, who reported, first, that the United States, through the Attorney-General, had a right to file a bill to vacate a patent on the ground that the same had been granted through fraud, mistake, or inadvertence, and, in support of his opinion, quoted *Curtiss on Patents*, 662 *U. S. vs. Stone*, 2 Wall., 525; *Maury vs. Whitney*, 14 Wall., 434. Subsequently he reported not only as to the power of the United States to bring such a suit, but also recommended that suit be brought in the "barbed wire" case. (See paper marked "Memorandum," and indorsed "barbed wire fence," in the handwriting of Attorney-General Brewster.)

These papers the Attorney-General referred to the United States attorney for the District of Columbia, who recommended that a member of the bar of the District be designated to examine the facts alleged, and report whether suit should be brought, expenses to be paid by the parties complaining. The parties complaining, however, demurred to the payment of any expenses, and when the Attorney-General had determined to bring suit, declined to indemnify the Government, and have the suit brought by counsel responsible to the Department of Justice.

All the papers are on file in the Department of Justice, and I refer to them for any more detailed information.

DUNCAN S. WALKER.

Letter from Philip P. Moen, president of the company, covering the barbed wire patents, to Attorney-General Brewster, asking that the suit ordered by him in the name of the Government to vacate the said patents be dismissed.

WORCESTER, MASS., March 18, 1885.

HON. BENJAMIN H. BREWSTER,

Attorney-General of the United States, Washington, D. C.:

SIR: In view of the representations made before the legislature of Iowa, and through the public press, to the effect that the Attorney-General of the United States had assumed an antagonistical position as respects one of the great interests and industries of the country, and whereas such representations, although they may have proceeded from an error or misapprehension on the part of the distinguished counsellor who was instrumental in putting them into circulation, are calculated to injuriously affect the vested rights and interests of those parties whose capital has been invested and employed in developing and prosecuting the business referred to, we feel justified in submitting a few facts for your consideration, in the preliminary examination of the subject which has been brought to your notice, as appears from the proceedings of the Iowa State legislature, reported in the Iowa State Register paper, of March 11, 1882, a copy of which we herewith inclose, and also by this published letter of General Butler of the 12th instant, read before the Iowa senate on the 15th instant. See copy of said letter in the Boston Herald paper, of the 16th instant, also herewith inclosed.

First. Washburn & Moen Manufacturing Company and Isaac L. Ellwood have not withdrawn suits and tried to hinder judicial action, but, upon the contrary, have in all cases prosecuted their suits with diligence and energy, and that, too, to final hearing before the Federal courts. This is a matter of record. See decision of Judges Drummond and Blodgett, rendered in the northern district of Illinois, December 15, 1880, reported in the United States Patent Office Official Gazette, volume 19, page 173, and also in the Federal Reporter, volume 4, page 900. A copy of said decision is herewith inclosed for convenience of examination. The litigants in those suits (named in the pamphlet herewith inclosed, and marked "Exhibit A") prosecuted

and defended the same at great expense, said to have exceeded fifty thousand dollars, on the part of all the defendants.

Second. The suits against James H. Coon, of Iowa, named in the pamphlets hereto attached, and marked "Exhibit B," were not withdrawn, but settled by the defendant, and consent decrees taken, the defendant settling for and taking a full discharge for all who had purchased his wire.

Third. Infringement was not commenced again by any of the parties interested in any way in the former Coon wire, until about the 24th of January, 1882, when one machine was started, and by shortly after formal notice was given of the alleged infringement, and the parties persisting in their course, two suits were instituted on the 25th day of February, 1882; four more on the 27th of the same month; two on the 2d of March, and six more on the 11th of March; the object being to have all of these patents, which the defendants infringed, adjudicated together, and as speedily as possible, and thus save expense to all parties concerned. The records of the clerk's office in the central division of the district of Iowa shows the above, and on the 11th day of the present March the Iowa Register paper gave an abstract taken from the court files, which paper is herewith inclosed.

Fourth. It is thus seen that the owners of said patents have acted promptly, and are doing all they can to have all of their patents adjudicated upon final hearing, as expeditiously and with as little expense as possible.

Fifth. It is believed that the Attorney-General will not consider that we acted otherwise than within the scope of business propriety in thus calling his attention to the unjust inference conveyed by General Butler's letters, one read by Senator Nichols, March 10, and the other read March 15, in regard to the alleged position which the Attorney-General had them taken in reference to the character and rights of the owners of said patents, to the effect that the Attorney-General had proceeded to express an adverse opinion upon grants made by the Government, and that, too, upon an *ex parte* hearing, and without any notice to the grantees or their assignees, and had further characterized the business of the owners of said patents, and that of their forty or more licensees, as "an unjust monopoly," and which unauthorized alleged conclusions and statements of the Attorney-General were used to inflame the minds and influence the action of the members of the legislature of the State of Iowa in securing the passage of the joint resolution referred to in General Butler's letter 12th inst. We feel assured that before any official action shall be taken by the Attorney-General or any adverse expression of opinion by him upon the validity of the numerous patents owned by the parties assailed is announced, a full and careful hearing will be accorded to Washburn & Moen Manufacturing Company, and Isaac L. Ellwood and their numerous licensees, whose large investments and expenditures have reduced the price of barbed wire, in less than seven years, from over 20 cents per pound to less than ten cents, and increased the production by procuring to be invested and made improved machines, and otherwise, during the same time, from a few hundred tons per annum to upwards of fifty thousand tons per year.

In conclusion, it is confidently believed, that a slight examination of the subject will be quite sufficient to show to the Attorney-General that no cause exists for even ordering a hearing before him, much less for the interposition of the Department of Justice in reference to the numerous grants of letters-patents before referred to, especially as they are now in the process of being adjudicated by the proper and legitimate tribunals provided by law for such purposes.

Respectfully submitted,

WASHBURN & MOEN, MANUFACTURING COMPANY.

By PHILIP L. MOEN,
President.

Letter of Hon. Richard Crowley, Counsel in the Barbed Wire Case, giving certain reasons why the suit in the name of the Government to annul the Barbed Wire Patent should be dismissed.

WASHINGTON, D. C., March 16, 1885.

To The Honorable BENJAMIN HARRIS BREWSTER, Attorney-General of the United States:

SIR: I am informed by Mr. Walker and by my client, W. B. Roberts, that last week a bill in equity was filed in the circuit court of the United States for the western district of Pennsylvania, in the name of and in behalf of the United States against Mr. Roberts and others, to set aside a patent issued in November, 1866, to E. A. L. Roberts and antedated May, 1866, numbered 59,936, for "improvements in method of increasing the capacity of oil wells," which patent runs for a term of 17 years. This suit, in my judgment, ought not to have been instituted in the name of the United

States, nor should the United States have authority for its commencement, for the following reasons :

The above patent issued to Mr. Roberts, antedated May, 1866, was for a period of seventeen years only, and by limitation will expire May 20th, next, a period of only about two months. More than that, the validity of the patent has been passed upon in the circuit courts of the United States in several cases and always sustained, namely :

In the circuit court of the United States for the western district of Pennsylvania, wherein E. A. L. Roberts was plaintiff and James Dickey and others defendants, at the May term of said court in the year 1870. The opinion and decree of the court was delivered by ex-Justice Strong, then a justice of the Supreme Court of the United States, holding said circuit court, wherein said patent was held to be good and valid, and the said Mr. Roberts "the first and original inventor of the improvements described in said letters patent;" and afterwards in the circuit court of the United States for the western district of Pennsylvania, in a suit wherein said E. A. L. Roberts was plaintiff and F. A. Roter was defendant, at the November term of said court held in 1871, wherein the judgment of the court, Justice McKennan, presiding, was that the said patent was good and valid, and that the said Roberts was the first and original inventor of the improvements described therein; and, further, in the circuit court of the United States for the western district of Pennsylvania, at the November term of the year 1875, in an action wherein said Edward A. L. Roberts and others were plaintiffs and Peter Schreiber was defendant, letters patent having been reissued upon said patent for the balance of said term of seventeen years, as authorized by the acts of Congress. It was again held that the said letters patent and the reissue thereof were good and valid, and that the said Roberts was the first and original inventor of the improvements described in said letters patent and reissue thereof, wherein Justice Strong, holding said court, reaffirms all that he had said and decreed in the aforesaid Dickey case, and applied the same to said reissue of said letters patent. The said last-mentioned case of Roberts and others against Schreiber is now upon the calendar of the Supreme Court of the United States for argument. Under these circumstances the circuit court of the United States, at three respective terms thereof, to wit, in 1870, in 1871, and in 1875, having affirmed the validity of said patent and the reissue thereof, and said patent expiring May 20, 1883, it is in my judgment improper that leave should be given to private litigants, in the name of the United States, to now commence an action anew to set aside said letters patent, for the reasons assigned in the bill of complainant recently filed in the circuit court of the United States for the western district of Pennsylvania; that in said suit now pending in the Supreme Court, the answer sets up among other things, that the said Roberts was not the original inventor of said improvements described in the said letters patent, and that he had obtained the same by deception and fraud; that the same statements are set forth in the bill recently filed at Pittsburgh, as I am informed, as are contained in the said suit of Roberts and others against Schreiber, now pending in the Supreme Court of the United States, and it is therefore improper to harass and annoy the said Roberts by a new suit, which can only determine the same facts as the suits now upon the calendar of the Supreme Court of the United States.

I inclose you herewith certified copies of the bills, answers, and decrees in the three before mentioned causes, for your information.

Under these circumstances, I respectfully ask that the suit brought last week in Pittsburgh in the name of the United States, at the request of certain parties deeming themselves aggrieved by the existence of said letters patent, and the reissue thereof be withdrawn and discontinued; and that said parties and all other parties be left to abide the issue of the cause in the suit pending upon the calendar of the Supreme Court of the United States.

Yours respectfully,

RICHARD CROWLEY,
Of counsel for Roberts.

Affidavit of Lewis L. Coburn, counsel for the Barbed-Wire Company as to collusive suits.

STATE OF ILLINOIS,

County of Cook, ss:

Lewis L. Coburn, of lawful age, being duly sworn, deposes and says, that he resides in Chicago, in the county of Cook, aforesaid, and is and has been in the practice of law in the city of Chicago for upwards of twenty years last past, and is of the law firm of Coburn & Thacher in said city; that he has had the active management of all or nearly all of the litigation in the United States courts, in the northern district of Illinois, for the Washburn & Moen Manufacturing Company, and Washburn & Moen Manufacturing Company and Isaac L. Ellwood relating to their letters patent of the United States, known as the barbed-wire patents, and their patents on machinery for

the manufacture of barbed wire. That the said Washburn & Moen Manufacturing Company, and Washburn & Moen Manufacturing Company and Isaac L. Ellwood commenced a large number of suits against different manufacturers of barbed wire for the infringement of said patents, and prosecuted said suits vigorously in the United States courts; and that in some instances the defendants after contesting the suits settled and discontinued the manufacture of barbed wire; that others continued to contest their suits, and that there was an organization formed by a large number of the various defendants known as "The Barbed-Wire Union"; that the testimony that was taken in those cases which the Barbed-Wire Union was defending amounted to some two or three thousand printed pages; that testimony was taken in various parts of the country to prove old use of barbed wire; that the complainants took rebutting testimony, and that besides the testimony taken to prove old use, a large number of old patents were set up in the various answers, as anticipating in some way some of the elements shown in the complainants' patents; that finally after several years of vigorous prosecution there were fourteen cases set for hearing before Judges Drummond and Blodgett in the United States court for the northern district of Illinois; that quite a number of counsel were employed on both sides in these cases, and they were fully argued by several different counsel before Judges Drummond and Blodgett in June, 1880, the argument for final hearing occupying about a week, and elaborate briefs were filed on both sides by the counsel; that the court took the cases under advisement, and on the 15th of December, 1880, rendered a decision, which decision is reported in the Official Gazette of January 18, 1881; that the decision of Judges Drummond and Blodgett in these fourteen cases was a decision upon the merits of the patents that were involved in said litigation; that there was no settlement by any of the defendants in these cases prior to the decision rendered by Judges Drummond and Blodgett, above referred to; that there was no agreement between the parties in those cases in reference to any settlement; that said cases were contested extensively and fully and at great expense by all the defendants combined, who employed able counsel who fought the cases in every way conceivable to try the cases upon their merits; and the cases were fully argued and submitted, and decided as above stated, there being no agreement or understanding between the complainants and the defendants in reference to any settlement prior to the decision rendered by Judges Drummond and Blodgett as aforesaid; that there was no agreement or understanding between the counsel of the various parties in reference to any settlement between the parties prior to the decision rendered, above referred to; that this affiant states that in his long experience as attorney in patent cases (he having for twenty years made patent law a specialty) he has never known any patent litigation that was more vigorously prosecuted and more fully and hotly contested than the cases decided by Judges Drummond and Blodgett, as above stated; that in said cases there was no collusion between the parties in any way to affect a decision other than a decision upon the merits of the case; that after the decision was rendered by Judges Drummond and Blodgett in those cases the defendants in various cases desired to settle and take licenses, to which the complainants assented, and negotiations were then opened between the parties and the defendants settled, paying damages which were agreed upon between the parties; that the Chicago Galvanized Wire Fence Company paid and agreed to pay upwards of \$10,000 for past damages; that the other defendants all paid sums that were agreed upon between the parties for past damages, and took licenses, agreeing to pay a royalty of 75 cents a hundred pounds on what they manufactured after the date of their licenses, and that instead of taking a reference to the master to prove the amount of damage, that each defendant should pay the amount as agreed upon between the parties, and the decrees that were entered in the various cases set forth the fact that the parties had settled. The settlement was made after the decision of the court, and prior to the entering of the decrees. In the two suits pending against Jacob Haish, the suits in which the court entitled its decision, Jacob Haish afterwards filed a petition for a rehearing, which the court overruled. After the court overruled the petition it then entered an interlocutory decree in the Haish cases, which was not in any sense of the terms a consent decree. The matter proceeded to an accounting before the master, and while the accounting was progressing, Jacob Haish settled, and the final decree that was entered in the Haish case was drawn in accordance with the facts, setting forth his settlement, &c.; that all of the fourteen cases that were decided by Judges Drummond and Blodgett were decided upon their merits and without any collusion between the parties or their counsel, and the counsel for the complainants stipulated that any and all testimony that had been taken in any barbed-wire suits on behalf of the defendants could be used at the hearing of those cases, the same as if regularly taken in the cases being argued, an order that any defense that had been brought out in any of the cases should be disposed of by the court, to the end that the litigation might be as exhaustive as possible and the question of the validity of the patents might be as thoroughly and fully tested as could possibly be done by any circuit court, and at the request of the complainant's counsel the cases were heard be-

fore two judges in order that the litigation might be decisive and final; that so far as the circuit court litigation is concerned none could be more extensive, none could be more ably contested, and no judges of greater ability or any greater experience could be obtained in the country than were had in the cases tried in the circuit court of the northern district of Illinois.

This deponent further says that among other cases that were commenced against manufacturers were two cases in Iowa, filed against one James H. Coon; that Coon employed an attorney who filed demurrers, and the cases were allowed to remain in that condition until after the barbed-wire union cases were decided upon their merits in the northern district of Illinois, as aforesaid; that after the decision in those cases, above referred to, the complainant in the Coon cases moved to have the demurrers disposed of, and gave notice for a motion for an injunction on the ground that the patents had been adjudicated; that the defendant then proceeded to file affidavits in reference to prior use of barbed wire; that all of the affidavits which the defendant procured in reference to prior use of barbed wire were concerning testimony which had been taken in the cases which had been decided by Judges Drummond and Blodgett, excepting one single instance, which was called the Freeman fence. The affidavits in the Coon case relating to the Freeman fence had not been rebutted in the Chicago cases, but the complainant obtained a large number of affidavits entitled in the Coon cases rebutting the defendant's affidavits relating to that fence; that finally the United States court in Iowa set the complainant's motion for an injunction, for a hearing; that a short time prior to the hearing the defendant Coon offered to sell his machinery, to transfer his patent which he had obtained for his machinery to the complainants, and discontinue the manufacture of barbed wire; that this affiant advised the complainants that inasmuch as they had already had their patents adjudicated it would be cheaper for them to settle with Mr. Coon in this way in accordance with his offer than to continue the litigation in the Coon cases, and they accordingly did settle with him, obtaining a decree and injunction, and an assignment of his patent, which was of value to the complainants, as this affiant believes, which they could not have obtained at the end of the litigation except by purchasing it at probably a considerably larger cost to them.

LEWIS L. COBURN.

Subscribed and sworn to before me this 20th day of June, A. D. 1882.

[SEAL.]

CHARLES CARPENTER,
Notary Public.

Affidavit of N. C. Gridley, counsel for the Barbed Wire Company, as to collusion suits.

UNITED STATES OF AMERICA,

Northern district of Illinois, ss:

Nelson C. Gridley, of lawful age, being duly sworn, deposes and says: That he is an attorney at law, and carries on business in the city of Chicago, in said district; that he has been engaged in the practice of law for over thirty years past, and for the last twelve years has made patents and patent law a specialty; that in or about the month of December, 1876, this deponent was employed by one Jacob Haish to defend two suits brought against him by the Washburn & Moen Manufacturing Company, and the Washburn & Moen Manufacturing Company and Isaac L. Ellwood, for infringement of certain letters patent now commonly known as the barbed wire patents; that this deponent appeared as solicitor and counsel for Jacob Haish in said causes, and the first answer filed in said barbed wire litigation was drawn and filed by this deponent; that subsequently this deponent appeared for the defendants as solicitor and counsel in twelve other cases brought by the same complainants and upon the same patents, and other patents in some of the said causes; that during the progress of that litigation an union of the defendants, or barbed wire manufacturers, was had, known as the "Barbed Wire Union," and that Jacob Haish became a member of that Barbed Wire Union; that from the time of the commencement of those suits against Jacob Haish, and the other twelve suits against the other defendants, this deponent acted as solicitor and counsel in all of said causes, and was personally engaged in taking most of the testimony on the part of the defendants; that the printed record of testimony in said causes on the part of the defendants, going to show a number of instances of prior knowledge and use of barbed wire fencing, consisted of about two thousand pages; that from the time this deponent was first employed by Jacob Haish and subsequently by the Barbed Wire Union, this deponent was instructed to use every effort, and to spare neither time nor money in making all the defense that was necessary and possible for the purpose of defeating the barbed patents; that this deponent acted upon such instructions

up to and including the final hearing of said causes in December, 1780; that this deponent never knew, nor ever heard of any desire on the part of the defendants to make any settlement of said causes until after the decision rendered by Judges Drummond and Blodgett in December, 1880, but, on the contrary, during the latter part of said litigation, this deponent was instructed by his clients, the Barbed Wire Union, to force said causes to a final hearing at as early a day as possible, that so far as this this deponent has any knowledge, there never was any overtures made by the complainants to the defendants, or defendants to the complainants, looking to any collusion between the parties for the purpose of sustaining said letters patent, but that this deponent was led to believe, and did believe, that it was to be a hotly contested litigation from the beginning, and every step of the litigation fully justified that conclusion; and this deponent fully believes that no patent litigation in the courts of the United States was ever more fully and thoroughly contested by the respective parties.

And this deponent further says that after the decision rendered by Judges Drummond and Blodgett in said causes, this deponent advised the defendants in said causes, excepting the defendant Jacob Haish (who had withdrawn from the Barbed Wire Union and employed other counsel), to make the best settlement and terms possible with the complainants; that it would be more advantageous to them to accept of a license upon reasonable terms and pay a royalty than it would be to continue the litigation in the face of the decision of the court against them.

N. C. GRIDLEY.

Subscribed and sworn to before me this 20th day of June, A. D. 1882.

[SEAL.]

CHARLES CARPENTER,
Notary Public.

The CHAIRMAN. Col. Young, have you anything further?

Mr. YOUNG. Yes, sir. Mr. Van Benthuyzen the other day proposed to introduce some documentary proofs. He expects his attorney here. I presume it is natural to all lawyers to feel as I feel in regard to appearing in a case where I have been called as a witness; and if the committee will wait until his attorney arrives, I prefer that he should present the proof. If not, as I feel it is a proper matter to be presented, I will do it myself, if the committee will permit me.

The CHAIRMAN. Is his attorney here?

Mr. YOUNG. No sir; he will be here in the morning. The train was thrown off the track. [After a pause.] I am just told that he cannot stop when he gets here, as he is on his way to Boston, and will have to be there Monday.

Mr. OATES. I do not think it is necessary for any attorney to appear. Whatever proofs there are can be submitted.

Mr. EDEN. I think this is the last meeting of the committee I will be able to attend.

The CHAIRMAN. We will proceed now.

Mr. RANNEY. Permit me to make an inquiry whether these other documents Mr. Young has offered from that record will be put in. I would like to have the committee rule whether they shall go in or not.

The CHAIRMAN. Do you refer to the pleas, the return, &c.?

Mr. RANNEY. Yes; and the letter from the Patent Office to him.

The CHAIRMAN. The letter from the Patent Office I think went in without objection, if I recollect aright. The other matters were objected to, but they are now in.

Mr. RANNEY. The other matters offered are considered as in.

The CHAIRMAN. Yes.

Mr. OATES. They are in, unless objected to.

Mr. EDEN. If there is no objection, I suppose they are in. They are not in if anybody has any objection to them.

Mr. RANNEY. That raises the same question, whether we can put in the record everything that was before Secretary Lamar.

Mr. EDEN. I am not going into a discussion of that matter.

Mr. RANNEY. That raises the broad question. The question before us is whether that decision of Lamar is right; whether it was justified by that record.

Mr. EDEN. I do not find that in the resolution. The resolution directs us to inquire into the reason and authority; not to see whether the Secretary of the Interior did right or wrong.

Mr. RANNEY. Then the evidence is not competent.

The CHAIRMAN. Gentlemen, let us proceed in order. What is the matter now before the committee?

Mr. RANNEY. The matter before the committee is this offer of testimony, and whether it shall go into the case or not.

Mr. OATES. Mr. Chairman, this offer with reference to the orders and pleas in the suits between the Bell Telephone Company and other telephone companies, does not seem to me at all relevant except to meet one stage of this case. Mr. Ranney offered

evidence showing that in the New Orleans suit, and also, I believe, in Baltimore, as soon as the Government suit was ordered, motions were made by Johnson's company in Baltimore and Van Benthuyzen's company in New Orleans for a stay of proceedings to await the determination of that suit. It seems to me that only in that view can this evidence which Col. Young wants to put in be admissible, as it tends to show that the Bell company were putting in dilatory pleas and thereby postponing the trial of the issue. I objected to Mr. Ranney putting in evidence on that line, but as that is in, I think this is just as relevant as that. I do not think either ought to have gone in in the first place. If the other was not in, I should object to this, but as that is in, I think this is as relevant as that.

Mr. RANNEY. I do not raise any objection. I want to know if it is understood to be in evidence.

The CHAIRMAN. If there is no objection.

Mr. EDEN. I would concur with Colonel Oates. I would vote to admit it for the reason that the other has been admitted.

The CHAIRMAN. It is already in.

Mr. MOFFATT. Mr. Chairman, I would like to ask Colonel Young whether the offer which he makes is included in the offer Mr. Van Benthuyzen has already made the committee and the committee has passed upon.

Mr. YOUNG. No, I think not. I do not understand it is. I understand a part of his request was acted upon and that he is not to be permitted to introduce testimony to impeach the credibility of witnesses who have testified to certain facts, because it is not considered that those facts are material. This has no relation to that at all. I want to introduce some rebutting testimony. The committee will remember that when the investigation first started I insisted that it should be conducted as I thought the rules of evidence required, and that if there were charges preferred against me and against the other gentlemen who are implicated with me, then those charges should have been proven, and we should have been allowed an opportunity to contradict them, if we could do so. I do not want to have it said that there are no charges, because there are charges of the very gravest character. I feel that my reputation and my integrity as a public officer, as well as my reputation and integrity as a private citizen, are involved in this matter, and I feel that it is due to me and due to those gentlemen who are associated with me that we should have an opportunity to put in whatever proper and legal evidence we may be able to put in against what has been developed in support of these charges.

If there were no charges Congress would have had no authority to make this investigation, and I think under the terms of this investigation I might very properly have refused to present any books or papers or to have answered a single question before this committee. If there are no charges preferred against any public officer, Congress has no authority to empower any committee to inquire into my private affairs. I might with perfect propriety, I think, and without incurring any penalty that Congress has a right to inflict, decline to recognize the authority of this committee at all to require me to bring books and papers and go into an investigation of my private affairs. I only recognize their right to do that upon the ground that by implication charges are preferred against public officers, and the public judgment of the country would have been crystallized against me; and I owed it to myself and to them to come in and lay these facts before the committee.

Having proceeded thus, and this committee having devoted more than two months to the examination of one side of the question, it is a matter of sheer justice to us that we should be permitted to come in and show the other side, if there is another side to it. We have been held up by the newspaper press, and in the course of investigation in this committee as adventurers perpetrating a fraud upon the public; as public officers prostituting their official functions to the advancement of their personal ends. I feel that we have a right to present both sides of the question, and refute that presumption, if any such presumption has arisen from the testimony that has been taken in this case. I propose to show under a clause of that resolution the reasons why the Government should have undertaken the prosecution of this suit; that it was not in furtherance of any private interest; that it was not to advance the interest of any company or any individual, but that it went beyond that; that there was a great question of public right involved, the integrity of a Department of this Government. If I can show now by any testimony, whether it has been introduced in this record or not, that this suit was a proper one, and ought to have been ordered in the interests of the public, regardless of the feelings or interest of any private individual, or any corporation, I think it is competent for me to do so.

I propose, if the committee will allow me, to introduce proof which I think will abundantly justify the action of the Government, abundantly authorize the institution of this suit under the provisions of the law. If the committee will allow me I will present now a document that will open up that investigation. I will introduce the witness if desired, but if not I will hand to the committee a sworn statement that

will disclose the facts and the grounds upon which I propose to introduce the additional testimony.

Mr. HALL. By whom is it sworn to?

Mr. YOUNG. By the man who makes it.

Mr. HALL. Is it some one else besides yourself?

Mr. YOUNG. O, yes; I have done with my testimony. I have been a witness longer than I ever was before.

Mr. MOFFATT. Were these matters submitted to the Department?

Mr. YOUNG. Part of them were submitted to the Department.

Mr. MOFFATT. Those which were submitted to the Department, are they already in evidence in this case?

Mr. YOUNG. Part of them are in evidence, and evidence has been introduced outside of the record in reference to these very matters. Witnesses have been examined and have testified in respect to it and in respect to the very statement of the witness that I propose to introduce. The record abounds with it. Now I am perfectly aware that under the strict application of the rules of evidence the paper I propose to offer would not be competent. But strict rules of evidence have not been adhered to in the inquiry so far as it has gone. Testimony has been admitted here, and papers called testimony, publications from newspapers, letters written from parties at a distance, and telegrams sent, unsworn to papers, have been introduced, signed by nobody—

Mr. OATES. I do not quite agree with Colonel Young that this investigation has been wholly one-sided.

Mr. YOUNG. I do not mean any reflection on the committee.

Mr. GATES. I should like to hear, if it is to be presented, what it is. We cannot determine on mere outside talk what it is.

Mr. RANNEY. One word about that. Evidence that was introduced before the Interior Department upon which the action which we are investigating was had, may be and probably is competent. But evidence that was not introduced there, evidence that they have gotten up since, is incompetent in our judging of that matter. We are not here to inquire into the validity of patents or try the validity of those patents.

Mr. OATES. Let us hear the paper read—I do not know what it is—and let us consider the question.

Mr. RANNEY. I do not know what is in it. I think it should be submitted to the committee.

Mr. OATES. It need not be taken down. It is in writing, and it could be read.

Mr. RANNEY. A paper should not be publicly read, to go into the newspapers, unless you are going to try that whole issue. If it is a matter that relates to the validity of the patent, it is a question we are not trying.

Mr. EDEN. There is nothing so far developed to show that that is the matter. I do not know what it is that he proposes to introduce.

Mr. RANNEY. I gather so from what he indicates. Anything before the Secretary of the Interior or before the Attorney-General which led to the bringing of this suit is competent, in my judgment. But anything that was not there is not, in my judgment, or which raises a question as to the validity of patents.

Mr. OATES. I move, without making it evidence, or having it taken down, that it be read.

Mr. RANNEY. Suppose that he goes into a matter that involves the question of the validity of those patents and involves that whole evidence and raises the question of fraud.

Mr. EDEN. We cannot know whether it is improper or not until we hear it.

Mr. RANNEY. It should be shown to us in the first place; we have a right to inspect it.

Mr. EDEN. We have not taken that course heretofore, I believe, have we, in reference to the introduction of testimony?

Mr. RANNEY. Yes; we have. Mr. Van Benthuyzen's paper was submitted to us.

Mr. EDEN. It was read before the committee and went into the record.

Mr. RANNEY. Before the competency of a paper can be passed upon we must see it. He says himself that it is not competent evidence. Why should we hear a thing read that is not competent evidence?

Mr. EDEN. How can we tell until we hear it?

Mr. RANNEY. You have been putting it before the jury before you read it.

Mr. OATES. We have been doing that thing all the time.

Mr. RANNEY. You want to hear evidence and spread it broadcast before you know what it is—is that it?

Mr. EDEN. No, sir; I do not.

Mr. HALL. I understand this is an offer on the part of Colonel Young to have some important evidence that is claimed to be pertinent brought in.

Mr. RANNEY. I understand it is entirely outside of the record which was introduced by the Government officers who acted on it. We should not spread on record some *ex-parte* statement of somebody, I do not know who, about something, I do not know what.

Mr. HALL. I do not understand that this paper is offered as evidence.

Mr. YOUNG. I will produce the witnesses.

Mr. RANNEY. We should know what issue is to be tried.

Mr. MOFFATT. It seems to me that Colonel Young could inform this committee what he wants to do.

Mr. RANNEY. What he wants to try.

Mr. OATES. My motion is that we hear the paper read—the stenographer need not take it down—for the purpose of seeing what we will do about it.

The CHAIRMAN. It is not necessary to make a motion. I would hold here, as I know it to be held in courts where the matter is submitted to the court only, that it may be read in the first instance to the court. If it is to go to the jury, it ought to be submitted to the court first for examination. We have no jury here; we are all members of the court to some extent, so that there would be no harm in reading the paper to the committee if it does not go in evidence.

Mr. RANNEY. I object to the reading of any paper that is outside of this issue here, which we have not a right to investigate.

The CHAIRMAN. There is no issue here.

Mr. RANNEY. Then I object to hearing any paper read outside of the issue, unless it is shown to be on the issue raised here.

The CHAIRMAN. The chair is of the opinion that there is no issue, and, as has been so frequently said through the proceedings, we are inquiring about, searching for, and hunting up any matter that may affect these people.

Mr. RANNEY. I object to the reading of the paper, and call for the ayes and noes.

The CHAIRMAN. There is no question before the committee that I know of.

Mr. RANNEY. I object to the reading of it.

The CHAIRMAN. The chair holds that the paper may be read as an offer.

Mr. RANNEY. Then I appeal from the decision of the chair.

The CHAIRMAN. The gentleman from Massachusetts [Mr. Ranney] appeals from the decision of the chair holding that the paper may be offered in evidence and may be read as an offer. The question is, Shall the ruling of the chair stand as the judgment of the committee?

Mr. RANNEY. In the next place, I want to say that the man who offers it says himself that it is not competent, to start with.

Mr. YOUNG. I did not say that. I say if the rules of evidence were strictly applied here, it would not be competent.

Mr. RANNEY. What is it that you propose to read?

Mr. YOUNG. I propose to read the statement of a witness that I will introduce after it is read, if he is called for.

Mr. RANNEY. Whose evidence.

Mr. YOUNG. I will disclose that after the paper is read.

Mr. RANNEY. You say it is the evidence of a witness; who is the witness?

Mr. YOUNG. I offer to read a statement of facts.

Mr. RANNEY. Who is it signed by?

Mr. YOUNG. I will state that fact when the committee passes upon the question whether I shall read it. I do not care to disclose any part unless I am allowed to present it all.

Mr. RANNEY. The counsel states that it is an affidavit, but he declines to state whose affidavit it is.

Mr. YOUNG. No, sir; I do not decline to do that. I decline to state any part unless it is all submitted.

Mr. EDEN (to Mr. Ranney). It seems to me that for a man who is searching for truth you are getting a little technical.

Mr. RANNEY. He only offers to read the affidavit of a man, and therefore it is not a document within the rule we established that only documentary evidence shall be received. That is the rule we have established and which is to govern our future action—the resolution of Mr. Oates. Now Colonel Young comes and proposes to read the affidavit of a man. You could not call the witness if he was here; you could not read his affidavit; it would not be competent. Offering to read the affidavit of a witness who is not here is not documentary evidence within our rule.

The CHAIRMAN. If it were going in evidence, that would be a good objection, but, as the chair has tried to maintain throughout, it is an offer, and when the time comes for proving what Colonel Young offers now to prove, then the question can be raised as to how it shall be proved.

Mr. HALL. It may be totally immaterial. That we do not know at all.

The CHAIRMAN. This is a simple offer to prove and enter upon a certain line of in-

vestigation. As he intimates, what that is he can state in his offer, or he can read a paper showing what it is, and leave the other question to be decided hereafter.

Mr. RANNEY. Pardon me; I want to be understood. He does not put in an offer of proof, but he offers to prove by certain witnesses a certain thing, and he says he has an affidavit of that evidence which he wants to read to the committee in that way. Is it necessary that the committee should hear read a thing which is admitted to be incompetent evidence to start with?

The CHAIRMAN. If the offer was to read it as evidence it would not be, but he can state his offer or read the paper showing his offer as he thinks proper. He may make his offer in any way that he likes. There can be no restriction on his offer.

Mr. RANNEY. Suppose a court was sitting and a man said I offer the affidavit of a certain man. The court would say the affidavit is incompetent, and it would not be accepted.

The CHAIRMAN. I think the gentleman comprehends the distinction made by the chair.

Mr. RANNEY. But I say when he starts on the assumption that it is the affidavit of a private individual and is outside of the rule which we have established, that it would not be competent. It does not depend upon reading it whether it makes it competent or not. You do not need to read it to see whether it is competent or not.

The CHAIRMAN. I state again that Colonel Young makes an offer. He proposes to make known to the committee what his offer is, or to make his offer in writing. I do not care whether it is an affidavit or what it is. I say that he has a right to make the offer as he likes. He may read an affidavit, but he does not read it as an affidavit, as proving anything. The affidavit in this stage of the proceeding proves nothing more than any other written offer would. But he submits it to the committee as showing his offer. Then, if the committee should say that the offer may be admitted, it would become a question as to the manner of proving it. If the witness is present and this is a mere affidavit, it would not be competent. But if the committee should say, after hearing this statement of facts, whether oral or written, that it was not competent, that is the end of it. That is my view of it. I do not admit the affidavit, and do not say that the affidavit can be read as proving any single fact, but I say it can be read as stating facts which it is proposed to prove by competent evidence.

Mr. YOUNG. Shall I read it?

The CHAIRMAN. The gentleman from Massachusetts has appealed from the ruling of the Chair saying that the offer may be made.

Mr. OATES. The question is whether we will hear it read, not whether it goes in as evidence.

Mr. HALL. Colonel Young stands here as an individual who proposes to put this committee in possession of some facts which can be established by competent testimony, and to set forth his good faith he has an affidavit prepared to show that his proposition is one that is coming in proper form. The affidavit is not offered as evidence, or as establishing any fact before the committee.

Mr. MOFFATT. If I understand the question, it is as to the mode in which he shall make the offer. It seems to me that the proper mode is for him to state to this committee what he expects to prove, and it is unnecessary to read any affidavit to recite it. Colonel Young is a man possessed of clear power of statement, and he could tell the committee in five minutes what he wanted to prove.

Mr. OATES. I had rather hear it read than his oral statement.

The CHAIRMAN. The view of the Chair is that he may make it as he likes.

Mr. MOFFATT. It is like examining a witness first to determine his competency.

Mr. HANBACK. I asked to have a witness subpoenaed in one case and I was required to state what I expected to prove by him to the chairman. Of course I could not state what I could prove by him, because I had never seen him.

Mr. HALE. Is not this substantially the same proposition that was here the other day when Mr. Van Benthuyzen presented his statement?

Mr. OATES. Oh no.

Mr. HALE. Is it to go into the record?

Mr. EDEN. Not the reading of it.

The CHAIRMAN. The question is on the allowing of the offer to be read.

Mr. HALE. There was an objection made to the statement of Mr. Van Benthuyzen.

Mr. YOUNG. That has no reference to this.

Mr. HALE. I say the same question seems to be involved, as to whether a proposition of that sort can be admitted in that shape.

Mr. OATES. The question is whether Colonel Young can read his paper and state what he wants to prove—not that it goes in at all, but whether we will let him state it.

Mr. HALE. If it does not go into the record I have no objection.

Mr. EDEN. It does not, unless we allow it.

Mr. HALE. I suppose the reporters can take it all down.

Mr. EDEN. I suppose the official reporter will do as we direct him to do.

Mr. RANNEY. I understand the statement to be that as Mr. Van Benthuyzen's counsel is not here Colonel Young will state it. It has already been stated that it does not relate to anything put in before the Commissioner of Patents, the Attorney-General or the Secretary of the Interior, but to something outside of that.

The CHAIRMAN. The question is shall the ruling of the Chair stand as the decision of the committee?

Mr. RANNEY. I call for the ayes and noes.

The vote was taken—Yeas: Messrs. Oates, Eden, and Hall; nays: Messrs. Hale, Ranney, Hanback, and Moffatt.

The CHAIRMAN. The noes have it, and the decision of the Chair is overruled.

Mr. MOFFATT. I have no objection to Colonel Young's stating what he wants to prove.

The CHAIRMAN. There is nothing before the committee.

Mr. MOFFATT. I move that Colonel Young be allowed to state to the committee what issue he wants to make.

Mr. YOUNG. If the committee would hear me a moment—

The CHAIRMAN. On what subject?

Mr. YOUNG. On the subject before the committee.

Mr. EDEN. I want to see what it is that Colonel Young proposes to prove.

Mr. MOFFATT. I am willing that he should state it.

The CHAIRMAN. The question is on the motion of the gentleman from Michigan.

The question was put and agreed to.

Mr. YOUNG. In order to state it, I will read from a paper I hold in my hand.

Mr. MOFFATT. I shall object to that. State what you want to prove.

Mr. YOUNG. I cannot state in one word.

Mr. MOFFATT. I do not know of any gentleman who has better power of communication than you have. You can state what the object of your offer is.

Mr. RANNEY. You cannot dodge the ruling of the committee in that way.

Mr. YOUNG. I am not trying to dodge any ruling of the committee.

The CHAIRMAN. The view of the Chair is that Colonel Young may state it in any way he thinks proper.

Mr. EDEN. I think so, or not state it at all.

Mr. MOFFATT. In that case, what has the other vote amounted to?

The CHAIRMAN. This is a new question raised upon your motion.

Mr. YOUNG. I will try to state it without reading the whole paper. I have to look over it to get the exact facts.

Mr. MOFFATT. I object.

Mr. RANNEY. That is not treating the committee fairly.

Mr. MOFFATT. I object, and ask the ruling of the chair.

The CHAIRMAN. What do you object to?

Mr. MOFFATT. I object to his reading the statement. It was understood pretty thoroughly that Colonel Young was invited here to state what he wished to present to the committee, and not to read any document.

Mr. OATES. The decision of the committee is that he may state orally anything he pleases, but not to read it from the paper he has.

Mr. MOFFATT. That is my idea.

Mr. RANNEY. He is to state the issue that he wants to present.

Mr. MOFFATT. Yes, without reading it.

The CHAIRMAN. The chair is clear in the view already expressed, and therefore overrules the objection of the gentleman from Michigan.

Mr. MOFFATT. I appeal from the decision of the chair.

Mr. HALE. What is it you propose to do, Colonel Young?

Mr. YOUNG. I propose to investigate the other side of this question.

The CHAIRMAN. That is not the immediate question. The question is as to the manner in which you propose to do it.

Mr. YOUNG. I did propose to read the paper which I have in my hand, which sets out the facts I propose to prove before this committee. If the committee declines to hear the paper read, I will try to state it the best I can without reading it. I can make myself much more clearly and distinctly understood, and get through quicker and earlier by reading than I could by stating it orally.

The CHAIRMAN. The immediate question is this: On motion of the gentleman from Michigan it has been determined that you may make your offer. You propose to make it in a certain way, by reading it. The gentleman from Michigan objects to that, and the chair has overruled the objection. The gentleman from Michigan appeals from the decision of the chair, and the question now before the committee is whether the decision of the chair shall stand as the judgment of the committee.

Mr. RANNEY. On that I desire to say, Mr. Chairman, that the committee having ruled that he cannot read the paper, but is simply allowed orally to state what he proposes to prove, he should not be permitted to take advantage of that and do in-

directly what he has not been permitted to do directly. As lawyers, we all know that a man can state what issues he proposes to prove, what subject-matter he proposes to offer. Because cunning should not be allowed to be taken advantage of by a witness.

Mr. HALL. I submit that that is an unjust statement, but it is like hundreds made during this investigation, all in one direction. In the first place, the statement made about the ruling of the committee is an incorrect one. The committee has not decided that he should not read a paper, but simply that he should not read that affidavit. The committee has no information that this paper is the same thing at all. It was never said that he should not read a paper, but simply said that he might make a statement. The chairman has properly ruled that under a decision of that kind he may make his statement in his own way, and I fail to see any attempt on his part to dodge or evade any order of the committee, and I think comments of that kind are scarcely just to the witness.

Mr. RANNEY. I simply have said that he should not be allowed to do it.

Mr. HALE. He proposes now, I understand, to make an oral statement.

The CHAIRMAN. The question is on the appeal of the gentleman from Michigan.

The question was put, and Messrs. Oates, Eden, and Hall voted in the affirmative, and Messrs. Ranney, Hanback, and Moffatt in the negative.

The CHAIRMAN. The majority not voting to sustain the chair, the decision of the chair is overruled.

Mr. YOUNG. I just want to say this to the committee: I do not see any help for me. Of course I am a culprit here, and I have to submit to the ruling of the committee. I would be very glad to have been allowed to read the statement, which I think is my right as an American citizen when put on trial for any offense. I would like to make my defense, but if the committee refuses to allow me to do it I have to go to the country on that record.

Mr. RANNEY. I call the gentleman to order. We are not here to be lectured. I object to the committee being lectured.

Mr. YOUNG. I am not lecturing the committee at all.

The CHAIRMAN. You may proceed with your offer in the way the committee has directed.

Mr. YOUNG. I do not know in what way they decided to allow it.

The CHAIRMAN. The decision is that you shall not read anything.

Mr. YOUNG. Then all I can do is to submit to the ruling of the committee. I would be very glad to introduce proof to justify myself and the gentlemen involved with me against these charges, but if I am cut off, I cannot help myself. I will state, if the committee will have the patience to hear me, that in examining this record, I think I could find—

The CHAIRMAN. We do not propose to hear any argument. We will hear your offer. What do you want to submit to the committee?

Mr. YOUNG. I stated to the committee that I wanted to submit this paper.

The CHAIRMAN. State the facts in that paper.

Mr. YOUNG. I will state them as near as I can. I propose to show by competent proof—

Mr. RANNEY. Pardon me; are you making Mr. Van Benthuyzen's offer or your own?

Mr. YOUNG. I am making my own. I take the responsibility of leaving Mr. Van Benthuyzen out of it. He is involved in it as much as I am. But I offer to prove to this committee that under a clause of that resolution to ascertain the reasons of the prosecution and the bringing of the Government suit, I propose to show that the patent that is being attacked by the Government was obtained by fraud from the Patent Office. I propose to show that the officer who gave it was derelict in his duty. I propose to prove that he issued that patent from corrupt influences; that he was paid by the patentee to issue this patent that is being attacked now in this suit being instituted by the Government. That is the main fact I propose to prove. If the committee will allow me to do it, I will prove it by this paper here, or I will summon the witnesses to prove it.

Mr. HALE. Is that the substance of your statement?

Mr. YOUNG. Yes, it is what I propose to prove. I state it in this paper. Papers have been introduced here not signed or sworn to by anybody; your record is full of them. Now I simply offer to present a paper that is signed and sworn to, setting out facts that I propose to prove by other witnesses. I submit it is not a fair ruling to exclude me from that right.

Mr. MOFFATT. I knew the colonel could state it in good shape.

Mr. YOUNG. I have not stated half of it.

Mr. HALL. Your offer is to prove, as a matter of fact, what you claim to be a fraud connected with the original issue of the Bell Telephone Company patent?

Mr. YOUNG. I do propose to prove that fact.

Mr. RANNEY. In other words, you propose to try the issue whether that patent was obtained by fraud or not?

Mr. YOUNG. I propose to try the issue that is involved here. I do not think any of this inquiry should have been entered on, but that is not for me to say. Congress differed with me.

Mr. HALL. That makes a further inquiry of the witness necessary. Would the proof which you propose to present furnish any further or additional facts than those that appear to have been before the Secretary of the Interior when he made his investigation?

Mr. YOUNG. They are in continuation of the same facts, but additional ones.

Mr. HALL. Would there be any additional evidence to show fraud or corruption than what was then in the record before the Secretary of the Interior?

Mr. YOUNG. Yes; to show that it was actually paid for.

Mr. HANBACK. Under what clause of the resolution do you offer this?

Mr. YOUNG. Under the clause which directs the committee to inquire into the reasons and authority for instituting this suit, and especially the former part of the resolution, which directs the inquiry to be made by this committee into the question of priority of patents as between the Pan-Electric Company and the American Bell Telephone Company, which would be the priority of patents between Harry Rogers and Professor Bell, whether Bell had a patent or not, I propose to show that he did not have any.

Mr. MOFFATT. I have no objection, if the committee want it, to investigating the whole question and employing patent lawyers to conduct the case.

Mr. HALE. I do not think it is any part of our duty to try that case. It would mean a year's work if we should undertake it. We decided a week ago to close the testimony, and only allow witnesses to explain what was necessary to be corrected.

Mr. HANBACK. I have seen in the public press—I do not know anything about it myself—a statement as to the cost of this proceeding that is now going on, and judging by the statements of the costs in the Drawbaugh case, I believe it was, and a number of cases where it cost the Bell company five hundred thousand dollars to conduct it and accumulate the testimony, I suppose if we are to go into this investigation as to the validity of the original proceeding, of course we will have to have a trial where both sides are represented, and it would take a year to try it, and cost a large sum of money. I do not think we can transfer the trial of the case from Columbus to this committee. I am opposed to it, and I know it was not contemplated by the resolution.

Mr. OATES. I move that the committee now adjourn until 12 o'clock to-morrow, to meet at that time in secret session for the purpose of determining the question now before the committee, and any other matters they may think proper to consider.

Mr. HALL. Before that motion is put, I would like to inquire of Colonel Young as to whether he has any objection to submitting his papers to the chairman of the committee?

Mr. YOUNG. No, sir; I have no objection.

The motion was then agreed to, and the committee adjourned until Saturday, May 22, 1886, at 12 m.

WASHINGTON, D. C., *Saturday, May 22, 1886.*

The committee met at 12.15 p. m., in secret session, for the purpose of considering the offer of testimony made by Mr. Casey Young, and other pending matters. After some time spent in deliberation the following resolution was adopted:

"*Resolved*, That the committee adhere to the resolution heretofore adopted, and refuse the motion to go into any investigation as to the alleged fraudulent issue of the Bell patent, further than the evidence in the record used before the Secretary of the Interior discloses."

Also the following:

"*Resolved*, That the evidence now be finally closed and the committee proceed to make a report to the House of the evidence adduced and their conclusions thereon."

The committee then adjourned until Monday, May 24, 1886, at 12 o'clock m.

WASHINGTON, D. C., *Monday, May 24, 1886.*

The committee met at 12.35 p. m.

The CHAIRMAN. I have here Mr. Von Briesen's letter, as published in the New York Times of October 19, 1885, which he desires to have go in evidence.

Mr. HALL. Mr. Von Briesen has testified to nearly all the facts covered by that letter, has he not?

The CHAIRMAN. I was not present when Mr. Von Briesen was examined, and have not read his testimony.

Mr. HALL. I do not know that he can be allowed to use a letter for the purpose of corroborating his testimony.

Mr. MILLARD. Is it desired to have it read?

The CHAIRMAN. If it is desired to have it in evidence it can be handed to the reporter.

Mr. OATES. Can it not be read first?

The CHAIRMAN. I may as well read it; it need not be taken down.

The chairman then read the article in question.

Mr. OATES. The reason that caused me to ask that the letter might be read was, because of the conflict between Mr. Von Briesen's recollection and Mr. Garland's recollection as to what passed between them.

The CHAIRMAN. He refers to the fact that he had said in this letter that the Attorney-General had said that in case another application were made it would be sent to the Solicitor-General.

Mr. RANNEY. It seems to me that the first part of it, down to the second section, is material, if competent, as affecting Mr. Von Briesen's testimony given here. That is the only view in which it can be competent as sworn testimony. But if there is anything in that letter which conflicts with his testimony given here I perceive that it is important. As a substantive piece of proof it is not.

Mr. OATES. I am willing it should go in for what it is worth. I do not know that it is worth much.

Mr. RANNEY. That is the ordinary rule of evidence, if it relates to the same subject. But it is not true that all of the communication is rendered competent; a part may be and a part may not be.

Mr. OATES. It may as well all go in.

Mr. RANNEY. It should all go in if it relates to the same subject-matter.

Mr. OATES. It should all go in, for everybody knows that that part of it is not evidence.

Mr. RANNEY. It is encumbering the record with an argument on the law.

Mr. OATES. We have been encumbering it so much that that will not matter.

Mr. MILLARD. I do not see on what theory it is offered except that he offers it himself to support his own evidence.

Mr. HALL. I do not think it is right to put one part in evidence and dispute the balance.

Mr. RANNEY. He sends it here to support his evidence.

The CHAIRMAN. Then the whole of it should be introduced.

Mr. MILLARD. I think the whole of the letter should be excluded if we decide the matter on legal grounds.

Mr. RANNEY. I think the whole of it should be excluded.

Mr. OATES. Mr. Ranney insisted the other day that it ought to go in.

Mr. RANNEY. No, I suggested that the letter that he wrote should come in.

Mr. OATES. Well, that is it.

The CHAIRMAN. Mr. Von Briesen wrote a letter to the committee also.

Mr. RANNEY. I suggested to the chairman that if anything should come in, it should be the letter to which he refers.

The CHAIRMAN. I think the private letter should not come in, because it was a mere argument.

Mr. MILLARD. I think both should be excluded.

Mr. RANNEY. If either is in, I think both should go in.

The CHAIRMAN. I see no reason why his letter should go in, because that is nothing but a letter calling attention to the fact that he had testified before in regard to the matter. The question is on the motion of the gentleman from Alabama that this letter should be admitted.

Mr. RANNEY. I make an objection to it. The rule of the committee is that when an objection is raised, it is the duty of the chairman to decide as to its competency.

The CHAIRMAN. Do I understand that the letter is accepted as authentic, as proven, as we have proceeded in other cases?

Mr. RANNEY. I should not raise that question.

The CHAIRMAN. That being true, the chair holds the letter admissible.

Mr. RANNEY. Then the letter that he sent with it should be admissible, too.

The CHAIRMAN. One thing at a time. Does the committee accept this letter?

Mr. OATES. I think so. I think that is right.

The CHAIRMAN. Then the letter can go in evidence.

Mr. RANNEY. I claim that the letter Mr. Von Briesen wrote to the chairman requesting it to be put in should also go in evidence. [To the stenographer.] When this letter is put in, let it be put in as addressed to the New York Times.

Mr. MILLARD. It was addressed to the Times, was it not?

Mr. RANNEY. Yes.

The CHAIRMAN. I cannot find Mr. Von Briesen's letter to the committee. I think it is at my room.

Mr. RANNEY. They should go in together.

Mr. MILLARD. It simply calls attention to this letter.

Mr. RANNEY. More than that; it explains his purpose in writing it—that it was to exculpate the Attorney-General.

Mr. HALE. Is that the purport of the letter, Mr. Chairman?

The CHAIRMAN. Yes. Shall we proceed with this without having the other letter before us?

Mr. RANNEY. His letter shows, too, that this letter is put in at his request, and shows the purpose he had in writing the letter. He declares it in his letter.

Mr. HALE. Have you that letter, Mr. Chairman?

The CHAIRMAN. It is at my room; I did not bring it with me this morning.

Mr. HALL. It seems to me that the purpose of the witness is to be ascertained from the communication itself. The fact that he may have had some silent purpose not connected with the public is immaterial.

The CHAIRMAN. Is it desired that we shall proceed without the letter of Mr. Von Briesen addressed to the committee?

Mr. RANNEY. I desire the ruling of the chair as to whether that letter is to go in.

The CHAIRMAN. The chair is ready to rule upon the letter. I do not think it is competent for the reason that it is a mere argument upon the part of Mr. Von Briesen, according to my recollection.

Mr. RANNEY. I want the letter to go into the record, and I ask for a yea and nay vote on it. I appeal from the decision of the chair.

Mr. HALE. As I understand, that is the letter from Mr. Von Briesen to the New York Times.

The CHAIRMAN. No, that is not the one.

Mr. OATES. This is a letter Mr. Von Briesen wrote the other day to the chairman about the points in controversy between him and Mr. Garland, in which he refers to this published one.

Mr. HALL. He writes a letter to the chairman in which he says that he had seen the Attorney-General's testimony, and that he is mistaken in one point in his testimony given before, and on that point he refers to this letter of October 19 written by him.

Mr. RANNEY. The fact is this: Mr. Von Briesen has been before the committee and given his version of the interview with the Attorney-General. The Attorney-General then testified in regard to the matter, and Mr. Von Briesen saw the Attorney-General's testimony, reported in the papers, I suppose, and writes a letter to the chairman calling his attention, and the attention of the committee, to his letter of October 19, and making a remark in it that affects Mr. Von Briesen as a witness. We have now put in the letter of October 19, to which he refers. Now, I say his letter, written to the committee, referring to the letter put in, and stating his purpose, the purpose for which he wrote the letter, is competent evidence here as a part of the letter which we have put in and to which he refers, as affecting his testimony.

Mr. HALL. To establish what fact is it competent?

Mr. RANNEY. As affecting the witness's conduct and purpose. It is a statement in his own handwriting relating to the matter. It is upon the same principle, precisely, that the committee acted in allowing the letter of Mr. Forbes to go into the record, together with a copy of the letter that he sent to the committee in connection with Mr. Jones's testimony. Why should not this letter go upon record in the same way?

Mr. OATES. There was no objection made to that at the time.

Mr. RANNEY. Why should not the same rule apply? Mr. Von Briesen has been a witness and has testified in the case, and this letter affects his testimony.

Mr. HALL. Affects it how?

Mr. RANNEY. It affects it very clearly. Supposing there is a conflict between the statement in the letter and his testimony?

Mr. HALL. Well, we have got the letter.

Mr. RANNEY. He writes here, in his own letter, and asks that this published letter be put in, and says that he wrote the letter for the purpose of exculpating the Attorney-General.

The CHAIRMAN. You would not allow him to state his purpose in writing the letter, would you? The statements speak for themselves.

Mr. RANNEY. Yes, I would. Suppose he comes on the stand and says I swear now that that interview was so and so. "But, Mr. Von Briesen, you wrote that letter stating that you said so and so, admitting the facts." "Well," he says, "when I wrote that I wrote it in the interest of the Attorney-General, to help him." Would that not be perfectly competent as an explanation?

Mr. HALL. Would that change the truth of his statement?

Mr. RANNEY. If the two conflict and the question is which is true, and he says "the reason I wrote that was that I wanted to help the Attorney-General, and therefore that is my explanation."

Mr. HALL. Therefore one is true and the other is not?

Mr. RANNEY. My sworn testimony is true, and that was written for a purpose.

Mr. HALL. Any man can always corroborate himself by telling what was inside his breast.

Mr. RANNEY. A man comes on to the stand and swears to certain facts. Another man comes on and says, "You told me so and so." He replies, "Yes, I did, but it is because you wanted it for a particular purpose, and I said it for a particular purpose." It is an explanation, and it goes to the credit of one or the other. It is a matter of common occurrence. A man says, "When I gave you that one I was drunk," and this is another explanation.

The CHAIRMAN. That is as to a statement of fact, but not a statement of a purpose or intention.

Mr. RANNEY. A man has a purpose in the shape of an argument and he makes it.

The CHAIRMAN. You will certainly agree, Mr. Ranney, that a witness cannot swear to what his purposes and intentions were. My view is that what a witness has said may be shown against him to affect his testimony, but he cannot corroborate himself except under peculiar circumstances. As an illustration of the rule of evidence by which a witness may corroborate himself, here is a witness who has testified to certain facts. He is contradicted—impeached. That witness is permitted to show that he had previously made a statement of those facts even not under oath. He is permitted to show that he had made a statement of the same facts long anterior to his testimony, before any question had arisen as to who was telling the truth, himself or the other witness. That comes strictly within the rules of evidence.

Mr. MILLARD. Is there any rule of law which will justify the admission of any such evidence?

The CHAIRMAN. Oh, yes; and I believe I gave the gentleman from Massachusetts the authorities on that subject.

Mr. RANNEY. You do not seem to understand my position. A man has sworn to a state of facts under oath, and it is shown that he wrote a letter at the time stating the facts differently. Now, suppose he was on the stand, and I say to him, "Mr. Witness, why did you swear that it was so and so? You have stated in your letter differently." And he says, "Oh, I stated that for a particular purpose," and he makes an explanation as to why he stated it. It is a familiar principle of law, as well known as any I ever practiced under.

Mr. HALL. But that is where the opposing party has introduced a contradictory statement.

Mr. RANNEY (to the chairman). Will you produce the letter, so that we can examine it?

The CHAIRMAN. Yes, when I find it.

Mr. RANNEY. I shall insist on its going into the record.

Mr. OATES. It can be introduced for the purpose of contradicting or weakening the evidence, or by a third party for the purpose of corroborating it and strengthening it. But when the issue is made and the party has testified, then you cannot make an outside declaration, not a sworn one, to affect the issue at all.

Mr. RANNEY. You do not understand. It is for this purpose: A man makes a statement under oath before the committee—

Mr. OATES. But here is an antecedent fact.

Mr. RANNEY. He has written an article to a newspaper which preceded it, but was not under oath. He is asked, "Why did you make a statement in a letter which conflicts with this?" He is called upon to explain it, and he does explain it by stating that he was writing a newspaper article for the purpose of exculpating Mr. Garland.

The CHAIRMAN. That is not this case.

Mr. RANNEY. Yes, it is.

The CHAIRMAN. Certainly not. The letter given in evidence this morning is not contradictory. It is given in evidence to corroborate the witness.

Mr. MILLARD. That is the reason I say it is not proper.

The CHAIRMAN. It can be sustained by authority. A witness is contradicted, and his evidence impeached. He calls attention to a letter written by him before he had testified, in which he had told the same story, subsequently sworn to. He had the right to do this to prove that he had not recently manufactured the story.

Mr. RANNEY. That is not the principle. If that letter is offered to us to corroborate the witness, no authority will show that it is competent. The only authority is where a man has to give such a statement under oath for the sake of corroboration of what he has stated to another person. That question arose in the Keifer committee, and it was ruled incompetent. I was under the impression that it was. I went home and had a case pending in court where the very question arose, and I argued it, and the supreme court held it was not competent and could not sustain the evidence. It has not been held competent except in a case where a man is charged with manu-

facturing a story since for a purpose. He says "I did not manufacture it since for a purpose, because on the next day after it occurred I told of it."

Mr. HALL. I would like to see the authority for that. I was under the impression that a witness's declaration could only be introduced where new testimony was put in.

Mr. RANNEY. I had not concluded my statement. Here there is no pretense that Mr. Von Briesen manufactured it since. It is not a case where he says "I manufactured it since," because here is a statement he put into the New York Times—not directly after this occurred, because that occurred the last part of July, and this publication was on the 19th of October following. It is not corroborating, and no man can corroborate himself under such circumstances. It is only where he is charged with making up a story since. I say it is competent as affecting his testimony, because he gives a version of that interview in his newspaper article.

The CHAIRMAN. My recollection of the rule is distinct—I may be wrong—but it is to this effect: That where the witness describes an occurrence, and afterwards upon the trial his reputation is attacked, or his version is contradicted, as to that he may then introduce declarations made by him or acts done by him.

Mr. MILLARD. Prior declarations?

The CHAIRMAN. Yes; and it makes no difference how long before. It must of course be prior. He may introduce evidence to prove that after the occurrence and before the adverse testimony was given, he had related the story in the same way, to prove not the fact, but to prove that he did not make up the story when he testified.

Mr. OATES. Wherever a witness testifies, before there is any conflict, he cannot refer to former declarations for the purpose of corroborating or strengthening his evidence; but where there is a conflict and contradiction, then his conduct and declarations before, sustained or unsustained, may be shown to contradict or sustain him.

Mr. RANNEY. The law does not permit hearsay evidence, and it never permits it in a case like that.

Mr. OATES. It is not hearsay at all, but it is on that principle. It is acts.

Mr. MILLARD. Take the case where a man is on trial for arson or assault and battery. He gives a statement of the transaction. He says: "This statement is true, your honor and gentlemen of the jury, because I made the statement the next day, which was so and so, or I can produce a man to whom I stated it just as I do now." That is not proper.

Mr. OATES. Before he is contradicted he cannot corroborate it.

Mr. MILLARD. But the prosecution, to go further, can show that the very next day he made a statement which is inconsistent.

Mr. HALL. Here is a witness on the stand, and the question is to contradict him because he made a statement somewhere else. He can admit it or say that he does not remember it. If he admits it then he can be recalled and give an explanation of the circumstances under which it was made. But he cannot go behind that. He cannot say, "I am telling the truth to-day, notwithstanding what I said on Saturday because on Monday before that I did say so and so." But anything explanatory of the particular time and place he can explain.

Mr. RANNEY. No man can bolster up his testimony by coming in and saying that he told people something and put that in. It is only in a peculiar case where a man is charged with manufacturing a story afterwards and to meet that view. In this case I understand the chairman to rule that this is competent, because it is to sustain the witness. I say it is in conflict and that it is competent to put in his letter under his own hand just as if he was here now, and he should testify and explain why he wrote in a newspaper article a different statement from that which he has sworn to here.

Mr. HALL. I cannot admit it on that ground.

Mr. HALE. I think we had better exclude or admit both of them.

The CHAIRMAN. They are as unlike as different pieces of evidence can be. There is no reason for excluding both.

Mr. HALE. I do not think the other letter was admissible, except for the purpose of contradicting the witness. I think that is the only rule under which it could be admitted. Now it is claimed that this letter to the chairman explains that communication in some shape, or makes a reference to it, which is contradictory in its character.

Mr. HALL. One is a public letter published in the newspapers.

Mr. HALE. It makes no difference whether it is addressed to the public or to the chairman.

Mr. OATES. I think we had better postpone this whole matter until we get the letter.

Mr. MILLARD. We had better postpone the consideration of both letters.

Mr. HALE. I do not know what is in the letter; that is the trouble; I am in the dark. I say if there is anything in that communication contradicting or explaining it in any way it ought to be admitted.

Mr. HALL. I do not understand that it is anything of that kind at all.

Mr. RANNEY. It read something like this——

Mr. MILLARD. It referred to this letter, to certain passages in it.

Mr. HALE. I do not think it was admissible for the purpose of sustaining the testimony.

The CHAIRMAN. I do not hold that this letter is admissible to prove that the version of the interview as given by Mr. Von Briesen is true, and that the version given by the Attorney-General is not true. It is not competent for that purpose. But it is competent as showing that Mr. Von Briesen did not manufacture the story that he told here for the occasion. That is the view I take of it.

Mr. HALE. I differ with you in that view.

Mr. RANNEY. Nobody claims that he manufactured it.

Mr. MILLARD. In regard to this view of corroboration, I agree with Mr. Hale.

Mr. HALE. I am willing to vote to have them both put in or kept out. I have not seen the letter.

Mr. RANNEY. I move that they both be excluded or admitted, and I will put my motion in this form, that they both be admitted.

Mr. HALE. I move to admit this last letter in question. The other is already in. I do not know what is in it, but it is plain there is something in it contradictory.

Mr. MOFFATT. I second the motion.

The CHAIRMAN. The motion is overruled.

Mr. RANNEY. Then I appeal from the decision of the chair.

The CHAIRMAN. I will state the question.

Mr. HALL. I think Mr. Hale had better be informed of the contents of the letter first.

Mr. OATES. Perhaps it would be as well to postpone the matter, as he does not know what the letter contains.

Mr. HALE. I am very clear in the opinion that the other letter is not before the committee unless used for the purpose of contradicting the witness, but as it is already there I think the other should go in.

Mr. HALL. This letter is addressed to the committee.

Mr. HALE. It was addressed to the chairman, but I suppose properly belongs to the committee.

The CHAIRMAN. As stating the rule, I have here a decision made by the supreme court of Pennsylvania in the case of Henderson against Jones, a civil case, which I will read from. The court say:

"There is only one point in this cause. Where a witness is contradicted and evidence is given to impeach his character, can evidence be given of what he swore on a former trial to show his consistency and to corroborate him? It consists with my own experience that such evidence has been constantly received, and it appears from the cases cited by the counsel for plaintiff in error that whenever the matter has come before our courts it has been conceded by counsel and allowed by the court that evidence may be given of declarations, without oath of the witness, to corroborate his evidence whenever its truth has been called in question. The recent *dicta* that for the purpose of impugning the testimony of a witness his declaration at another time may be inquired into, but not for the purpose of confirming his evidence, are in direct opposition to all adjudged cases, and, as it appears to me, the distinction is without any foundation in reason."

This is the rule I state, as near as can be.

Mr. RANNEY. In the case I referred to Mr. Keifer swore one way and General Boynton the other way. It was before a committee at the last session of Congress, and authorities were cited, and it was ruled it was not competent, and in that case the party went right out of the room and told the facts to another person.

The CHAIRMAN. The gentleman responsible for that seems to have been totally unaware of this rule of evidence.

Mr. OATES. I move that this whole matter go over until our next meeting.

Mr. HALE. On what theory do you claim that that letter to the Times was admissible?

Mr. HALL. On the ground that Mr. Von Briesen was here and took an active part in all these transactions, and his letter has been published, and in connection with all the other newspaper articles put in evidence.

Mr. HALE. You do not put it on the ground that it sustains his testimony?

Mr. HALL. No, I do not by any means.

Mr. RANNEY. Then it should not go in.

Mr. HALE. It is only permissible as contradictory.

The CHAIRMAN. I do not think you can find any authority in opposition to the one I have quoted.

Mr. MOFFATT. I do not believe that is the law in our State.

The CHAIRMAN. Do not forget the distinction; it ought not to be forgotten. The evidence is not admitted for the purpose of proving the fact, but for the purpose of showing that the witness did not make up this story when he swore to it before the committee.

Mr. RANNEY. I ask for a vote on the appeal from the decision of the chair.

The CHAIRMAN. There is another case, *Hester v. The Commonwealth*, decided in 1877 by the supreme court of Pennsylvania, and a half a dozen more to the same effect, that where an attempt is made to discredit the statement of a witness evidence is admissible to show that he had previously made the statement to other parties—not to show that the statement is true, but that it is not a fabrication of recent date.

Mr. MOFFATT. I am in favor of admitting it, whether it is strict law or not.

The CHAIRMAN. The question is on the motion of the gentleman from Alabama to postpone the consideration of the matter until our next meeting.

Mr. HALE. I have no objection to postponing it.

Mr. RANNEY. I couple with that the statement that we postpone the consideration of the other one also.

The CHAIRMAN. The newspaper article is already in.

Mr. RANNEY. I amend the motion so that the letter to the newspaper shall not be inserted in the record until the other one to the chairman is produced.

The CHAIRMAN. The motion to postpone is not amendable.

Mr. MILLARD. I think we should dispose of both letters at the same time. I move that the letter which has been received and put in evidence be stricken from the record unless the other letter goes in also.

Mr. RANNEY. The object is to get this letter into the record without the other.

Mr. OATES. There is no such object at all. I am ready to vote to admit or exclude them. My purpose is to get on and stop this wrangle.

Mr. HALL. If Mr. Oates will withdraw his motion, I will move to reconsider the action of the committee by which the letter was introduced.

The motion of Mr. Oates was withdrawn, and the motion of Mr. Hall was agreed to.

Mr. OATES. Now I move to postpone the further consideration of the question.

Mr. MILLARD. I move that both letters be admitted. I do not think either of them is proper, but one refers to the other.

Mr. HALE. I move to amend by excluding both letters. I do not think either one is proper in evidence.

Mr. MILLARD. I withdraw my motion.

Mr. HALE. I move that both be excluded unless somebody will offer them for the purpose of contradiction. I want that distinctly understood.

The CHAIRMAN. The Times letter has already been offered in evidence and admitted. The action of the committee by which it was admitted was rescinded. That leaves the Times article standing alone. The chair holds that article admissible.

Mr. RANNEY. I appeal from the decision of the chair.

Mr. OATES. Then the question is whether the chair shall be sustained in admitting that article.

Mr. HALE. If anybody offers that for the purpose of contradicting the witness I shall vote to admit it.

Mr. MOFFATT. I offer it on general principles, as everything else has been admitted.

Mr. RANNEY. Why do you want to go over the ground again if you do not want to offer them both?

Mr. MOFFATT. I move to admit them both.

The CHAIRMAN. The chair holds one admissible and the other not. I hold it is admissible, not as proving the fact, but to show that this witness did not manufacture the story when testifying before this committee.

Mr. MOFFATT. I make the offer as a whole.

The CHAIRMAN. If compelled to rule on them as a whole, I will have to hold they are not admissible if they both go together. I cannot conceive how a court would rule on a question of that kind where one was admissible and the other not.

Mr. MOFFATT. I supposed that the chair would rule that if one was considered not admissible and the other admissible, and the offer was made as a whole, he would refuse the application.

The CHAIRMAN. If it is understood that the two papers are offered together and cannot be separated, and that the chair must decide whether they are or are not admissible, I would hold that they were not admissible, for I am quite clear that the last letter of Mr. Von Briesen's is not admissible.

Mr. RANNEY. Then you hold that is not admissible?

The CHAIRMAN. Yes, if offered together, if they are to be taken together. But I repeat what I have said before, that I never have known two papers to be offered in that way where you must exclude a competent one because it is offered with an incompetent one.

Mr. HALE. I think where one paper is connected with another in that way it is a common thing to offer them together.

Mr. RANNEY. That is a common practice.

The CHAIRMAN. That is not the rule at all. That would compel the passing upon a proposition like this as a whole.

Mr. RANNEY. This is a simple practical question for the committee to determine. Either both of these letters should go in or both go out.

The CHAIRMAN. The chair will take the responsibility of deciding that the New York Times letter is admissible and the other letter is not admissible.

Mr. MOFFATT. I appeal from the decision of the chair.

The CHAIRMAN. The question is, shall the ruling of the chair stand as the judgment of the committee?

The question was put, and the ruling of the chair was not sustained, Messrs. Oates, Hall, and Moffatt voting in the affirmative, and Messrs. Hale, Ranney, and Millard in the negative.

Mr. RANNEY. I move that both letters be admitted.

Mr. HALL. I object on the ground that the proper way of introducing evidence is to introduce each particular piece by itself.

Mr. RANNEY. Let us dispose of the matter.

The CHAIRMAN. The question is on Mr. Ranney's motion that both letters be admitted.

The question was put, and it was decided in the affirmative.

Mr. RANNEY. Then they are both admitted?

The CHAIRMAN. Yes; I will furnish the other letter to the reporter so that it can go into the record.

The letters in question are as follows:

[Briesen & Steele, counsellors at law, 229 Broadway.]

NEW YORK, May 21, 1886.

Chairman Telephone Investigating Committee:

DEAR SIR: I see that Attorney-General Garland doubts the correctness of my testimony, given before your hon. committee. In order to throw some light on this matter, I beg to call your attention to a letter written by me and published in the N. Y. Times on October 19, 1885. This was written, as you will see, with the object of showing that the Attorney-General's hands were clean, and yet in the said letter I said that during the July interview the Attorney-General stated that should any papers be laid before his Department in the telephone matter "he would refer them to the Solicitor-General."

I request you, Mr. Chairman, to hand this communication to the other members of your committee.

Very respectfully,

A. VON BRIESEN.

[From the New York Times of Monday, October 19, 1885.]

THE VALIDITY OF THE BELL PATENT.

To the Editor of the New York Times:

The unfortunate circumstance that the Attorney-General of the United States is interested in the welfare of a Southern telephone company has resulted in preventing an investigation of the validity of the Bell patents. Your valuable paper, and, in fact, nearly the entire press of the country, has contributed to this result. If the fact should be that the patents of Bell were fraudulently issued, and that, therefore, an opportunity to overthrow a monopoly based upon fraud has been lost, the result of the newspaper attacks upon the Attorney-General would be deplorable rather than gratifying. I write this communication with the object, first, of satisfying your readers that the Attorney-General's hands in the suit now discontinued were absolutely clean, and, secondly, to show that an investigation of the Bell patents in form of a suit brought by the United States appears necessary.

(1) As to Mr. Garland. On the 31st of July I called upon Mr. Garland in the presence of Messrs. Van Benthuyzen, Charles P. Huntington, Young, and Gantt, to consult him about the propriety of bringing a suit against the Bell patents in the name of the United States. I appeared before him as the attorney of Mr. Van Benthuyzen and Mr. Huntington, neither of whom had any connection whatever, so far as I believe, with the Pan-Electric Company of Tennessee, or with any of its branches. The conversation was opened by my stating to the Attorney-General that we appeared before him with the object of consulting him respecting a suit to be brought in the name of the United States against the Bell patents, and that we were anxious to lay before him such proofs and papers as in our estimation rendered a suit of this character necessary. I was immediately interrupted by the Attorney-General, who said that he did not wish to hear a word about any steps to be taken against the Bell patents, because, being himself connected with an opposition telephone company, he did not deem it proper, now that he was Attorney-General, to even listen to any matter in-

volving these interests. He also stated that should any papers be laid before his Department officially he would not consider them but would refer them to the Solicitor-General. Before withdrawing I said that the proper papers would be laid before one of the district attorneys for investigation and for a report to the Department of Justice, the particular district in which proceedings were to be started not having at that time been determined upon.

You will thus find that the Attorney-General during the interview in question (and that is the only interview of which I have any knowledge) declined to listen to any matter concerning the telephone. The attack against him amounted practically to a fault-finding that, having telephone stock, he accepted the office of Attorney-General. Hereafter, perhaps, no one will be appointed Attorney-General unless he will first show that he is not concerned in any interest against the Bell telephone patents. At least it looks as though we are drifting in that direction.

(2) The Bell patents have frequently been before the courts of the United States for consideration, and were invariably sustained. It might be supposed that such careful consideration was given to the patents in these suits that no further investigation would be of advantage, and that even if the circuit courts, in which the matter thus far has been considered, were in fault the Supreme Court of the United States will soon have an opportunity of setting all the questions at rest, one or more of the old suits having been appealed to that court.

But unfortunately the facts do not bear out this supposition. Bell's patents are only valid if Bell was the first inventor of the art itself of transmitting speech by electricity. The records of the Patent Office, however, show that long before Bell Prof. Elisha Gray had recorded a declaration on his behalf that he could transmit messages by sound telegraphically. There is also proof that as early as 1864 one Reis, in Germany, invented what he called a "telephon," or talking machine, which he described as operating telegraphically. Hence, the question whether Bell invented the art should no longer be open, but only whether Mr. Bell himself really invented any, and if so, which method of transmitting speech telegraphically.

The first suit brought under the Bell patents was in the district of Massachusetts by the Bell Company against Spencer. The opinion in that case was written by Judge Lowell (8 Fed. Rep., 509), who said that in that suit it was admitted that Bell is the "original and first inventor of any mode of transmitting speech." Why Spencer made that admission we do not know, but making it he was, of course, guilty of infringement of Bell's rights if he had any telephone. In other words that admission bound Spencer. It resulted in a decision for Bell. Does it bind the public? Supposing Spencer had not admitted that Bell was the first inventor of any mode of transmitting speech; supposing he had proffered proof that Elisha Gray and Edison had covered that field before Bell? Why did Spencer make the admission, and why did he not prove Gray's and Edison's prior developments?

The next suit is that of the Bell Company against Dolbear. The opinions in that case were written by Justice Gray (15 Fed. Rep., 1, 448, and 17 Fed. Rep., 604) and contain the following: "It is not denied by the present defendant that Bell is the first inventor of a speaking telephone," and "it is admitted in the present case that the Reis instrument, if used as he intended to use it, can never serve as a speaking telephone." These admissions necessarily controlled the opinion in that case.

When, during the summer of 1885, counsel for the Western Pennsylvania Telephone Company sought to satisfy the United States court in Pittsburgh by actual demonstration that the Reis instruments, which were then in court ready to be tested, actually transmitted speech, and were ready to show that Gray and Edison anticipated the Bell invention, the court refused to listen to or examine into these proofs, and refused to examine the Reis instruments on the ground that the prior decisions fully established the validity of the Bell patents, and that no court of the United States would further question that validity on a motion for injunction. An injunction was granted in that suit as a matter of course without the counsel for defendant being heard upon the merits.

A third suit was brought, known as the Drawbaugh suit. This was decided by Judge Wallace in New York, and in the opinion (22 Fed. Rep., 309) we find it stated: "Concededly Bell was an original inventor of the telephone, the principle of which, with the essential means for its application, are described in his first patent."

We therefore have three "test" suits, in which the Bell patents were sustained, and in each of which admissions were made, which, it may be presumed, carried great weight, for the admissions which I have quoted went to the heart of the litigation in each of the suits. These admissions would not be so dangerous if the courts of the United States would be willing to disregard them in subsequent suits, and to hear any one defendant who presents facts tending to show that Bell was not the first inventor, and that Reis or Gray, Edison or Pickering, Cross or certain others, as to whose prior investigations proofs were taken, anteceded him, or that his patent was obtained by fraud, or that what Bell invented is not now, nor ever could be, used, because impracticable.

But, as we have already shown in the Pennsylvania case, the court refused to consider any of these defenses. Will the Supreme Court, to which the Dolbear case has been appealed, see that the rights of the public are preserved? The Supreme Court is to decide only whether the court below was right in its judgment under the facts and admissions before it. The same facts, therefore, which were before the circuit court and the same admissions will have to go before the Supreme Court. Therefore, as it was admitted in the Dolbear case that Bell is the first inventor of a speaking telephone, and that the Reis instrument could never serve as a speaking telephone, the like admission before the Supreme Court will likely induce it to hold that the court below was perfectly right in finding for the complainant.

You will see, therefore, that if the Bell patents are invalid, either because the invention was made by others before Mr. Bell or for other causes, the public at large that pays the telephone charges has no opportunity of testing its rights in the premises, unless the Government itself, upon proper showing, will undertake to begin a suit against these patents in order to have them set aside.

I will not take up your space in discussing the question of the power of the Government to begin such an action. That power seems to be conceded. My object is to satisfy you that the rights of the public appear to require this service of its Government. In such a suit the Bell Company will not be likely to secure admissions which will jeopardize the public interest. The representatives of the Bell patents need not fear an investigation of this kind if their claim rests upon a righteous foundation. If it does not, their claim ought to be set aside as promptly and unceremoniously as possible.

ARTHUR V. BRIESEN.

THURSDAY, *October 15, 1885.*

Mr. RANNEY. In regard to Mr. Wilbur's affidavit, I think as one is in the record, the other should go in. I think there should be put in the second affidavit of Mr. Wilbur given to the Globe Co. That was in the first volume.

Mr. OATES. I thought it was understood that all the evidence in this record of the Department of the Interior was put in?

Mr. MILLARD. Suppose we leave it to Judge Ranney and the chairman to determine what portion shall be put in our record?

Mr. OATES. It was decided the other day that we need not put in the whole of that record and have it printed in our record, but as it was already printed by itself, we could refer to it for the purpose of evidence.

Mr. HALE. That was decided the other day.

Mr. RANNEY. The House would not then have it before them.

Mr. OATES. Yes, the House would have it in the same way that we would have it.

Mr. RANNEY. There should be some specific affidavits put in. There is the affidavit, in the first volume, of Mr. Wilbur, and another in the second volume. The one given to Mr. Van Benthuyzen has been already introduced, but there is another one which has not yet been offered.

Mr. OATES. Had we not better consider the subject of the making up of our report?

Mr. RANNEY. Let us get all our evidence in before we go to work at that.

Mr. HALE. I thought all the evidence was in.

Mr. RANNEY. There are certain affidavits which I think ought to go in. I have already stated that there are three affidavits of Mr. Wilbur, the first one given to Mr. Van Benthuyzen, which is in already; the second one, given to the Globe Company; and the third one, which is in the second volume.

Mr. OATES. I move that the committee go into executive session to consider the subject of making up its report.

The motion was agreed to, and after an executive session the committee adjourned until Tuesday, May 25, 1886, at 12 m.

WASHINGTON, D. C., *Tuesday, May 25, 1886.*

The committee was called to order at 12.30 p. m.

The CHAIRMAN. What shall be the order of business?

Mr. RANNEY. I desire to put in evidence some other documents. The first affidavit of Mr. Wilbur is already in evidence. Then in the first volume of the Interior Department record is the second affidavit of Mr. Wilbur given to the Globe Telephone Company, which I want to go in. It is put into this record by the Globe Telephone Company.

Mr. OATES. In regard to the papers from the Department of Justice that we are to get, and which it is understood are to go in when obtained, I move that the chairman and Mr. Ranney look over and make selections from them as to what ought to go into

this record, and that the committee now adjourn until Thursday week, to meet then for the purpose of considering its report.

Mr. RANNEY. The trouble would be, in that case, that we want these documents printed, for in making the report or statement we shall need to refer to the particular places in the record where these documents appear.

The CHAIRMAN. The motion of Mr. Oates contemplates that.

Mr. RANNEY. These papers would not be printed in that case.

Mr. OATES. My motion was that Mr. Boyle and yourself select such as ought to be printed. The rest of the members of the committee have not those documents, and you are familiar with them. That is included in my motion. Then the committee can adjourn until Thursday week, and come together at that time for the purpose of making their report.

Mr. RANNEY. I can put these documents in at once.

Mr. OATES. The chairman has some he wants to put in also.

Mr. HALL. A question might possibly arise between Mr. Ranney and the chairman as to what should go in.

Mr. RANNEY. No; the whole of it is in here in this record before the Interior Department in the "proofs for complainants in reply." I desire to introduce, as printed on page 595, the affidavit of Zenas F. Wilber; also the second affidavit of Alexander Graham Bell, printed on page 579; the affidavit of Marcellus Bailey, on page 583; the affidavit of Anthony Pollok, on page 587; the affidavit of Alexander Graham Bell, including the correspondence, on page 591; the affidavit of William D. Baldwin, on page 823; and another affidavit of William D. Baldwin, on page 827.

Mr. HALL. Those are papers used by the Bell Telephone Company as printed in vol. 2 of the record before the Interior Department?

Mr. RANNEY. Yes. I also desire to introduce the affidavit of William C. Tompkins, on page 797; the affidavit of Watson—I have not got the page of that; also "Nelson's case"—February, 1885, as printed on page 853; the second affidavit of Edward C. Davidson, on page 621, and the affidavit of John F. Guy, printed on page 793.

Mr. OATES. Mr. Chairman, I call up my motion. I do not care to sit here unnecessarily.

The CHAIRMAN. The motion of the gentleman from Alabama is that the chairman and Judge Ranney select the papers to go into the record, and that the committee stand adjourned until Thursday week.

Mr. HALE. I would like to inquire the necessity of that. I prefer to proceed now with the question before us and get it off my hands.

The CHAIRMAN. The evidence Mr. Ranney has put in all goes to the question of fraud practiced in obtaining the Bell patent.

Mr. HALL. I agree to the suggestion made by Mr. Oates that the particular portions and parts of the record to be submitted as evidence should be left to the determination of the chairman and Mr. Ranney. That, I understand, was his motion. I have only to suggest that wherever a disagreement arises between them as to what should go in it should be referred to the committee. I think that is the proper course. I do not like to sit here and have a lot of documents I have not read go in. I do not know what is in them.

Mr. RANNEY. It has been settled by the committee that this record, which was before the Secretary of the Interior, should go in.

Mr. OATES. I never understood that the whole of that record was to be reprinted in our record. I understood that it was to be referred to, as indicating what the action of the Interior Department was based on. If it should all be reprinted it would make another volume.

Mr. HALE. I understood that the committee decided we might use such parts of that record as we chose to, without having it reprinted.

Mr. RANNEY. What I have put in occupies a very small space, compared with the whole volume. The papers I have put in relate to this question of irregularity or alleged irregularity, in the Patent Office, and the records are before the Interior Department.

Mr. OATES. My understanding was that nothing should be put in here and republished in this record of ours, but that the whole record of the Interior Department was to be considered a part of the case to be referred to, whether to justify or not justify the action there taken. The only question is whether you can select out parts of it and print it in this record we are printing or leave it in the form it is and refer to it there.

Mr. RANNEY. I do not see that that can be done.

Mr. HALL. I had a copy of that first volume of the record, but after a couple of days it disappeared. I agree with Judge Ranney in his suggestion not to put in all those letters. I think the proper plan is to have Judge Ranney and the chairman look over them and agree upon what shall and shall not go in.

The CHAIRMAN. If Mr. Ranney's view of the resolution adopted be correct, then he would have a right to put in anything in that record. If it is not correct, then nothing should go in our record, and the committee can then use these books as already printed.

Mr. OATES. At the time the matter was presented there was a good deal of discussion among us as to what should be done, and the chairman raised an objection. He said if we put all the evidence that was before the Secretary of the Interior in evidence formally here, and it is printed, it will be an immense job and make a great volume, and it was suggested, as now, that we might refer to it and treat it as the evidence upon which we will say what we have to say about the action of the Interior Department and the Department of Justice thereon. It passed off in that way. I offered the resolution and it went in. Some portions of the record have been selected and put into our record. The question now is whether we will select out of that particular parts of the evidence and have that reprinted, or let it stand and refer to it as it is printed now.

Mr. HALL. My judgment is that Mr. Boyle and Mr. Ranney can agree upon the portions that should go in, and that therefore that record should not all be printed. I do not see what special use it would be to the public to have these things referred to in that volume.

Mr. OATES. If it is to be printed in this record, then any member can offer any of the evidence in it, because it was understood that the case was to be made, so far as the ordering of this last suit is concerned, on what was before the Interior Department.

Mr. HALL. I do not think I make myself understood. The question is, whether we shall print portions of that record or all of it. I am not willing to allow Judge Ranney to go through these volumes and select what portions he wants to introduce unless some other member of the committee acts in conjunction with him in making the selection. I am willing that everything in that record should go in, but if it is not all to go in I want proper examination made of what is to go in.

The CHAIRMAN. I repeat, that if the resolution is as stated by Mr. Ranney, then he has the right to put anything in; if he omits anything that any other gentleman thinks ought to go in he can put it in.

Mr. RANNEY. It must be remembered that Casey Young selected certain portions of the record of the Interior Department, and they were allowed to go into our record.

The CHAIRMAN. To what do you refer; to the Walker paper?

Mr. RANNEY. Yes, to the Walker paper and to a letter from the Commissioner of Patents addressed to him, which has been printed in our record. He made his selection, and he is the first man who made a selection, and against my objection it was admitted.

The CHAIRMAN. You remember the remarks made on that occasion by the chair, that the Walker paper was not admitted because it was in the record, but because it related to a suit that had been ordered by the Interior Department, and it was accepted as proof of the circumstances under which that suit was ordered.

Mr. RANNEY. And because it was in the record.

The CHAIRMAN. No; I expressly stated to the contrary.

Mr. RANNEY. You ruled that way, but the committee finally voted you down; the committee voted the other way, that is my recollection, with all due respect, and it went in by a vote of the committee overruling the chair.

The CHAIRMAN. I held that it should go in if proof of the paper was waived.

Mr. RANNEY. I will proceed to indicate the other papers I desire to submit. Mr. Wilber's first affidavit that I spoke of is on page 342.

Mr. HALE. I thought it was the understanding the other day that the whole of that record should be considered as in evidence for the purpose of making our report.

Mr. MOFFATT. Of course the evidence accompanying our report would have a great deal more publicity than the Interior Department record has. Copies of that record were not given into the hands of people to any great extent, and they are very important matters, and, in justice to the Department, as well as to all the parties concerned, they should be spread over the United States, and the people given an opportunity to read them.

Mr. RANNEY. There are a few things more that I desire to introduce. On page 392 is an extract from A. G. Bell's testimony in the Dowd case, which I desire to have go in.

Mr. HALL. Is there a motion pending before the committee?

The CHAIRMAN. There is not.

Mr. HALE. I move, then, that the whole of the record be considered in evidence, and be used in making up our report, but not printed.

Mr. OATES. That has already been adopted, and the question now is as to what parts of it shall be printed in this record.

Mr. HALE. I move that we do not print any part of it in our record which has not been heretofore put in.

The CHAIRMAN. Do you include in that what Mr. Ranney has put in to-day?

Mr. HALE. My idea is that that record can be used by either side, but that we should not reprint it. I should be opposed to putting selected portions of that record into our record.

Mr. OATES. If it all goes in or all stays out I do not think it will change the character of the report.

The CHAIRMAN. Do I understand that the motion of the gentleman from Missouri contemplated the printing in the record of the matter given in evidence by Judge Ranney to-day?

Mr. HALE. No, it does not include anything of the sort. The motion is simply that the whole of that record shall be regarded as in evidence for the purpose of making up our report.

Mr. HALL. That has already been passed on.

Mr. RANNEY. The difficulty with Mr. Hale's motion is that part of that record has already been put in. For instance, one affidavit of Mr. Wilbur has been published in our record. Then there is a letter from the Commissioner of Patents to Colonel Young about these patents, and then there is a record of the Walker case, which was put in by Colonel Young also. Now, it seems to me that inasmuch as we are called upon to determine the propriety of the order of the Secretary of the Interior in relation to the bringing of the suit, that that involves the evidence on which he acted, and that has been settled as a proper matter of consideration and as embraced in the resolution. Of course it would be unfair to have a part of that go in without the rest.

Mr. HALE. It would be just as fair as to pick out a part of that record and not put in the balance.

Mr. RANNEY. In view of the suggestion of the chairman, that I would designate those I deemed important, I have indicated those I think should go in, and if there are others which he deems important, they can also go in. You will find that those I have indicated do not amount to the tenth or twentieth part of the whole record.

Mr. HALE. If you put them in in that shape it would not fairly present the action of the Department or present the reasons why they acted as they have.

Mr. RANNEY. They will fully present it.

Mr. HALE. If that is so, they have made up a record a great deal of which is unnecessary.

Mr. OATES. There is always a great deal of useless material in such records.

Mr. RANNEY. I will tell you wherein I regard the selection as a fair one. The evidence that would bear on the suit, in that view of the law, would seem to me proper to be here, whereas all the evidence that related to the validity of patents, the origin of inventions and diagrams, and the Reis and other patents are here of no account.

Mr. HALE. There is no doubt a great deal of unnecessary and immaterial evidence there, but it will be a formidable task to take out what is immaterial.

Mr. RANNEY. If I make a report, unless you let it go into the record, I should copy every one of them that I deem material into my report, and I do not want to do that; I prefer it should be in the record.

The CHAIRMAN. Why should not the evidence as to priority of patents go in as well as the evidence about fraud and other matters introduced?

Mr. RANNEY. I shall not object to its going in.

Mr. HALL. I will make a motion. I move that, including the portions of the contents of these two volumes, which he has offered this morning, Judge Ranney furnish the chairman with a list of such portions as he desires to be introduced, and the chairman furnish Judge Ranney with a list of such portions as he wishes to be introduced, and that they be printed in this record. That is my proposition. I do not know whether there is any objection to it at all.

Mr. OATES. The motion I made soon after we met this morning was, that the chairman and Judge Ranney should select from that record the parts that were to be printed, and that this committee should stand adjourned until Thursday week.

Mr. HALL. I consent to that, but I understood it was not satisfactory to Judge Ranney.

Mr. RANNEY. And this is the reason: I have already designated everything that now occurs to me that I desire to introduce except three things. It is already done.

Mr. OATES. Then I suggest that Mr. Ranney designate the remaining articles, and subsequently, in connection with the chairman, he can look over the record, and they can state what ought to come in as additional.

Mr. RANNEY. Those I have already introduced were introduced under the suggestion of the chairman that I should indicate what I desired to have go in, and then he should put in what he desired.

Mr. HALL. I anticipate that after you know what the chairman puts in, you will want to introduce other things.

Mr. RANNEY. That is an offer in reply, is it not?

Mr. HALE. I have no objection if it is to go in, that the chairman and Mr. Ranney should make the selection, but it is in violation of the resolution we adopted the other day, and it will result in putting in all that record as our record.

Mr. HALL. I make the motion that Judge Ranney and the chairman of this committee determine what portions of that record they desire to have printed as a part of the record of this committee.

The CHAIRMAN. That reaches the same conclusion as Judge Ranney's suggestion. He says he has introduced all except three papers. In that case I shall feel at liberty to designate what I desire to go in, without submitting it to anybody.

Mr. RANNEY. You need not submit it to me; I will accept anything you say.

The CHAIRMAN. I think under the order made any member has a right to submit any portion he desires.

Mr. HALL. I move that Judge Ranney and Mr. Boyle be allowed to put in and print any portion of that record which they deem proper.

The CHAIRMAN. We will then go on in that way.

Mr. RANNEY. I desire then to put in from the proofs in reply a paper found on page 849 of that record, entitled "Railroading." Tompkins's long affidavit I have already submitted, and the Watson affidavit, showing the issues that are pending in the existing suit. Now I come to one more matter. There is what is called the Adams compilation, a book identified by the younger Rogers. It is a book of 388 pages. I only desire to put in evidence the fly-leaf or title page of the book, and then a short extract on page 252, a sentence which I have marked here and which reads as follows: "It is very important to bear this point also in mind, since the decision of the court was based solely upon this latter proposition; that is, that the Spencer instruments were not such as to infringe the Bell patent." Then it says: "It is quite different with us, since we admit that, if the Bell patents are held valid, we most certainly do infringe."

The CHAIRMAN. That is on the question of infringement, and not on the question of fraud. We certainly do not want to go into the question of infringement.

Mr. RANNEY. Then there is a review in this same book—a statement of the cases, the alleged adjudications in regard to the Bell patents, and a history of them, particularly describing the Dowd case, the Spencer case, the Ghegan case, the Dolbear case, the People's Telephone case, and the Overland case.

Mr. OATES. You do not want to put them in, do you?

Mr. RANNEY. No; but I want that fact to appear that this information was presented to Mr. Goode.

The CHAIRMAN. What was decided in the several cases?

Mr. RANNEY. It is also a part of the record in the case before the Secretary of the Interior, but the bearing of it, in my mind, is in relation to Mr. Goode's testimony; that he had before him when the case was submitted a book, and this book discloses this issue in behalf of the Pan-Electric Company. It discloses the fact that if the Bell patents are held valid that they certainly do infringe. It discloses the further fact that the Bell patents have been the subject of litigation in various suits which are detailed in this book, and this has a bearing upon his conduct and his testimony. It likewise is a competent book, because it was before the Secretary of the Interior when the argument was heard there.

Mr. HALE. What is the use of discussing that, if you have a right to put in any paper you choose?

The CHAIRMAN. He does not have the right to put in any paper he chooses.

Mr. RANNEY. I want it because it was before the Secretary of the Interior.

Mr. HALL. Wouldn't it be just as proper to put in the law books in the library there? They were before the Secretary of the Interior.

Mr. HALE. I do not object to its going in at all, but if the chairman and Mr. Boyle have a right to say what shall go in, what is the use of discussing the question?

Mr. RANNEY. It was at the request of the chairman that I would state what part was material, that I made my statement.

Mr. HALE. Do you propose to select portions out of one document and put a part in without putting in the balance?

Mr. RANNEY. If it is deemed necessary to save printing. I leave that to the chairman.

Mr. HALE. It is a very unusual practice to select a portion and print that only.

Mr. RANNEY. I am willing to have the whole printed if the chairman wants it.

Mr. HALE. What book is it you have there?

Mr. RANNEY. It is Dr. Wellington Adams's book. I have tried to get it from various sources, but could not. I tried to get it from Colonel Young, but did not succeed, and it was not in the library, as it ought to be, and never was there. It is a part of the record before the Interior Department, and is one of the books that Mr. Goode had to act on, and therefore has a bearing on his testimony, and as being a book before the Secretary of the Interior on which his action was based. Therefore I said to Mr. Boyle that there were three things in it alone that seemed to me to be necessary to introduce, and that it was unnecessary to print the whole book, but that if he, on looking at it, thought any more should go in, I was satisfied to have it done. If anything fairer than that could be done, I should like to know it. Under the direction of the committee I was doing what had been agreed upon. It is a book I had to send to Boston myself to get, because nobody else would produce it.

The CHAIRMAN. I do not see why any matter should be put in on the question of infringement.

Mr. HALE. I understood Mr. Hall's motion to be acquiesced in, to select out the portions that were desired by the chairman and yourself together.

Mr. HALL. That does not relate to this book at all. I do not see why it is not sufficient to refer to it.

Mr. RANNEY. Mr. Goode, I think, testified that he had that book before him, and of course the question as to whether he examined it as carefully as he should is the reason for putting the book in evidence.

The CHAIRMAN. Was this book submitted to Mr. Goode in connection with the application from Tennessee?

Mr. RANNEY. Yes, as appears from the record, the Adams compilation was submitted to him, and in the record of the Interior Department is an affidavit of Wellington Adams saying that that is his book.

Mr. HALL. I am willing to submit that matter to the chairman and Judge Ranney.

The CHAIRMAN. That has been done.

Mr. RANNEY. The only other thing I think of now which I desire to submit is the affidavit of Professor Nipher, as printed on page 31 of the Interior Department record, the first volume.

The papers referred to by Mr. Ranney were then submitted in evidence, and are as follows:

Second affidavit of Alexander Graham Bell.

I, Alexander Graham Bell, being duly sworn, on oath depose and say:

My name is Alexander Graham Bell; I am thirty-eight years old; I reside in Washington, District of Columbia, and have for several years past. I am the inventor named in United States patent No. 174,465, issued to me, and dated March 7, 1876. I have already made one affidavit in this case.

Before March, 1876, I had made several applications for patents relating to electricity, and was in conflict with Mr. Elisha Gray respecting some of them.

The specification forming my application for said patent of March 7, 1876, including all the claims, was originally written by myself alone, and was afterwards exhibited to Messrs. Pollok & Bailey, my solicitors. They made no alterations in it except a few formal changes in the language; they then sent a fair copy to me at Boston. I there signed and swore to it on Jan. 20, 1876.

I was not in Washington during the month of February, 1876, until I reached there on the morning of Saturday, Feb. 26, 1876. The files of the office show that on Saturday, Feb. 19, a notice had been sent to my solicitors, Messrs. Pollok & Bailey, suspending my application, and on Feb. 25 that notice had been withdrawn by order of the Commissioner. That matter was therefore terminated before I had any personal knowledge of it, and while I was in Massachusetts, where I then resided.

I remained in Washington until March 5, 1876. While there I had occasion to see my solicitors and to see the examiner about some of my pending applications, and did see him. The examiner (Mr. Wilbur) did not show me Mr. Gray's caveat, nor any portion of it. He took up *my* application, pointed out a paragraph in *my* application and said that the caveat had interfered with that. The passage which he so pointed out was the following:

"Electrical undulations may also be caused by alternately increasing and diminishing the resistance of the circuit or by alternately increasing and diminishing the power of the battery. The internal resistance of a battery is diminished by bringing the voltaic elements nearer together, and increased by placing them further apart. The reciprocal vibration of the elements of a battery occasions an undulatory action in the voltaic current. The external resistance may also be varied; for instance, let mercury or some other liquid form part of a voltaic circuit; then the more deeply the conducting wire is immersed in the mercury or other liquid, the less resistance does the liquid offer to the passage of the current; hence, the vibration of a conducting wire in mercury or other liquid included in the circuit, occasions undulations in the current. The vertical vibration of the elements of a battery in the liquid in which they are immersed produces an undulatory action in the current by alternately increasing and diminishing the power of the battery."

The examiner indicated the clause just quoted as the passage where the interference lay. I do not remember whether he pointed to any particular sentence in this clause or not. My impression is that I asked the examiner whether the point was the "vibration of the conducting wire in mercury or other liquid." At all events, I carried away the impression that this had been the point at issue.

All of my specification which describes or claims the speaking telephone stands in my patent as it stood in my original application.

All these facts have been fully inquired into and laid before the court in nearly every case which has arisen under my patent. I testified to them, and was cross-examined about them in the Dowd suit in the summer of 1879.

The specification of the patent, as issued, is identical with the specification as originally filed, with the exception of the few changes made by the amendment, dated Feb. 29, 1876, as follows:

In response to an objection made by the examiner orally, I called his attention to the precise nature of the current shown by my application of a year previously (Feb. 25, 1875), and that shown by my application of Feb. 14, 1876, and explained to him the difference between them. This explanation of what I had already described in my application I wrote out, and my solicitors put it in the form of an amendment. It was done with my knowledge and approval, and, I think, in the language written by me. It did not add anything to the application, and I think it unnecessary. Three words used in this explanation were also inserted in two other parts of the specification.

When I filed my application I knew of the Reis apparatus. I believed then, and believe now, that my specification taught how to obtain a result Reis had not obtained, by a method he did not know of; that I had made (more especially) the invention referred to in my fifth claim; that it was new, was useful, and was well supported by the body of the specification. I then believed, and now believe, that I was the first inventor of the electric speaking telephone, and that I described it and the principles upon which it operated, and duly claimed that invention in my said specification.

I had described a liquid transmitter in my said original application, but had not constructed it before filing the application. I did construct one, and transmitted speech with it on March 10, 1876. I afterwards constructed and exhibited it at the Centennial, but did not use it there. The one I and the judges used was a magneto transmitter. I did not, from Mr. Gray's caveat, derive any information, directly or indirectly, with regard to or aiding me in the construction of any liquid transmitter. On the contrary, those I constructed were upon the plan described in my specification, and not upon the plan described in Mr. Gray's caveat, a copy of which I did not see until it was published in Mr. Prescott's book in 1878. In my liquid transmitters the result depends upon the greater or less depth to which the vibrating rod is immersed in the liquid without regard to the distance between that rod and any other solid electrode. The apparatus of Mr. Gray's caveat depends for its results upon variations in the distance apart of two solid electrodes, both immersed in a liquid of high resistance, without regard to the depth of immersion.

I assert that in obtaining said patent no fraud or overreaching was practised or attempted in any manner whatever. I make this assertion of my own knowledge, so far as my own acts or knowledge are concerned, and to the best of my knowledge and belief as to the acts of others.

ALEXANDER GRAHAM BELL.

Subscribed and sworn to before me this twenty-second day of October, A. D. 1885.
[SEAL.]

MICH. P. CALLAN,
Notary Public.

Affidavit of Marcellus Bailey.

DISTRICT OF COLUMBIA, ss:

MARCELLUS BAILEY, a resident of the District of Columbia, and of lawful age, being duly sworn, deposes and says:

I am an attorney at law, and my practice has brought me into daily contact with the United States Patent Office during the last twenty years. At the time of the filing of the application of Alexander Graham Bell, on which letters patent of the United States numbered 174,465, dated March 7, 1876, were subsequently issued, I was of the firm of Pollok & Bailey, who were solicitors and attorneys for Mr. Bell in the prosecution of said application, and I personally conducted the proceedings in the Patent Office which resulted in the grant of the patent. I recollect the circumstances connected with the filing and prosecution of the application. I filed the application in the Patent Office and had it transmitted to the then examiner of the class of electricity, Mr. Z. F. Wilbur; some days afterwards we received an official written communication, notifying us, as customary in such cases, that the application had been suspended on account of an interfering caveat. I went immediately to the Patent Office to ascertain from the examiner when the caveat was filed; that is to say, to ascertain whether it was filed before or after the date of filing of Mr. Bell's application. It has been my practice for many years to make this inquiry, and for this reason: On at least one occasion, some years prior to the filing of Mr. Bell's application, I received notice that another application of which I had charge of at that time had been suspended on account of an interfering caveat, and it turned out that this caveat had been filed long after the application had been filed; the suspension was therefore entirely improper and unwarranted and had been ordered either through the inadvertence or through the ignorance of the examiner.

After that time it was my practice, as it is now, to assure myself that the caveat

was filed before the application; and such information never has been refused me in any case. It was in this way that I ascertained that Mr. Bell's application and the interfering caveat were filed on the same day. I knew that Mr. Bell's application had been filed early in the day, and this fact led me to cause the inquiry to be instituted, which resulted in establishing the fact that the caveat had been filed on the afternoon of that day. I had no knowledge of the contents of the caveat at any time during the pendency of Mr. Bell's application other than that afforded by the official letter of suspension. I did not see the caveat, and I have never seen it, and the only knowledge that I now have of its contents is through rumor. I do not remember to have heard Mr. Gray's name connected with the caveat until long after the issue of Mr. Bell's patent. After the order of suspension was vacated, the amendment which appears in the file of Mr. Bell's application was prepared, and was filed by me. That amendment is in my handwriting. Its object was to distinguish more clearly the invention from other inventions of his, and more particularly from one which was the subject of an application filed in the fore part of the year 1875; the amendment was for this purpose alone, and had no reference in any way, shape, or manner to the caveat. To my knowledge, throughout all the proceedings in the Patent Office, which resulted in the grant of Mr. Bell's patent, there was no fraud practised by the examiner, by Mr. Bell himself, or by any other person connected with the case. There was no breach of confidence by the examiner, and no violation of any rule or regulation of the Patent Office, to my knowledge and in my belief. I am not now and never have been connected in any way with the Bell Telephone Company, nor with the owners of the Bell patent, nor have I had any business relations with Mr. Bell since the dissolution of the firm of Pollok & Bailey, which took place, I think, not later than May, 1877.

MARCELLUS BAILEY.

Sworn to and subscribed before me this fifteenth day of October, A. D. 1885.

[SEAL.]

VINTON COOMBS,
Notary Public.

Affidavit of Anthony Pollok.

COUNTY OF WASHINGTON,
District of Columbia, ss:

ANTHONY POLLOK, being duly sworn, deposes and says:

I am a counsellor at law, living at Washington, D. C., and have lived there more than thirty years, during all of which time I have practiced in the circuit courts of the United States, and have also been continuously engaged in the business of soliciting patents.

In the years 1875 and 1876 my business of soliciting patents was conducted under the firm name of Pollok and Bailey, my partner being Mr. Marcellus Bailey. Our firm of Pollok and Bailey took out patent No. 174,465, issued to Alexander Graham Bell, March 7, 1876.

The specification forming part of the application for this patent was drawn by Mr. Bell himself, and was brought to my office by Mr. Gardiner G. Hubbard in January, 1876, for examination. I found upon examination that the inventions contained therein, which I well understood embraced the speaking telephone, were very clearly and exactly described. I therefore saw no occasion for any alterations, and made none therein, except a few changes of a verbal or formal nature. The specification thus changed was copied at my office, ready for execution by Mr. Bell as a part of his application.

The application and specification were mailed from my office to Mr. Bell on the nineteenth of January, 1876. The papers were no doubt received by Mr. Bell in the usual course of mail, for the same, now on file in the Patent Office as his application, show that they were executed in Boston, Jan. 20, 1876. The files of the Patent Office also show when the application was filed, and the official actions upon it. In the course of the application the following official notice was received, the original whereof is now in my possession.

U. S. PATENT OFFICE,
Washington, D. C., Feb. 19, 1876.

A. G. BELL,
(Care Pollok & Bailey),
Washington, D. C.:

Please find below a communication from the examiner Telegraphy.
Filed Feb. 14, 1876.

Respectfully, etc.

R. H. DUELL,
Commissioner.

Room No. 118.

In this case it is found that the first, fourth, and fifth clauses of claim relates to matters described in a pending caveat.

The caveator has been notified to complete, and this app'n is suspended for 90 days, as required by law.

This notice was in perfect accordance with the law and the well-established practice of the Patent Office, as I know from thirty years' experience.

Subsequently I received the following official notice, of which the original is also in my possession.

U. S. PATENT OFFICE,
Washington, D. C., Feb. 25, 1876.

A. G. BELL,
(Care Pollok & Bailey),
Wash'n, D. C.:

Please find below a communication from the examiner Telegraphy.
Feb. 14, 1876.

Respectfully, etc.,

R. H. DUELL,
Commissioner.

Room 118.

The suspension of this app'n having been declared under a misapprehension of appt's rights is withdrawn.

Personally I never saw the caveat mentioned in the above notices, or anything purporting to be a copy of it, until it was printed and published by Mr. Gray himself.

I never personally received any information as to the contents of the caveat, and to the best of my knowledge and belief no one concerned with Mr. Bell and his application received such information, except by the examiner's indicating passages in Mr. Bell's specification, copied at my office in January, 1876, and filed Feb 14, 1876, as the matter with which, in his opinion, the alleged caveat interfered.

The amendment to the specification made Feb. 29, 1876, was filed to meet an objection of the examiner based, not on the supposed interfering *caveat*, but on a pending *application*. I remember that it was drafted by Mr. Bell himself, after consultation with me, and copied and filed by Mr. Bailey. It was not intended to, and does not, enlarge the scope of the patent or add anything to what was already there.

It is charged in the bill filed at Memphis by the United States against Mr. Bell that this amendment, not being signed and sworn to by Mr. Bell, was improper. During the whole of my experience it has been the practice of the Patent Office for attorneys on behalf of the inventors, to make, sign, and file amendments of such character. No new oath was necessary as no substantive new matter was introduced thereby. Moreover, the form of power of attorney to solicitors prescribed by the office contains an express authority to amend, and my firm had such a power from Mr. Bell.

The proceedings in the application were conducted exclusively by Mr. Bell's attorneys until after the withdrawal, on Feb. 25, of the order of suspension.

Mr. Bell was not in Washington during the pendency of the application until the morning of Saturday, Feb. 26, 1876. Mr. Bell remained in Washington until, including, Sunday, March 5, 1876. I take these dates from entries made in my diary at the time.

In the prosecution of the application for that patent no fraud or overreaching of any kind was practiced or attempted by any one connected therewith; nor do I believe the examiner was in any way derelict in his duty or departed from the strictest course of official propriety.

Mr. Z. F. Wilber, the examiner in charge, was for many years in the Patent Office, and I knew him during all that time. For several years, part of the time as assistant examiner and part as principal examiner, he was in the room to which electrical inventions were assigned for examination. He always evinced an intelligent appreciation of the inventions submitted to him, and showed himself to be well informed in regard to the state of the art to which they related, and was so considered by the authorities in the Patent Office.

ANTHONY POLLOK.

Subscribed and sworn to before me this twentieth day of October, A. D. 1885.

[SEAL.]

PHILIP MAURO,
Notar Public, District of Columbia.

Affidavit of Alexander Graham Bell.

I, Alexander Graham Bell, being duly sworn, on oath depose and say: I am the Alexander Graham Bell referred to in the bill in this cause. I know Z. F. Wilbur, the examiner of the United States Patent Office, who examined the application for my patent 174465, of March 7, 1876. On Oct. 8, 1885, I received the following letter, which I believe to be in his handwriting:

HARRIS HOUSE, 1327 PENNA. AVENUE,
Washington, D. C., Oct. 7, 1885.

Prof. ALEX. GRAHAM BELL,
Washington, D. C.:

DEAR SIR: There has lately been a great deal of wild, idle, and lying talk going around, floating through the papers, in relation to my grant of the '76 Bell patent. None of it is legitimately based on an affidavit which I have made, the which only recited harmless facts.

I have about come to the conclusion to publish a letter in some good paper, exhaustively treating of and refuting these publications. Before doing so I would like to have a few minutes' interview with you, if you see fit, in order to learn if my recollection of all the circumstances agrees with yours.

If you think it proper (I see no impropriety, but rather propriety) would you be kind enough to advise me when I can see you?

My address is "Harris House," Washington, D. C.

Very truly yours, etc.,

Z. F. WILBUR.

I made the following reply in writing:

SCOTT CIRCLE,
Washington, October, 1885.

Mr. Z. F. WILBUR:

DEAR SIR: I am much obliged for your note of the 7th Oct. inst., but deem it best, under the circumstances, that we should hold no communication upon the subject of your letter.

I am, sir, yours, truly,

ALEXANDER GRAHAM BELL.

I have not spoken to Mr. Wilbur nor had any communication with him for several years, except these letters. To the best of my knowledge and belief, no one connected with me or with the American Bell Telephone Co. had communicated with him on the subject referred to in this correspondence. I have marked his original letter with my initials, and it will be produced when required.

ALEXANDER GRAHAM BELL.

Subscribed and sworn to before me this twenty-second day of October, A. D. 1885.
[SEAL.]

MICH. P. CALLAN,
Notary Public.

Affidavit of Zenas F. Wilber.

DISTRICT OF COLUMBIA, ss:

Z. F. Wilber, being duly sworn, deposes and says:

I am of lawful age, and by profession a solicitor of patents, and expert in patent matters and causes; that I am the Z. F. Wilber formerly an examiner in the Patent Office; that I was engaged in said office from 1870 to 1880, originally as a clerk, and then as an assistant examiner, until my promotion to principal examiner, about the early fall of 1872. All my promotions, from clerk on the temporary roll, through each grade to the grade of principal examiner, were on competitive examination.

A very short time after my entry into the Patent Office I was assigned to Prof. Hedrick, principal examiner, for duty, and immediately commenced assisting in the examination of electrical cases, all of such cases being given me for examination within a few months thereafter. Upon my promotion to be first assistant examiner, I was transferred to the division of Prof. William B. Taylor (philosophical), the class of electricity being transferred with me, and I continued in the work of examining such applications.

After my promotion to principal examiner, I was put in charge of a division embracing "clay, glass, mills, and threshing," but speedily thereafter, several subdivisions of the electrical class were again sent to me. About the fall of 1873, I was transferred to the philosophical division, *vice* Prof. Taylor, and again had charge of all

applications relating to electricity, and so continued until my promotion to examiner of interferences in 1877, this being also the result of a competitive examination.

I was in charge of electrical applications when an application was filed by Professor Alexander Graham Bell on Feb. 14, 1876, which application became letters patent No. 174,465, dated March 7, 1876, and I made personal examination of said application, and personally made all the office actions made in said case, and personally "passed to issue" or granted said application, that is, certified that a patent should issue thereon, which patent was issued as noted above.

In the conduct of such application there was no fraud of any kind whatever, nor anything, any transaction, any communication, oral or written, which would support any such allegation in the least manner whatsoever, either on the part of Prof. Bell, his attorney, myself, or any other person whatsoever.

As elsewhere testified by me, I reached the said application for examination on the 19th of February, 1876, and found on that day that a caveat had been filed by one Elisha Gray on the 14th of February, 1876, for a new art of transmitting sounds telegraphically, which caveat, in my opinion, interfered with the first, fourth, and fifth claims of Bell's said application.

On said 19th of February, 1876, I notified Messrs. Pollok & Bailey, Bell's attorneys, that the first, fourth, and fifth clauses of claim in said application related to matters described in a pending caveat. This notification was an official communication in writing, and, as prepared by me for the official record, was as follows:

U. S. PATENT OFFICE,
Washington, D. C., Feb'y 19, 1876.

A. G. BELL,
(Care Pollok & Bailey, present):

Telegraphy.

FEB'Y 14, 1876.

In this case it is found that the 1st, 4th, and 5th clauses of claim relate to matters described in a pending caveat.

The caveator has been notified to complete, and this application is suspended as required by law.

Z. F. WILBER, *Ex'r.*

This was copied on the proper official blank and transmitted to the attorneys for Prof. Bell. It contained all and every bit of information that I at any time gave to Prof. Bell or his attorneys. I never exhibited the said caveat of Gray's to Mr. Bell, his attorneys, or any person whatever, nor gave any information of its nature and contents, except as disclosed in the said letter, as herein above copied.

As elsewhere testified to by me, it was customary in the Patent Office to give such information to applicants. Even the date of filing the caveat was sometimes given to applicants in such official notifications concerning suspension of an application to permit the interfering caveator to complete his invention. This may be ascertained by an examination of the files of the Patent Office. I have before me what purport to be the official notifications which were sent from my room in the Patent Office, Feb. 5, 1876, to the same Elisha Gray, who was the caveator in the Bell matter, but the applicant in the matters to which the said letters of Feb. 5, 1876, referred.

One of these official notifications reads as follows:

"This app'n will have to be suspended for three months in order to allow an interfering caveator to complete his app'n for a patent, if he elects to do so.

"Such interfering caveat was filed Dec. 2, 1875, and interferes in the claim therein with app't's 1st and 2d claims."

Another of these notices is as follows:

"On account of a caveat filed Jan. 6, 1876, a portion of which interferes with this app'n, action upon this app'n is suspended for three months, in order to give caveator time to complete."

As I have elsewhere testified, I afterward, on the twenty-fifth day of February, 1876, withdrew the suspension of Bell's application, in accordance with the instructions of the Commissioner of Patents. In the course of the proceedings leading to this action, I made the following indorsement in the case, as appears from a photographic copy of the indorsement in my handwriting, which I have before me.

EXR'S ROOM 118,
Feb. 25th, 1876.

The cash blotter in the chief clerk's room shows conclusively that the application was filed some time earlier on the 14th than the caveat.

The app'n was received also in 118 by noon of the 14th, the caveat not until the 15th.

Z. F. WILBER,
Ex'r.

I have elsewhere testified in substance that the knowledge noted in this indorsement was all the proof I had upon which to base my conclusion that the application was filed prior to the caveat on the day of February 14th, 1876.

For many years, between seven and eight certainly, I have not seen the caveat of Gray's referred to, nor anything that purported to be a copy thereof. Yesterday, Oct. 20, 1885, and to-day for the first time, for the period mentioned, I have seen what purports to be a printed copy of a certified copy of such caveat, its file wrapper and contents, from the records of the Patent Office. I refer to "Defendant's Exhibit, Gray's Caveat 2," as printed in the second volume of the record of a suit entitled "Bell Telephone Co. *et al.* v. Peter A. Dowd," beginning at page 682. At page 687 of that volume is given what purports to be a copy of what I would recognize as a blank form used in the Patent Office and called there a "fee slip." If I saw that fee slip at the time of my actions in the matter, as I probably did, it would have given me further information. I quote the first part of said fee slip as it appears in said fee slip.

\$10. Mail.

Memorandum of fee paid at
U. S. Patent Office.

Paper will be filed to-day.

Inventor,
E. Gray.
Caveat.
Invention
Transmitting Vocal
Sounds Telegraphically.
Date of Payment,
Febr'y 14th, 1876.
Solicitor,
Wm. D. Baldwin.
{ Patent Office, }
{ Feb. 14, 1876. }
{ U. S. A. }
Official Stamp.

As I have elsewhere testified, and as appears by the record in the case, on the 29th of February, 1876, an amendment was filed by the attorneys for Mr. Bell, which amendment was incorporated into the case. Such amendment was made to more clearly set out the difference existing between the invention in this case and an invention of Mr. Bell's set out in a prior pending application filed by [him] early in 1875. The amendment did this; it was made for such purpose and extended to such object only. It was not based upon the Gray caveat, had no relation thereto, and in no way interfered with or limited any rights of the caveator over and above the application as originally filed.

As I have elsewhere testified, this amendment was not sworn to. It was admitted thus unsworn to because, in my opinion, it contained no new matter.

I have elsewhere testified in substance that at the time of the prosecution of the Bell application I did not know it was for a speaking telephone for the transmission of speech electrically. As I have hereinbefore stated, I had not seen the Gray caveat, nor a copy thereof, for many years, and in giving such testimony, I had refreshed my recollection solely by an inspection of the file of the Bell application, now patent 174,465.

Yesterday and to-day, as I have hereinbefore stated, I have carefully examined the before-mentioned copy of the Gray caveat, and I find that in so testifying I have made too strong a statement, inasmuch as the caveat itself states:

"It is the object of my invention to transmit the tones of the human voice through a telegraphic circuit, and reproduce them at the receiving end of the line, so that actual conversation can be carried on by persons at long distances apart;" and describes means and method for doing this, and, further, inasmuch as the third point of interference noted in my notice to the caveator Gray, concerning an interfering application, states.

"3d. The method of transmitting vocal sounds telegraphically, by causing these undulatory currents, etc."

These things indicate to me that I did know that the Bell application was for a speaking telephone, for otherwise I could not have used the terms I did in notifying the caveator, and in fact could not have determined that the application and caveat interfered, or were in conflict.

In this affidavit I have several times alluded to testimony given elsewhere in regard to the same subject-matter as this affidavit relates to. I have given two affidavits upon this subject-matter; one was several months ago at the Ebbitt House (that is late in July or early in August). I did not keep a copy of such affidavit, but

I find in a copy of a newspaper, the Daily Inter-Ocean, of Chicago, the issue of Thursday morning, Sept. 10, 1885, an affidavit there printed, which I believe to be a copy of the one given at the Ebbitt House in this city as aforesaid. I cut the said copy from said paper and annex it hereto. I think the affidavit was not entitled for any particular case. It was in the handwriting of Mr. Von Briesen, and I read it over carefully before executing it. There were present in addition to Mr. Von Briesen, while the affidavit was being drawn up, Mr. Huntington and Mr. Van Benthuyssen. Mr. Casey Young was there after the affidavit had been drawn up. The affidavit was drawn up at the Ebbitt House, and I took it out of the hotel for the purpose of executing it before a notary.

A day or two afterwards I was asked to swear to three type-written copies of such affidavit. This I did after making a cursory examination only; I cannot say that they were exact copies.

The other affidavit I gave in New York City a few days since, but I have no copy thereof. I do not remember that it was entitled for any particular case, but believe it was for the benefit of the Globe Telephone Company.

In connection with the copy of the affidavit hereto annexed, and cut from the Daily Inter-Ocean, I notice the following statement:

"In an affidavit by the parties named below it is affirmed that Mr. Wilber also stated in the presence of Watson Van Benthuyssen, of New Orleans, Charles P. Huntington, of Mississippi, and the Hon. Casey Young, of Memphis, that he (Wilber) had given the contents or nature of the 'Gray caveat' to Bell or his attorneys, shortly after said caveat was filed, which was contrary to law."

Any averment that I made any such statement is absolutely and unqualifiedly false. I never made any such statement. In fact, at the time and before the giving of the affidavit at the Ebbitt House, at the meeting detailed hereinbefore, I told Mr. Von Briesen, Mr. Van Benthuyssen, and Mr. Huntington that I never gave Mr. Bell or his attorneys any information whatever other than that contained in the official letter announcing the suspension of the application.

I have never had any conversation with any one representing the Bell side of this controversy prior to yesterday, Oct. 20, 1885.

Z. F. WILBER.

Sworn and subscribed to before me this 21st day of October, A. D. 1885.

[SEAL.]

JOHN E. BEALL,
Notary Public.

"In the year 1876 I was employed by the Government of the United States as principal examiner of the Patent Office, in charge of the class of electricity. The application of Alexander Graham Bell for a patent for improvements in telegraphy, which was filed Feb. 14, 1876, which patent was issued on the 7th day of March, 1876, and numbered 174,465, was put in my charge as examiner, and was passed to issue by me.

"I reached the said application for examination on the 19th of February, 1876, and found on that day a caveat had been filed by one Elisha Gray on the 14th of February, 1876, for a new art of transmitting vocal sounds telegraphically, which caveat in my opinion interfered with the first, fourth, and fifth claims of Bell's said application.

"On said 19th of February, 1876, I notified Messrs. Pollok & Bailey, Bell's attorneys, that the first, fourth, and fifth clauses of claims in said application related to matters described in a pending caveat. Afterward, to wit, on or about the twenty-fourth day of February, 1876, the said attorneys, Pollok & Bailey, addressed a letter to the Commissioner of Patents, wherein they stated that they had inquired the date of filing the caveat, 'inasmuch as we are entitled to the knowledge,' and protested against the delay which the notice to the caveator would subject them to. They thereupon made a special application to the Commissioner of Patents, under whose instructions I afterward, to wit, on the twenty-fifth day of February, 1876, withdrew the suspension of the application.

"I have since carefully examined the law of patents, and am satisfied that the notice to the attorneys of Bell of Feb. 19, 1876, is not warranted by law, and that their ascertainment of the date of filing Gray's caveat is also contrary to the letter and spirit of section 4902 of the Revised Statutes.

"To give such information to applicants for patents had to an extent become a custom in the Patent Office, but I now clearly perceive that the law did not contemplate the giving of such information to an applicant for a patent, as it distinctly requires the caveat to be kept secret and the caveator alone to be notified.

"On the 29th of February, 1876, an amendment was filed by said attorneys for Bell and incorporated in the application, but to said amendment Bell did not make oath, nor did he subscribe to the same as I verily believe."

The above is the newspaper cutting referred to in the foregoing affidavit, to which this is annexed.

Z. F. WILBER.

Second affidavit of Edward C. Davidson.

DISTRICT OF COLUMBIA, ss:

EDWARD C. DAVIDSON, being duly sworn, deposes and says:

I have already given an affidavit for this case. My attention is now called more especially to the form of notice issued by the office to the caveator, Gray, and the applicant Bell, in the matter of the caveat of Gray filed Feb. 14, 1876, and the application of Bell filed the same day.

I am familiar with the practice of the Patent Office in sending out notices to parties interested in cases of interference, both between applications and those between applications and patents, and have been for the last eleven years. In cases of interference between two applications or between an application and a patent it has until very recently been the custom to furnish to each applicant the date of filing of his adversary's application, and also to indicate the subject-matter involved in the interference.

In regard to interferences between applications and caveats I can only relate my own experiences. Such interferences are so rare that a single person's experience would not, in my opinion, be sufficient to establish a custom. It has not been unusual, and was not unusual in 1876 for the office to give to the applicant and caveator notices substantially the same as those which were given to the caveator and applicant in the matter of Gray's caveat of Feb. 14, 1876, and of Bell's application of the same date; nor was it unusual to give to an applicant the date of the interfering caveat.

I have before me a certified copy of the file wrapper, contents and drawing, in the matter of the letters patent granted Elisha Gray, assignor by mesne assignments to the Harmonic Telegraph Company, dated January 16, 1877, No. 186340, for improvement in electro-harmonic telegraphs. The application for that patent, as appears in this certified copy, was filed January 27, 1876. The application for this patent was found by the office to interfere with a caveat filed by Thos. A. Edison, December 2, 1875, and on the fifth day of February, 1876, the following notice was sent to Gray. I read from the said certified copy:

[Examiner's room 118.]

U. S. PATENT OFFICE,
Washington D. C., Feb'y 5, 1876.

E. GRAY,
Care Wm. D. Baldwin, present.

Electro Harmonic Telegraph, Jan'y 27, 1876.

(Office No. 152-71.)

This appn. will have to be suspended for three months in order to allow an interfering caveator to complete his appn. for a patent, if he elects so to do. Such interfering caveat was filed December 2, 1875, and interferes in the claim therein with app't's 1st and 2d claims.

Z. F. WILBER.

In the margin is written, "Copy sent February 5.

S. R. A."

A copy of this letter was received by Mr. Baldwin, Feb. 5, 1876, as appears by his stamp upon said copy, which I have in my hand.

I have also before me a certified copy of the file wrapper, contents and drawing, in the matter of the application of Elisha Gray, assignor by mesne assignments to the Harmonic Telegraph Company, also filed Jan. 27, 1876. No patent has ever issued upon this application, but the application was found to interfere with a pending caveat, and Mr. Baldwin received the following notice. I read from the certified copy:

[Examiner's room 118.]

U. S. PATENT OFFICE,
Washington, D. C., Feb. 5, 1876.

E. GRAY,
Care Wm. Baldwin, present.

Circuit Breakers for Eleco. Harmonic Telegraphs.

(Office No. 151-70, Jan. 27, 1876.)

On account of a caveat filed Jan. 14, 1876, a portion of which interfered with this application, action upon this application is suspended for three months in order to give caveator time to complete.

Z. F. WILBER, *Ex.*

In the margin is written, "Copy sent Feb. 5. J. R. A."

I have also the original letter received by Mr. Baldwin, Feb. 5, 1876, as appears by his stamp. There was only one claim in this last-named application.

I have before me Vol. II of the Speaking Telephone Interferences, in which Mr. Baldwin was counsel for Gray. In this volume are printed what purport to be certified copies of several caveats of Thomas A. Edison. These caveats were used in the speaking telephone interferences, with a view to prove facts relating to inventions involved in those interferences; but the files of two of the caveats show that the caveator in both cases received notice to complete his inventions in view of an application that had been filed in the Patent Office. I read from the printed copy of the file, in the matter of Edison's caveat No. 74, filed Jan. 14, 1876, page 565 of said Vol. II:

[NOTICE TO CAVEAT.]

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
Washington, D. C., February 21, 1876.

SIR: You are hereby notified that application has been made to this office for letters patent for local circuit breakers for electro-harmonic telegraphs, with which the invention described in sixth and seventh probable claims of your caveat, filed on the fourteenth day of January, 1876, apparently interferes, and that said application has been deposited in the confidential archives of the office, under provisions of section 4902 of the Revised Statutes of the United States, which section reads as follows:

"SEC. 4902. Any citizen of the United States who makes any new invention or discovery and desires further time to mature the same, may, on payment of the fees required by law, file in the Patent Office a caveat setting forth the design thereof, and of its distinguishing characteristic, and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application is made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof by mail to the person by whom the caveat was filed. If such person desires to avail himself of his caveat, he shall file his description, specification, drawings, and model within three months from the time of placing the notice in the post-office in Washington, with the usual time required for transmitting it to the caveator added thereto, which time shall be endorsed on the notice. An alien shall have the privilege herein granted, if he has resided in the United States one year next preceding the filing of his caveat, and has made oath of his intention to become a citizen."

If you would avail yourself of your caveat, it will be necessary for you to file a complete application within three months from date, four days additional, however, being allowed for the transmission of this notice to your place of residence.

The especial caveat referred to is No. 74 of your series.

Very respectfully,

R. H. DUELL,
Commissioner.

T. A. EDISON,
(In care of Porter, Lowrey, Soren & Stone),
197 Broadway, New York City.

N. B. The especial matter referred to as expressed in the interfering case is the combination of an "electro-magnet, vibrating reed, sounding-box of corresponding pitch, and a local circuit-breaking apparatus, actuated by the vibrations of a column of air in said sounding-box."

I also read from the printed copy of the file in the matter of Edison's caveat No. 75, filed Jan. 14, 1876 (p. 574 of same volume):

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
Washington, D. C., May 18, 1876.

SIR: You are hereby notified that application has been made to this office for letters patent for receivers for electro-harmonic telegraphs, with which the invention described in part of your caveat No. 75, filed on the fourteenth day of January, 1876, apparently interferes, and that said application has been deposited in the confidential archives of the office, under provisions of sect. 4902 of the Revised Statutes of the United States, which section reads as follows:

[Here follows sect. 4902, quoted above.]

If you would avail yourself of your caveat, it will be necessary for you to file a complete application within three months from date, four days additional, however, being allowed for the transmission of this notice to your place of residence.

Very respectfully,

R. H. DUELL,
Commissioner of Patents.

THOMAS A. EDISON,
Newark, N. J.

Address notification to Thomas A. Edison, care Porter, Lowrey, Soren & Stone, 197 Broadway, New York.

"N. B.—The portion of the caveat interfering is that shown in Fig. 8, the drawings filed therewith, which arrangement of reeds and a single magnet is also used and shown in Fig. 9 of caveat No. 73.

"Expressed in the form of a claim, the interference would be upon 'the combination in an electric circuit of an electro-magnet, through which notes of a different pitch are transmitted, with two or more vibrating receiving springs, tuned correspondently with the notes transmitted, so that each analyzer or spring selects its own tone from the magnet without interfering with the other.'"

Z. F. WILBER, *Ex.*

[SEAL.]

EDWARD C. DAVIDSON.

Sworn and subscribed before me this 14th day of October, 1885.

DELOZIER DAVIDSON,
Notary Public.

Affidavit of John F. Guy.

COUNTY OF WASHINGTON,
District of Columbia, ss :

JOHN F. GUY, being duly sworn, deposes and says: My name is John F. Guy; I am forty-one years of age; reside at Washington, and am lieutenant of the Metropolitan police force of the District of Columbia, and in charge of the fourth precinct. I know Z. F. Wilbur. On August 25, 1885, I arrested him at his house on Twenty-third street, between K and L streets, on complaint of Mrs. Owen Thomas, who charged him with threatening her life with a razor and pistol. The circumstances were as follows: A neighbor of hers came to the station-house and requested me to go to Wilbur's residence, stating that he had run the ladies out of the house. I immediately went to the house, in company with officer Kendall. When we arrived there I met two ladies, one of whom was Mrs. Thomas. They stated that Wilbur had run them out of the house with a pistol and locked all the doors, and wanted me to arrest him. My reply was that this sort of thing had been going on so long, that she had made so many complaints against Wilbur and then refused to appear, that I would not arrest him unless she would go to the station-house and make a formal complaint. This she agreed to do, and thereupon I entered the house, finding the basement door open. The inner door at the head of the basement stairs I found to be locked. I asked whose house it was. Mrs. Thomas replied that she rented it, and paid the rent. I told her I would have to kick the door open, which she told me to do; but on hearing this the door was opened by Wilbur. He walked back into his own room, on the same floor, and took a seat. He was drunk. I saw him lay a pistol on the bureau. I took it up and found there were no chambers in it. I then told him that Mrs. Thomas had made complaint, and was ready to go to the station-house and lodge a charge of threats of violence, and that I would place him under arrest and take him

to the station. I told him to put on his shoes, but he made a long harangue, and refused to do so; whereupon I took him in his slippers to the station-house. Officer Kendall assisted me. Upon formal complaint being made, Wilbur was searched, and the chambers of the pistol found in his pocket. The chambers were loaded. I took him the next morning to the police court, where he pleaded guilty to the above charge, and was put under personal bonds to keep the peace.

The records of the fourth precinct station are in my charge, and from them I read the following entry, which was made at the time:

FOURTH PRECINCT, *Tuesday, Aug. 25, 1885.*

1.30 p. m. Z. F. Wilbur. 32. W. U. S. Clerk. Arrest. S. Yes. Threats.
Comp. Owen Thomas. Judge, MILLS. Officer, KENDALL.

The letter "W." in the entry means "white"; "U. S." means born in the United States; "S." means single; "Yes" means that he can read and write.

The records of the fourth precinct station show that the same Wilbur was locked up on two other occasions during the same month. An entry made Aug. 1, 1885, reads as follows:

9.20 a. m. Z. F. Wilbur. 32. W. U. S. Clerk. S. Arrest. Yes. Intox. and disorderly. D. F. Crump. Judge, SNELL. Officer, CRUMP.

I remember his being locked up on this occasion. He was fined \$5, which was paid. I saw him a few days afterwards, early in the morning. He was drunk, and said he wanted to apologize to the officer who arrested him.

The records also show that he was brought in August 27, 1885. I did not see him when he was brought in, but he was locked up, and I saw him later in the evening. I ordered his discharge in the morning. The entry is as follows:

"8 p. m. Z. F. Wilbur. 32. W. U. S. Laborer. S. Yes. Arrest. Intoxication. Comp'l, H. P. Cattell. Dismissed. Officer, Cattell."

I have known Wilbur for about a year; have frequently seen him intoxicated on the street, and from frequent complaints from the people with whom he boards, and from my observation during that time, I believe him to be a man of dissolute habits. I don't think twenty times would cover the number of times we have been bothered with him.

JOHN F. GUY.

Subscribed and sworn to before me this eighteenth day of September, 1885.

[SEAL.]

PHILIP MAURO,
Notary Public.

[No. 34008. In the police court of the District of Columbia. August term, 1885.]

UNITED STATES }
vs. } Information for threats.
ZENAS F. WILBUR. }

Defendant arraigned: Wednesday, August 26, 1885.

Plea: Guilty.

Judgment: Guilty.

Sentence: To give personal bonds in the sum of \$100 to keep the peace. Personal recognizance in the sum of \$100 entered into.

SEPT. 17, 1885.

I hereby certify, under the seal of this court, that the foregoing is a true copy of the record of the proceedings had in the police court in the above-entitled case.

[SEAL OF COURT.]

HOWARD L. PRINCE,
Clerk Police Court, Dist. of Columbia.

[No. 46605. In the police court of the District of Columbia. August term, 1885.]

DISTRICT OF COLUMBIA }
 vs. }
 Z. F. WILBUR. } Information for disorderly assembly.

AUG. 3, 1885.

Security forfeited, \$5 paid.

SEPT. 19, 1885.

I hereby certify, under the seal of this court, that the foregoing is a true copy of the record of the proceedings had in the police court in the above-entitled case.

[SEAL OF COURT.]

HOWARD L. PRINCE,
Clerk Police Court, Dist. of Columbia.

Affidavit of William C. Tompkins.

I, William C. Tompkins, witness of lawful age, on oath depose and say :
 I have examined some of the Washington newspapers of August 26 and 27, 1885, and find in them the following paragraphs with regard to Z. F. Wilbur :
 The Washington Critic, Wednesday evening, August 26, 1885 :

“AN EXCITED ATTORNEY.

“Zenas F. Wilbur, a patent attorney, was in the dock at the police court to-day on a charge of threats to Mrs. Owen Thomas, a roomer in the house in which he boards. He was released on his personal bonds to keep the peace. Officer Kendall stated that a man rushed into the fourth precinct station-house yesterday about one o'clock, and stated that Wilbur was chasing people out of a house on Twenty-third street, above Pennsylvania avenue, with a pistol. When he was put under arrest the pistol was found on him and he was taken to the station without his hat or shoes. One of the ladies in the house stated that he broke into her room.”

The Washington Post, Thursday, August 27, 1885 :

“A PATENT ATTORNEY IN COURT.

“James F. Wilbur, a patent attorney, was in the police court yesterday for entering the house of Mrs. Owen Thomas while in an intoxicated condition, and chasing the lady out of her room with a razor. He pleaded guilty to the charge of making threats, and was released on his personal bonds.”

The National Republican, Thursday morning, August 27, 1885 :

“Zenas F. Wilbur, a patent attorney, was yesterday placed under bonds by Judge Mills for threatening the life of Mrs. Owen Thomas, at whose house Wilbur lives.”

The Evening Star, Wednesday, August 26, 1885 :

“CHARGED WITH THREATENING A WIDOW.

“Zenas F. Wilbur, a patent attorney, was in the police court this morning, charged with threatening Mrs. Owen Thomas, a widow, who resides on Twenty-third street, near Pennsylvania avenue, where Wilbur also resides. A plea of guilty was entered, and he was released on his personal recognizance. The policemen state that Wilbur went home yesterday afternoon, and a few minutes afterwards a gentleman went to the police station-house and complained that Wilbur, while intoxicated, had broken into a lady's room and chased her out with a razor and pistol. Lieutenant Guy and Officer Kendall went to the house and took Wilbur, bare-headed and bare-footed, to the station-house, and locked him up. A pistol was taken from him at the station-house, and a razor was found in his room.”

WILLIAM C. TOMPKINS.

COMMONWEALTH OF MASSACHUSETTS,
 Suffolk, ss :

OCTOBER 10, 1885.

Subscribed and sworn to before me.
 [SEAL.]

GEO. WILLIS PIERCE,
Notary Public.

Affidavit of William D. Baldwin.

DISTRICT OF COLUMBIA, ss:

WILLIAM D. BALDWIN, being duly sworn, deposes and says:

I have already, in an affidavit given September 26th, 1885, in a case pending in the circuit court of the United States for the district of Maryland, entitled *The American Bell Telephone Company et al. v. The Pan-Electric Telephone Company et al.*, stated my relations to Mr. Elisha Gray. I became counsel for him and his partner, Dr. S. S. White, in 1875. I have never accepted any retainer or employment of any kind which could possibly be thought to conflict with Mr. Gray's interest; but in November, 1884, for the first time I took a retainer from the Bell Company under a belief that there was no longer any possible conflict between them and Mr. Gray in reality, and even then I excepted from the retainer any possible interest that Mr. Gray might have adverse to said company.

I always, to the best of my ability, whenever occasion offered, contended for all the rights which could grow out of Mr. Gray's inventions relating to the transmission of sound, including those relating to his caveat of February 14, 1876. Upon every occasion I have used my best ability to argue in support of everything that could be claimed with reference thereto, with strict regard to Gray's best interest, and without interference or instructions from any one to the contrary.

I had a large share in the preparation and taking of testimony in the Dowd case. So far as my knowledge extends the case was honestly and squarely fought to the best advantage that the facts admitted of. My labors and active association in the case ceased with the closing of the testimony. My belief is that the conclusion finally reached in the case upon the various matters there in controversy was based on the thorough conviction of the leading counsel, the late Mr. Gifford, as to what ought to be and what would be the decision of the court.

I was the sole counsel for Gray in the interferences, and always considered myself his personal counsel, and used every effort to gain his cause according to the best of my judgment. I always supposed up to the present time that Mr. Gray was fully satisfied with my work. I notified Mr. Gray of the time of the hearing, and suggested that he should attend, but he did not.

The evidence was as follows: That Mr. Bell had a patent, and that the instrument of his patent would talk; that his application was sworn to on the 20th January, 1876; that Mr. Gray's first communication to any one was his sketch made at my office February 11th, 1876, and that he never attempted to make an apparatus until after he had heard Mr. Bell's at the Centennial. I could not stand up and contend that, under these circumstances, he could prevail as the first inventor. I made the strongest argument I knew how to make in favor of everything which I thought could possibly be claimed for him on these facts. I devoted myself particularly to asserting his claim as the inventor of the receiver alone, based on an instrument which he had actually made before Mr. Bell had done anything; that was involved under issue G and some other issues. I was defeated on all the issues by the decision of the examiner of interferences. I appealed to the board on all those which related to the receiver alone, and reargued that part of the case there as well as I knew how. Defeated there, I again appealed to the Commissioner in person, and reargued before him all the questions which related to the receiver. I was defeated there also.

I have never received from Mr. Gray any intimation that he thought any rights which could have belonged to him as an inventor had not received full justice at my hands until I read his affidavit, filed with the Secretary of the Interior.

In working for Mr. Gray, I have not only been actuated by feelings of professional duty, but also by those of warm personal regard. During all these years I have worked for him as for a friend, in season and out of season, faithfully and conscientiously, and have spared no pains to bring to him every honor and recompense due to his invention.

WM. D. BALDWIN

Sworn and subscribed to before me this November 13th, A. D. 1885.

[SEAL.]

W. C. DUVALL,
Notary Public, D. C.*Affidavit of William D. Baldwin.*

I, William D. Baldwin, on oath depose and say: I wish to supplement the affidavit which I have formerly given with regard to the relations between myself and Mr. Gray by some copies of letters which passed between us. Mr. Gray has intimated by his affidavits that I did not urge his claims as an inventor as I should have done, and

that he now for the first time has ascertained what was done in his behalf, and finds that he is not satisfied with it. The contrary fully appears from the following letters. I received from Mr. Gray a letter, the original of which I now have, dated November 1, 1876. After speaking of some matters relating to his harmonic telegraph, he refers to the speaking telephone, and the reference thereto in that letter is as follows:

Mr. Gray to Mr. Baldwin.

“NOVEMBER 1, 1876.

“As to Bell’s talking telegraph, it only creates interest in scientific circles, and, as a scientific toy, it is beautiful; but we can already do more with a wire in a given time than by talking, so that its commercial value will be limited so far at least as it relates to the telegraphic service.”

Another letter from Mr. Gray to Mr. Baldwin.

CHICAGO, January 25, 1877.

MR. BALDWIN: I want to keep that caveat I filed on talking telegraph alive. Can it not be put in form of an application? There are some points of difference between that and Bell’s system, and I have in view a better or an improved method of accomplishing the same thing. This will be important as a record if nothing more. Will it be necessary to have a model? None were required in Bell’s case. Please find out, and report. I want the Boston job complete before the 20th of February, as I want to be here from the 20th to 30th of that month.

Yours, &c.,

E. GRAY.

Letter from Mr. Baldwin to Mr. Gray.

JUNE 5, 1879.

ELISHA GRAY, Esq.,
Highland Park, Lake Co., Ill.:

MY DEAR GRAY: Enclosed find a copy of Bell’s preliminary statement in the Speaking Telephone Interference case, from which you will see he had no success until he adopted the devices shown in your caveat, after the grant of his first patent.

Pope is printing the statement, of which you will receive copies in due course.

No action on the “Closed Circuit” reissue yet.

Yours, truly,

WILLIAM D. BALDWIN.

Letter from Mr. Baldwin to Mr. Gray.

WASHINGTON, November 3d, 1879.

ELISHA GRAY, Esq.,
Highland Park, Ills.:

MY DEAR GRAY: I have yours of the 1st inst. about the proposed telephone compromise. You have personal rights in this matter, which in my opinion can only be properly settled by the adjudication of the Patent Office. I had expected to have met the other counsel in New York last week and talked over this matter, but Bell has begged for another postponement, and so the matter has again been adjourned. My motion is to speed the cause and simplify the issue by letting each party disclaim what it cannot contest successfully and confine himself to the points to which he is entitled.

Yours, truly,

W. D. BALDWIN.

The “cause” and the “issue” referred to were the interferences.

Mr. Baldwin to Mr. Gray.

OCTOBER 24, 1881.

ELISHA GRAY, Esq.,
Care Henry Cummings, Esq.,
2 Wall street, N. Y.:

* * * The general speaking telephone interference argument will probably begin next Monday and will last a week. Would you care to be here? I am devoting my

argument more to a vindication of your position than to attacking the adversary, though I am stating some facts in regard to Bell and Edison very plainly. Did you leave your exhibits that were used in the Dowd suit abroad? If the originals or duplicates of them are in this country I should like to have them at the hearing.

Yours, truly,

W. D. BALDWIN.

Letter from Mr. Baldwin to Mr. Gray.

WASHINGTON, D. C., October 29, 1881.

ELISHA GRAY, Esq.,
(Care W. E. Mfg. Co.),
62 New Church st., New York:

MY DEAR GRAY: Enclosed find an advance copy of my argument on your behalf in the speaking telephone interferences. My object has been mainly to place you right before the public on the scientific side of the question. I hope I have succeeded, but am not proud of the performance, but if you care for other copies advise,

Yours, truly,

W. D. BALDWIN.

In that brief I attacked the Bell patent as strongly as I could, and stated that the apparatus therein shown had been believed by us to be incapable of transmitting speech, referring in support of that to the testimony of Mr. Renwick and Mr. Goodridge in the Dowd record. I commented on what I thought was the failure of the patent to properly describe and call attention to so important an invention. I had, however, already during the spring of 1879 argued the question of the meaning of the patent before Mr. Commissioner Paine, and he had found that on its face it did describe an apparatus for the transmission of articulate speech. In the brief, page 14, I said:

"As a matter of fact, neither Bell nor any one else ever successfully transmitted articulate speech through an apparatus like that shown in Figure 7, until after the date of his patent." (Referring to Mr. Bell's deposition in the Dowd case as authority for this.)

"Some time after that such instruments were made to work.

"The very remarkable fact remains that Bell's first successful transmission of articulate speech was with the apparatus delineated and described in Gray's caveat, filed February 14, 1876, the same day with the application of Bell's patent, and after Bell's visit to Washington, during which he had been informed of the probability of a threatened interference and its nature intimated. (See Bell's deposition, Dowd suit, Record, vol. 1, p. 507, int. 180, x 251-261, pp. 529-532.)

"This was the celebrated apparatus subsequently exhibited at the Centennial, June 25, 1876, consisting, in part, of the liquid transmitter and a membrane receiver with a piece of clock spring glued thereon, as an armature, arranged close to a magnet. (Bell, Dowd Record, vol. 1, pp. 493-'4; ints. 133-'4.)

"Gray's caveat presents a remarkable contrast to Bell's patent in its clearly setting forth the art of transmitting articulate speech, and delineating and describing the apparatus by which that art was successfully practiced.

"Bell's patent neither shows nor describes Gray's apparatus, and it is not pretended that he ever invented that special form of apparatus prior to Gray, or that Gray ever derived it from Bell.

"When, however, in the course of subsequent litigation, the fact was developed that, as between Gray and Bell the latter really was the first to conceive the invention of transmitting articulate speech, and to reduce the invention to practice, Gray voluntarily came forward, like the straightforward, fair-minded man that he is, and conceded that fact to his rival.

"We shall, therefore, retire from the contest over the issues in cases A and B, so far as relates to the question of the electric transmission of articulate speech.

"We still, however, maintain that Gray was the original and first inventor of subject-matter of broader scope; which invention not only underlies the telephone, but by which alone the telephonic transmission of articulate speech was rendered not only possible but practicable—that is to say, the art of transmitting rhythmical vibrations representing composite tones through an uninterrupted electrical circuit, and reproducing them through the intervention of a constantly charged or polarized magnet, and a disk or diaphragm of metal capable of responding through inductive action to sounds of all kinds or descriptions whatever, and of producing in the air sonorous vibrations corresponding with the electric waves; or, in the language of the fifth claim of Bell's patent of March 7th, 1876, 'causing electrical undulations similar in form to the vibrations of the air accompanying the said vocal or other sounds.'"

I then continued in that brief as follows :

"When, in 1878, the suit of the Bell Telephone Co. *vs.* Dowd was commenced, defendant's counsel were of opinion that Bell's patent was for telegraphy; that the fifth claim was broad enough to cover all the apparatus shown in the various figures of his drawings, as well as that shown in figure 7; that the latter figure related to another modification of his devices for transmitting the dot and dash of the Morse alphabet, by a reed shaken with the wind; and that the apparatus was incapable of transmitting articulate speech. Subsequent events have shown this last conclusion to have been erroneous, but it must be remembered that up to that date (1878) no apparatus like that shown in figure 7 had ever been known to transmit articulate speech, the work having been done with the membrane and clock-spring glued thereon, with the liquid transmitter and with a metal diaphragm, none of which devices were shown in the Bell patent of 1876.

"Acting on these views Gray's patents were put in, as anticipating Bell's claims, together with other inventions. The case was ably, fairly, and honestly contested, and men of high scientific attainments, as well as experts of great reputation, testified in behalf of each party to the cause.

"The ground was so thoroughly cultivated then that it was not seen where it could be improved by harrowing it again; and the entire record was accordingly stipulated into this case that we might have the benefit of the numerous and valuable facts developed.

"The case was ultimately settled without a trial, and a decree for plaintiff taken by consent.

"The fifth claim to this patent has since been interpreted and sustained by the courts as broadly as Bell himself could desire, in the recent case of American Bell Telephone Company *vs.* Spencer, reported in 20 O. G., 229, July 26, 1881.

* * * * *

"We now come to consider the issues in detail, in doing which we shall confine ourselves mainly to demonstrating the validity of Gray's claims to priority in the cases he contests, in which cases his priority will, we think, so clearly appear as to render what was done by others comparatively easy of discussion."

This was the brief which I sent to Mr. Gray in my letter of October 29, 1881, just quoted. It is plain from this what my position was—that it was based on the stress of the evidence, and that Mr. Gray was explicitly informed of it then; indeed, the determination of the Dowd case was based on that view. Having received the brief with this in it, Mr. Gray wrote me as follows :

Mr. Gray to Mr. Baldwin.

NEW YORK, November 14, 1881.

DEAR BALDWIN: I received the patents, and also a copy of your brief. The latter was a very able document, and you did yourself "proud." I would like a few copies for distribution. I have the harmonic fixed, and you will see more developments in telegraphy soon.

Yours, truly,

ELISHA GRAY.

On November 16th, 1881, in response to that letter, my firm sent Mr. Gray fifty copies of that brief.

The speaking telephone interferences were decided by the examiner of interferences in the latter part of July, 1883. I received from Mr. Gray a letter dated July 30th, 1883, as follows:

Mr. Gray to Mr. Baldwin.

HIGHLAND PARK, July 30, 1883.

DEAR BALDWIN: I have received from you a copy of the examiners' decision in the interference suits. It is interesting reading. What, on the whole, do you think of it? Will it be carried up to the board? I should like to talk the matter over with you, and to ask you many questions. I shall go East to spend some time, about the 25th of August. Where will you be then? Kind regards to the ladies at the house.

Yours,

ELISHA GRAY.

I replied to that as follows:

Mr. Baldwin to Mr. Gray.

WASHINGTON, D. C., Aug. 3, 1883.

ELISHA GRAY, Esq.,
Highland Park, Ill.:

MY DEAR GRAY: I have yours of the 30th ult., about the Sp. Tel. Intf. decision. It shows ability, careful preparation, and much correct reasoning, but from some of

the conclusions I dissent. I don't see how they make you out to have abandoned the receiver, as your caveat preceded or accompanied any application showing it. The Bell people probably now realize the mischief they have done their cause in disparaging you. My motion is to appeal on the receiver cases and let the rest go. Every defeated party will probably appeal, as they have everything to gain, and nothing to lose by it. I go away next week for a month. On my return I expect to be here or in Philadelphia.

Since my summary ousting by Pope I haven't had to go to N. Y. so much as before—tho' I may have to go there again in Sep.

Truly,

W. D. BALDWIN.

The course taken was to appeal the cases on the receiver, of which the most important was issue G. I never heard from Mr. Gray any objection to that course. I argued the speaking telephone interferences on appeal before the examiners-in-chief, and wrote to Mr. Gray about it as follows:

Mr. Baldwin to Mr. Gray.

WASHINGTON, D. C., December 18, 1883.

ELISHA GRAY, Esq.,
Highland Park, Ills. :

MY DEAR GRAY: I send you by this mail three copies of my argument in the speaking telephone interferences made last week on appeal to the examiners-in-chief.

It consists mainly of extracts from the record; my spoken argument was of course different. I think you ought to win on the appeal. The interference examiner's decision was universally condemned, even by those in whose favor he decided, and will scarcely be sustained.

* * * * *

Truly,

WM. D. BALDWIN.

In October, 1884, the appeal was decided by the examiners-in-chief against Mr. Gray. I wrote him as follows on the subject:

Mr. Baldwin to Mr. Gray.

WASHINGTON, D. C., November 26, 1884.

ELISHA GRAY, Esq.,
Highland Park, Ills. :

DEAR GRAY: * * * * I shall appeal from the decision of the board of examiners in case G in due course.

Yours, truly,

W. D. BALDWIN.

The Commissioner decided against Gray, affirming the decision of the board of appeals. I thereupon wrote to Mr. Gray as follows:

Mr. Baldwin to Mr. Gray.

WASHINGTON, D. C., March 21, 1885.

ELISHA GRAY, Esq.,
Highland Park, Ills. :

MY DEAR GRAY: I was sorry to miss you while here lately.

I have to-day, for the first time, read the Commissioner's decision in the speaking telephone interference, and am disgusted to find you so completely ignored. In addition to my brief, I made an oral argument lasting nearly three hours, going carefully over the whole ground. It covers eighty pages of type-writing. If you care to read it I will send you a copy—the only one I have in fact. I have not written you before because I knew you had seen the decision and because I was much occupied.

Truly yours,

W. D. BALDWIN.

Mr. Gray then wrote me, expressing that he was as much dissatisfied as I was with the result; but so far from expressing any dissatisfaction with my management

of his interest, he proposed to consult with me as to his future course. His letter is as follows:

Mr. Gray to Mr. Baldwin.

CHICAGO, May 8, 1885.

MY DEAR BALDWIN: I received your letter some time ago in reference to your brief. I would like a copy of it, as I am getting together everything I can bearing on the case. I want to have an interview with you on this matter soon. I am very much dissatisfied with the way my case has been disposed of, and am not disposed to let it rest so. But just what course to pursue I have not yet determined.

Yours, very truly,

ELISHA GRAY.

I replied to that as follows:

Mr. Baldwin to Mr. Gray.

WASHINGTON, D. C., May 11, 1885.

[Enclosure.]

ELISHA GRAY, Esq.,

Chicago Opera House, Chicago, Ill.:

MY DEAR GRAY: Yours of the 8th instant received. I send the only copy of my argument on the Sp. Tel. Intfs. before the Com'r I have. Can't you have it copied and returned? Would it pay to have it printed as a vindication of your claims?

The McDonough people will perhaps carry the case into the courts—or we could do so if you wish. I was sorry to miss your visit.

Truly,

W. D. BALDWIN.

I had another letter from Mr. Gray, which I should have given immediately after his letter of January 25th, 1877. It is dated March 2d, and was received at my office March 6th, 1877. It is as follows:

Mr. Gray to Mr. Baldwin.

CHICAGO, March 2.

Mr. BALDWIN: I wrote Dr. White that if he thought best we would proceed immediately with the testimony. He knows the necessities of the case, and I shall wait his answer. Everything depends upon our winning, notwithstanding Bell's indifference. He will find his undulatory patents subordinate. The only really valuable features in the analysis of multiple tones. If we control that method we have the key to the whole business. We must leave *no stone unturned*.

Yours, &c.,

E. GRAY.

These letters not only disprove the charges Mr. Gray now makes that I was unfaithful to his interest, but show that he has always been aware of my actions and of the position I have assumed as to his case; and further, that my actions have always met his approval.

W. D. BALDWIN.

Sworn to and subscribed this 14th day of November, 1885.

[SEAL.] (Signed)

W. C. DUVAL,
Notary Public, D. C.

"RAILROADING."

Memorandum showing the time ordinarily occupied in passing to issue electrical applications in the first three months of 1876.

Of twenty-five cases patented during the months of January, February, and March of 1876, examined and passed for issue by Mr. Wilbur, the average time they were pending was fifteen days.

Patent 173,618, to Elisha Gray, for telephone telegraphs, was filed January 26, 1876, and the circular of allowance was sent February 11, 1876, showing that this application was pending sixteen days, and the patent was granted February 15, 1876.

	Days.
171,854, Porter & Platt, application tools.....	9
171,744, Smith, lightning rod.....	20
171,869, Sangster <i>et al.</i> , regulators.....	24
172,309, Guest, motors.....	13
172,404, Edison, transmitter.....	31
172,503, Roussour, railway signals.....	27
172,504, Ryder, connectors.....	24
173,618, Gray, Elisha, telephonic telegraphs.....	16
173,673, Safford, indicator.....	5
173,680, Smith, exploding.....	8
173,681, Smith, exploding.....	8
173,682, Smith, magneto-electric.....	6
173,750, Anders, printing telegraph.....	20
173,864, Pettit, motor.....	15
176,905, Coe, lightning rods.....	15
174,018, Smith, baths.....	19
174,127, Field, regulators.....	16
174,444, Russell, recorder.....	11
174,451, Weston, lightning rods.....	19
174,799, Gibson, gaslighting.....	12
174,866, Smith, lightning rods.....	9
175,111, Kidder, induction coils.....	8
175,112, Kinemund, battery.....	9
175,183, Smith, telegraph.....	18

Practice in the Department of Justice.

NELSON'S CASE.—FEBRUARY, 1885.

In the matter of the application to the Attorney-General of the United States to annul certain letters patent granted to Charles Nelson.

STATE OF NEW YORK,
County of New York, ss :

JOHN D. EMACK, being duly sworn, deposes and says:

He is the person described in the proposed bill of complaint hereto annexed; that all the facts alleged in said bill of complaint are true, and deponent has good and sufficient evidence to substantiate the same.

That said Charles Nelson, under cover and protection of the patent right therein alleged to have been fraudulently obtained, has sold and issued a license to a firm, the name of which is Krause & Bartholomew, who are now manufacturing and selling slates, and flooding the county with circulars, and are thereby greatly injuring deponent in his trade and business.

That he advised, by his attorney, Hon. Andrew J. Perry, of New York City, that the proper proceeding by which to protect the rights of deponent is for the Attorney-General of the United States to bring an action in equity in the proper court or courts to have said patent annulled, upon the ground that it was obtained by means of false and fraudulent affidavits and statements, and that under said patents thus fraudulently obtained, the said Charles Nelson, his agents and assigns, are manufacturing said noiseless slates, to the injury of deponent, who has exclusive right to manufacture and sell the same under the various patents in said complaint described.

Deponent therefore asks that the proper action be taken to secure his rights; that he is willing and will furnish ample security to the United States Government to indemnify and secure it against any loss, if any, it may sustain for costs or otherwise, in case, for lack of proof or other cause, said action should not be maintained.

JOHN D. EMACK.

Sworn to before me this 12th day of January, 1885.

JAMES L. BENNETT,
Notary Public, Kings Co.

Cert. filed in N. Y. Co.

U. S. PATENT OFFICE, *February 4, 1885.*

Hon. BENJAMIN BUTTERWORTH,
Commissioner of Patents:

SIR: I have the honor to return herewith the communication of 27th ult., from the Attorney-General of the United States, asking your suggestions upon a proposed bill of complaint, the object of which is to vacate letters patent to Charles Nelson, No. 281785, issued July 24, 1883, which patent, it is alleged, was obtained by fraud. The bill of complaint, supported by affidavit of J. D. Emack, alleges that Nelson was fully acquainted with the state of the art prior to his application for patent, and particularly as set forth in certain patents which he cites, to wit: No. 26916 to Munger, issued January 24, 1860; No. 99756 to Butler, issued February 15, 1870, and No. 189118 to Mallett, dated April 3, 1877; and that, notwithstanding this knowledge, he declared that he believed he had made an invention of his own, and filed an application for patent for it, supporting it by his oath in the usual form prescribed.

This is the ordinary proceeding in applications for patents, and involves nothing on which an allegation for fraud can be based. The examination proceeded in regular order, none of the patents cited were overlooked, the claims were found to be drawn so as to sharply define the particular features of the invention alleged to be novel, and distinguish them from anything known to the office; and, with the exception of a slight verbal change, they were allowed as presented.

If the case were to come up to-day, the action would be the same, so far as the known state of the art prior to the filing of Nelson's application is concerned.

The proposed bill of complaint further sets forth, however, that the invention described in the Nelson patent was not made by Nelson, but by the complainant, and that Nelson, under a contract with him, had been actually manufacturing and selling to the slate trade the very slate frame described more than two years prior to the date of Nelson's patent, to wit, March 29, 1883.

Of course these are statements which the office cannot verify. It had the oath of the applicant before it, which it was bound to accept unless overcome by some prior patents, or printed publication, or some other authentic evidence of the previous state of the art. Admitting these allegations to be true, it would appear that Nelson made a false oath in his application, and that his patent is void, not only in consequence thereof, but also for want of novelty. This being the case, it seems that Emack has only to go on and use the invention and defy a suit for infringement. The result of a suit, if the allegations are sustained, must be the declaration of the patent invalid for want of novelty.

As Mr. John J. Perry, counsel for Emack, in his letter to the Hon. Attorney-General, invokes as authority for the procedure suggested, Walker on Patents, pp. 223-224, it is worth while to notice that the learned author only suggests this remedy (evidently an unusual one, and, in his opinion, of doubtful authority) in cases "where frauds are ingenious enough to keep clear of all known defenses to infringement suits."

The present does not appear to be such a case as the learned author contemplates. Want of novelty, as most fully shown elsewhere in his book, is a most substantial defense to an infringement suit, and in my judgment some different authority should be invoked before adopting the proposed procedure. Such authority does not appear to be found in the cases cited by the learned counsel.

U. S. v. Stone, 2 Wallace, 535, is a land case which may afford authority for the general principle that a suit to vacate a grant by the Government should be instituted in the name of the Government, or by the Attorney-General, but beyond this it fails for the total want of parallelism between the cases. *Mowry v. Whitney*, 14 Wallace, 434, is a case of conflicting patents, proceedings instituted under provisions of a section of the act of 1836, for which section 4918, Revised Statutes, has been substituted. Beside this, the appellant in the case put himself on the same ground suggested by Walker, and quoted above, by declaring in his appeal that he could not avail himself of the fraud of the patentee as a matter of defense.

Attorney-General U. S. v. Rumford Chemical Works, 2 Banning and Arden, 308, was a case closely parallel to the present, and the court held that "information to repeal letters patent for an invention brought in the name of the Attorney-General was not authorized by the statute, sanctioned by any precedent, or supported by the authority of any judicial decision." *United States v. Gunning et al.*, 26 O. G., 356, is a decision on a demurrer. No statement of the case is given, and nothing to indicate whether it falls within the conditions suggested by Walker. The general doctrine, however, is asserted as in *U. S. v. Stone*.

I submit, with great deference, that in the uncertainty that exists upon this question, and in view of the fact that the party complaining has by his own showing an ample and ordinary defense in a suit for infringement, which will accomplish just what is proposed by this unusual procedure, that there is no necessity for the honorable Attorney-General taking the action proposed to him.

I am, very respectfully, your ob't servant,

F. A. SEELY,
Examiner.

DEPARTMENT OF JUSTICE,
Washington, February 18, 1885.

A. J. PERRY, Esq.,
39 Nassau street, New York City, N. Y.:

SIR: Yours of the 16th ultimo (and inclosures) was duly referred to the Commissioner of Patents for remarks. These remarks have just been received. Upon the whole, the result is that your client has not established a right to intervention by the Attorney-General, &c., to vacate the Nelson patent No. 281,785. So far as appears from the case made in the draught of a bill submitted by you, your client has ample and plain defense to any suit for infringement, &c., &c., and in an ordinary case of that sort, in the absence of any previous successful litigation or continued defiance by him, it is not usual for the United States to take such part as you suggest.

Very respectfully,

BREWSTER,
Attorney-General.

Affidavit of F. E. Nipher.

FRANCIS E. NIPHER, having been duly sworn, deposes and says:

I am thirty-seven years of age; am professor of physics in Washington University, St. Louis, and president of the St. Louis Academy of Science. I have held my professorship since September, 1874, previous to which time I was for four years an assistant in physics and chemistry in the State University of Iowa, having been appointed to this position in 1870, immediately upon graduation in that institution.

I have given special attention to the subject of electricity and magnetism, and am familiar with the subject of acoustics, it having been my duty to give instructions in these branches. I have made myself familiar with practical experimenting upon electrical apparatus and have written various papers on scientific subjects, some of which embody the results of several years of work.

I have read and considered the statement entitled "The Telephone Case," to which Dr. Wellington Adams has made affidavit, prepared for the Pan-Electric Telephone Company, and I fully concur in all the statements made, with the following exceptions:

I. The statement that Bell's instrument, No. 7 of his patent of March, 1876, is not operative when built according to his specifications, has been found to be incorrect. This has been shown by tests made at my laboratory by Dr. Adams and myself, since the former made his affidavit.

II. The statement that Bell uses an intermittent current in the device mentioned above is perhaps open to some objection, although it is, in a certain sense, true. The fact is that there is no essential difference between undulatory, pulsatory, and intermittent currents. It is purely arbitrary classification, like that which would distinguish between short men and tall men, and is of no importance in discussions regarding the action of the telephone. Some sounds will be represented by pure undulations, while others, notably articulate speech, require what Mr. Bell calls pulsatory currents in order to reproduce them.

Reis made many forms of transmitters and receivers. I have examined and experimented with several of these Reis transmitters and receivers. These instruments were furnished to me by Dr. Wellington Adams. They had evidently been made by some one not skilled in the art, but they all operated successfully, with one exception, and in this case the mechanic had grossly blundered in the construction of the instrument; this instrument was not tested.

All of Reis' transmitters have one feature in common, viz, a loose contact in an electric circuit, which is changed or varied by vibrations of the contact pieces. These contact pieces are set into vibration by means of a membrane, against which the voice is projected, the proper degree of contact which will give the best results being secured by various adjustments.

In other forms of transmitter, Reis used a gravity contact, the weight of one of these contact pieces pressing upon the other serving to bring about the proper order of contact. The weight of the gravitating piece can here be so adjusted as to give the best results.

The construction of the various types of transmitters shows most clearly and conclusively that Reis was constantly aiming to cause pulsations in the current of electricity passing through the transmitter and receiver, which should be a copy of the sound waves projected into the transmitter, and that he aimed to reproduce the original sound vibrations in his receiving instrument.

When the instruments having the adjustments he gave them are so adjusted as to work best, they are producing these pulsating currents, and they do reproduce articulate speech.

The operation of the instruments of Reis does not differ in any way from the operation of the modern transmitter now in use. The fact that Reis made so many different types of instruments, all containing the same elements, and which modern practice has shown to be essential, is positive proof that he had the art of telephony clearly and correctly in his mind.

The transmitters of Reis contain every essential element of the modern transmitter, and there can be no doubt that he constructed his instruments, as he says, with a view of reproducing "at once the total actions of all the organs operant in human speech." (Reis memoir Jahresbericht of Phys. Society of Frankfort-on-the-Main.) This being the object in view, it is wonderful to see how completely he grasped the mechanical requirements of the problem. His failure to produce a commercial telephone was due to the fact that he used an animal membrane in place of a metal diaphragm, and that he used platinum contacts in place of carbon. When these substitutions are made, the instrument becomes more reliable, it is more easily kept in working adjustment, and it acts more efficiently. It becomes a modern telephone. These changes are therefore merely improvements in an art, the invention of which is due wholly to Philip Reis.

In the description of the action of his instrument, Reis makes the statement that the current is interrupted at the working contact for each sound-wave. He says: "In this way each sound-wave effects an opening and closing of the circuit."

It should be remembered, in considering the descriptions of Reis, that he was inventing a new art. New conceptions and ideas were to be formed, as well as new devices. In such cases it is sometimes as difficult to find the proper words in which to explain the invention or conception as it is to invent the apparatus, or conceive the art. In such cases the inventor, or those who discuss his invention, are finally driven to the use of technical expressions, having special, conventional, or arbitrary meanings. The meanings of such phrases are primarily defined either by long explanations or by reference to the particular thing or action represented by the phrase. The fair and proper way to learn what Reis means by "opening and closing the circuit for each full vibration," is to examine the apparatus which he produced for realizing his idea. Since he was discouraged by the rebuffs which he met, and wrote very little, the invention of the proper phrases to briefly express the action of the instruments has fallen upon others.

These instruments show unmistakably that the working points of the gravity form of transmitter were intended by him to be continually in contact, and the conclusion is unavoidable, that when the instruments having yielding and following spring contacts were used in speaking or singing as he says, "not too loudly," the circuit was continually in a condition which we call technically "closed," but which Reis called technically "opened and closed." He meant that the circuit was so far opened and closed as to produce the well-known galvanic tones in his receiving instrument.

In the present state of our knowledge concerning the ultimate constitution of matter, and in the present state of our ignorance of what really takes place at this so-called "contact" in the transmitter, it is not possible for me to say which of these phrases is really the more correct. If the words "open and close the circuit for each full vibration" were to be understood as a telegrapher would understand them, the explanation of Reis would mean the circuit would be opened and closed many hundreds of times per second when transmitting articulate speech. The current would be opened from one hundred and fifty to five hundred and fifty times per second for the fundamental tones, and the added harmonics which accompany the fundamental would run the number of breaks to thousands. Now, according to Mr. Bell (specification forming part of letters patent No. 174,465, March 7th, 1876), such a current "becomes, for all practical purposes, continuous." In this Mr. Bell is undoubtedly correct, but although continuous, such a current would not be of constant intensity, but would, in fact, be a pulsatory or undulatory current, not differing in any essential manner from the currents which are used in the modern forms of telephone.

Reis considered his receiver to be merely an apparatus for producing the galvanic tones, and such indeed it was. The molecular vibrations set up in the iron core, when the strength of the current is quickly varied, result in the production of a sound which can be rendered more audible by attaching the magnet core to a sounding board. The electro-magnetic receiver of Reis also acts in the same way. The vibrations which produce the sounds are molecular in their nature, as they are in the modern receiver. In describing his receiver he says, "this whole piece may naturally be replaced by any apparatus by means of which one produces the well-known galvanic tones." (Memoir loc. cit.)

Here also, then, Reis has fully invented the art of reproducing articulate speech.

His electro-magnetic receiver was an electro-magnet having an elastically mounted armature, and placed upon a sounding box. In the modern instrument the elastically mounted armature is the disc of iron in front of the magnet pole, and the iron disc also performs the function of the sounding-board.

From such an examination as I am competent to give, it is clear to me that the claims of Reis to be the inventor of the telephone, and of the art of transmitting articulate speech by means of an electric current, have never before been presented in court except by parties who were pecuniarily interested in showing that Reis had no claims to the invention of the art. It is a very simple matter for any electrician who is interested in so doing to show to the court that the various transmitters and receivers of Reis are all inoperative, if the other side of the case is also interested in having the same thing shown.

It follows, therefore, that there can have been no fair adjudication of the points raised in the present case.

I am not pecuniarily interested in any telephone company.

FRANCIS E. NIPHER.

Subscribed and sworn to before me this 16th day of June, A. D. 1885, in the city of St. Louis and State of Missouri.

[L. S.]

TRUSTEN P. DYER,
Notary Public, City of St. Louis, Missouri.

Ex'd, E. L. L.
C. F.

Affidavit of Z. F. Wilber.

STATE OF NEW YORK,
New York County, ss :

ZENAS F. WILBER, being duly sworn, deposes and says as follows :

I am 43 years of age, and by profession a solicitor of patents and expert in patent causes.

I was employed in the U. S. Patent Office for some years ; first as an acting assistant examiner and then as an assistant examiner for several years ; most of which time I was engaged in the examination of applications for patents in the branch of electricity. Afterward for some years I was principal examiner in charge of what was then known as the philosophical division, embracing the classes of electricity, horology, optics, mathematical and measuring instruments, etc.

While so engaged I was called upon to investigate many thousand applications for patents and to pass upon their utility and patentability, a large number of which related to electrical matters. I was finally promoted to be examiner of interferences, from which position I resigned to engage in the practice of my profession. As such last-named examiner, I passed upon and determined the question arising in interferences in all classes of invention.

Since resigning I have prosecuted several hundred applications for patents for various clients, nearly all involving the utilization, generation, or regulation of electricity ; have in many instances been called upon to investigate and report upon the practicability, utility, and patentability of such inventions, the legality and scope of patents issued on such subjects, and have testified as expert in a number of litigated cases relating to electrical subjects.

At the time, in December, 1871, Antonio Meucci filed a caveat for "Sound Telegraphs," I was, as assistant under Prof. B. S. Hedrick, principal examiner, and engaged under him in the examination of cases relating to electrical inventions, hence the Meucci caveat came under my charge at that time. At the time of the last renewal thereof, in Dec., 1873, I was in charge of applications involving or relating to electricity, as principal examiner myself, and the Meucci caveat was still in my charge.

During 1876 the electrical department was under my charge, as principal examiner, and I received, as such examiner, from the proper division of the office, the Bell application, which became U. S. patent No. 174465, of March 7th, 1876, and the caveat of Elisha Gray, now generally known as the "Gray caveat." The files of both were endorsed as having been received by the office on February 14th, 1876. Of my knowledge I did not know and had no facilities for knowing which was first filed in the office ; and, indeed, when I first compared them to ascertain if there was any conflict or interference, I made no enquiry, my own opinion then being that, in the relation existing between an interfering application and a caveat, the day was simply *punctum temporis*, and hence, that when an application interfering with a caveat was filed upon the same day as the caveat, the "application is made within the year" (R. S., 4902), and that the application should be suspended and the caveator given the statutory three months to file a completed application.

Accordingly, on February 19th, 1876, I suspended the Bell application, and notified the caveator, Gray, to complete his application within three months.

On February 24th, 1876, Bell, by his attorneys (Messrs. Pollok & Bailey), filed a protest against this suspension, averring, in substance, that there was reason to believe

that the Bell application was filed first, *i. e.*, earlier on the day of the 14th of February, 1876, than the caveat, the whole protest and argument of that date being based on a knowledge of that fact, or a belief that such was the fact.

Now, Mr. Bell or his attorneys obtained such knowledge I do not know. It was not given by me officially or unofficially. The only information given by me was in the official letter notifying Mr. Bell of the suspension of his application, because of a caveat interfering with his first, fourth, and fifth claims, neither the caveators nor the date of filing information, he was not entitled to have, being mentioned or hinted at. Such information was obtained, however, evidently, for it is the basis of a communication of February 24th, 1876, to the office in Bell's behalf, but how obtained, as before stated, I cannot say, being entirely ignorant on that point.

The point raised being an entirely new one, there being no recorded precedent in the office, I refer the matter to the honorable Commissioner of Patents in person for his instructions as to my course. The Commissioner decided that, as between an interfering application and caveat, a day was not "*punctum temporis*," but an exception thereto; that the time of the day was an element to be considered in determining the relation of the parties, directing me to ascertain the exact time of day of filing; that if the records showed that the application was filed earlier in the day, the caveat should be disregarded, otherwise not. In determining this, I consulted the cash blotter in the cashier's room, where I found the receipt of the fee for the Bell application entered before the receipt of the fee for the Gray caveat.

There was no regularity of entering on the fee-book. Applications came in by attorneys and mail, and were filed on the receipt clerk's table in a pile, and the clerk entered the cash received on the book as he picked up the letter or application. I was governed largely by what Mr. Bailey said, and he told me Bell's application was received before the caveat on same day.

I therefore determined, hastily, that the Bell application was filed the earlier in the day, and revoked the suspension. In doing this I had no other proofs than that mentioned, no affidavits or depositions from or in behalf of either party, nor, as it appears from the record, was Gray notified by the Commissioner to appear and defend my original ruling in his favor, as it seems might equitably have been done. This is the only case I ever knew in some eleven years' experience in the Patent Office of such a ruling. In this case had the usual course of suspension of the application been followed Bell would never have received a patent, and had Mr. Meucci's caveat been renewed in 1875, no patent could have been issued to Bell. I did not suspect any crookedness at the time.

The suspension being revoked and the Gray caveat disregarded, Bell by his attorneys was permitted to file certain amendments, which show for themselves without further or additional oath of invention, and his case was permitted to go to issue and become the patent hereinbefore noted.

At the time of the prosecution and allowance of such application it was not intended by any one in any way whatever, that I can remember, that it was for a talking telephone, a telephone for the transmission of articulate speech. The human voice was but once referred to in the whole specification, viz, in the 2d column of page 3 as printed, where it is stated "whereby motion can be imparted to the armature by the human voice, or by means of a musical instrument." I understood this to mean the same class of sounds given by the voice as are given by a musical instrument, that the voice and musical instruments were named as equivalents for the same class of sounds, musical or harmonic vibrations in contradistinction to uttered intelligible speech. I considered that the invention related to "Harmonic Multiplex Telegraphy," the object of which was to enable several operators to use one wire simultaneously, a system on which it was known that both Profs. Gray and Bell had been working and not to a talking telephone.

If I had believed that it was for a talking telephone, in view of the fact that the accounts of Reiss' experiments in that line, which were then accessible to me, were so vague and unsatisfactory, I would have required a practical demonstration of its utility and operativeness as a talking machine before granting the patent, for I believe that any instruments made, as shown and described in the patent noted, can be used to transmit and reproduce articulate speech. Changes and modifications must be made therein for that purpose amounting to independent and separate invention.

In looking back over the case, I am convinced that I should not have allowed the fifth claim, but should have objected to it as vague and indefinite. As set out it amounts simply to "causing electrical undulations similar in form to the vibrations of the air." No one has seen "electrical undulation," it is simply an abstract term; there is no way of telling whether the cause termed electricity is thrown into undulations, and, if yea, whether these invisible undulations are similar in form to some other visible undulations. There are no clear, explicit standards set up in the claim by which the infringement or non-infringement may be determined, but it is a claim so general and so abstract as to amount in effect to a claim for the result, not the means. Its parallel in a tangible thing would be a claim for making shoes by "causing

a machine to stitch the parts together by stitches resembling in form hand-made stitches," so that all machine-stitched shoes, no matter how different the means, the machinery employed would infringe the claim, because the result was accomplished.

There is no doubt in my mind that a large amount of this patent is anticipated in the patent to T. A. Edison, 141,777, dated August 12th, 1873. In that patent Edison shows a contact moving in water towards and from another contact, so that the resistance between the two is increased or diminished. This is one of the many ways set out by Bell for the same purpose in his patent; see near bottom of 2d column, page 2, as printed. "Let mercury, or some other liquid, form part of a voltaic circuit, then the more deeply the conducting wire is immersed in the mercury or other liquid the less resistance does the liquid offer to the passage of the current. Hence the mercury or other liquid included in the circuit occasions undulations in the current."

His "undulations" are rise and fall of electric tension in the circuit due to "gradual increasing and diminishing the resistance of the circuit," as stated in fourth claim, or by other means recited, *all* being equivalents for this purpose.

Edison says, "I make use of metallic contact points within a liquid, such as glycerine or water, so that the motion of one contact point nearer to or farther from the other raises and lowers the electric tension in the telegraph line, and operates a distant magnet without forming a spark or breaking the circuit."

Both operate a distant instrument or magnet without forming a spark or breaking the circuit by rise and fall of electric tension; *i. e.*, the so-called "undulations," both Edison's and Bell's patents, were applied for as "improvements in," the same class, "telegraphy."

I am convinced, on careful analysis of the two cases, that in so far as the application of Bell and the patent based thereon disclose his invention, the broad claims in the Bell patent should have been rejected on the Edison patent and Bell confined to any novel mechanism or means he had invented for accomplishing this result, which was common to both and prior to him in Edison.

Judging at the time, however, that the Bell application related on to harmonic multiplex telegraphy, an entirely new branch, the talking telephone of to-day, with its development being almost undreamt of, the case did not, it now seems to me, receive the careful scrutiny and pruning which it should have had.

From my experience in examining a vast number of electrical specifications, I have become familiar with the terms and nomenclature used, and have found that the terms used by Reiss and Meucci are expressed or meant by different later inventions under different names. I have noticed this in the specification of Reiss and the specifications of Meucci, Bain, Edison, Gray, Bell, the caveat of Meucci, etc. The rise and fall of tension of the Edison case is the same as the "undulations" and the "undulative current" of Bell; the "closed circuit" of Bell is the "continuous metallic conductor" of Meucci, while the drawings intended to graphically indicate sound waves in Bell's patent and the description thereof are the same as those published by Reiss. And much more.

Z. F. WILBER.

Subscribed and sworn to before me on this 10th day of October, 1885.

OWEN FITZSIMMONS,
Notary Public, Kings Co., N. Y., cert. filed in N. Y. Co.

Extract from A. G. Bell's testimony in the Dowd Case.

BOSTON, July 24, 1879.

Cross-int. 251. There is in the record, at page 150, a letter of yours to Mr. Gray, dated March 2, 1877, in which you say, "I do not know the nature of the application for a caveat to which you have referred as having been filed two hours after my application for a patent, except that it had something to do with the vibration of a wire in water," &c. How did you come to know as much as that about the nature of the paper in the confidential archives of the Patent Office?

Answer. When I found that my application was in interference with some other application filed in the Patent Office, I went to Washington to examine into the matter, for I understood that an applicant in interference had a right to see that portion of the interfering application which conflicted with his invention. I therefore went to the Patent Office and requested the examiner to explain to me the exact points of interference between my application and the other. I found that there had been two interferences declared with my application. The first was with a caveat filed the same day as my application, and had already been dissolved. The examiner declined to show me the caveat, as it was a confidential document, but he indi-

cated to me the particular clause in my application with which it conflicted. I therefore knew it had something to do with the vibration of a wire in a liquid. I do not now remember what it was that led me to suppose that that liquid was water.

THE TELEPHONE CASE.

[Prepared for the Pan-Electric Telephone Company by Dr. Wellington Adams, formerly professor of diseases of the ear, nose, and throat, medical department, University of Denver; ear and throat surgeon to St. Luke's Hospital, Denver; editor Rocky Mountain Medical and Scientific Review.]

CONTENTS.

INVOLVED SCIENCES—

Sound, electricity, magnetism.

EVOLUTION OF THE ART OF TELEPHONY—

Contributions of Bourseul, Reis, Gray, McDonough, Bell, Channing, Berliner, Blake, Edison, and others.

ARGUMENTS—

Bell not the original inventor.

Bell's 1876 patent inoperative, contradictory, and unintelligible.

PROOFS—

Records of the alleged adjudications; Reis's publications; confirmatory affidavits; relevant legal propositions.

COPYRIGHTED May 6, 1885, by Wellington Adams.

Washington, D. C.

R. O. Polkinhorn & Son, printers.

1885.

The CHAIRMAN. This matter that is to be submitted from the Department of Justice I suppose I can put in. We all know what it is.

On motion the committee then adjourned until Thursday, May 27, 1886, at 12 m.

WASHINGTON, D. C., *Thursday, May 27, 1886.*

The committee was called to order at 12.45 p. m.

The CHAIRMAN (Mr. Boyle). Before proceeding to offer any papers in evidence, I want to call attention to two or three matters put in by Mr. Ranney at the last meeting. They were given in merely by referring to the page of the record and by a general designation of the paper. The first one is the affidavit of Alexander Graham Bell, on page 591 of the Interior Department record. This affidavit is introduced, apparently, only for the purpose of bringing before the committee a letter addressed by Mr. Wilber to Mr. Bell, and Mr. Bell's reply. It seems to me that that has no place in this investigation.

Mr. HALE. What is the date of that letter?

The CHAIRMAN. It is dated October 7, 1885. It does not occur to me what other purpose that could serve.

Mr. HALE. That is one of the papers used before the Interior Department?

The CHAIRMAN. Yes; that is one matter that I think should go out. I suppose it is in evidence, as it was offered by Judge Ranney. In the same connection there is the affidavit of a man named William C. Tompkins, on page 797 of the Bell record. He made an affidavit for use before the Interior Department, which seems to have been given for no other purpose, apparently, except that of getting before this committee several newspaper items in regard to some offense Mr. Wilber was guilty of or some difficulty into which he had gotten. There is also the affidavit of Mr. Guy, on page 793 of that record, which related to the same thing exactly, as I understood it—the arrest of Mr. Wilber for some petty offense here in the city, for which he was taken to the police court. I do not see what that has to do with these matters.

Mr. HALE. Has Mr. Wilber been examined as a witness in this investigation at all?

The CHAIRMAN. No. Two or three affidavits of his have been given in evidence, I believe all by Judge Ranney, but I am not sure; perhaps some of them were offered by somebody else.

Mr. HANBACK. Was there not one that was offered by Solicitor-General Goode?

The CHAIRMAN. Perhaps so.

Mr. HANBACK. He had a type-written copy of it.

The CHAIRMAN. If they are given in evidence for the purpose of affecting the character of Mr. Wilber, the committee will remember that we declined, by a vote of the committee, I believe, to go into the question of character when it was proposed by Mr. Van Benthuyzen as against Mr. Pulitzer, General Sypher, and Mr. Hill; and if the committee should think it proper to go into the question of evidence as to character, it certainly would not be competent to impeach the character of Mr. Wilber as a witness by proving his arrest for a particular offense. That would not be competent evidence on that point. So I think these matters should go out.

Mr. RANNEY. Are you through, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. RANNEY. You seem to misapprehend entirely the reason why these should go in. It had been already settled by the committee that the Interior Department record was not in for the purpose of proving the fact here, and opening these issues here, but solely to show what the Secretary of the Interior had before him on which he acted. It is like the affidavit of General Duncan S. Walker, only in regard to another matter, which was put in. It is like the certificate which Colonel Young put in. It is embraced in Colonel Oates' resolution that we have adopted, that this record was all in.

Mr. HALE. We set that aside the other day, very improperly, as I think.

Mr. RANNEY. I think that it is proper. We have discussed and determined the matter and the record has been made up on that basis. We are to judge of the opinion given by Mr. Lamar, and what he had before him when he gave it. Now, take Mr. Wilbur's affidavits. He had before him first the affidavit which Mr. Van Benthuyzen got out of him on the 30th of July that was put in evidence before the Secretary. He had in evidence before him the affidavit which Mr. Wilber gave to the Globe Company, bearing on the question of whether there was irregularity in the Department or fraud practiced upon the Department by Mr. Bell in getting that patent. Those affidavits are already in this case, which you did not object to. They are not in because we are to go into the issue here to try it as a distinct issue, but they are in because they are the proofs on which the opinion of Mr. Lamar was given. It is to show whether on that record he was justified in ordering or recommending that suit. As the case stood on the record he and his opinion must be judged. Now you put the first affidavit of Wilber in, you put in the second affidavit of Wilber as given to the Globe Company, and then it is proper to put in whatever was before the Commissioner or the Secretary of the Interior which affected that testimony judicially, whatever he had, and anything in this record which affected the testimony which he had before him in forming his opinion, and which he admitted there as evidence is competent as bearing on the position which Mr. Wilber and his testimony occupied before Mr. Lamar when he passed his opinion.

That is the reason why the committee allowed it, and it is on the record that this goes in for that purpose and is competent for that purpose. Not that we open the issue here to try, for if we did, it would have been competent for the parties to have produced Mr. Wilber, and it would have been competent to produce anything fit and proper in reply. We have not opened that, and therefore we refused Mr. Van Benthuyzen's offer and Mr. Bell's second affidavit, because we were not trying that issue. And yet we are trying the issue as to whether Mr. Lamar was justified in ordering or recommending that suit. How can you distinguish whatever is deemed competent? The whole of the record is in, but it was only for members to put in from it extracts to save the printing of the whole of it, of that which seemed to bear on this issue. I have selected and put in not one side of it, but both sides of it, as it stood before the Secretary, to wit: The affidavit given to Mr. Van Benthuyzen, the affidavit given to the Globe Company, and then the evidence that the Secretary of the Interior had before him as affecting the credibility of that testimony or the weight of it, to wit, the fact that Mr. Wilber, after he had given the Globe Company his affidavit, after he had given Mr. Van Benthuyzen his affidavit and it had been put in, proceeds then with a letter to Mr. Bell desiring to publish something, to come out with a statement to his favor, showing the character of the witness—showing that he was ready to furnish an affidavit or furnish testimony on that side of the case.

The CHAIRMAN. I do not think there is anything of that kind in the letter, as I read it.

Mr. RANNEY. I have the letter here. After he had given the Globe Company his affidavit, and after he had given Mr. Van Benthuyzen his affidavit, he writes to Mr. Bell, saying—

The CHAIRMAN. That should not go in again.

Mr. RANNEY. (After reading the letter referred to.) Now, as it stood before the Secretary, it showed that Mr. Wilber, after giving two affidavits, one to Mr. Van Benthuyzen and one to the Globe Company, then hunts out and solicits Mr. Bell, saying that there was nothing in those affidavits, and that he had not stated the truth. Mr.

Bell replies, showing his own action and that of Mr. Wilber. That was before the Secretary, and shows his action and affects his decision as showing the position of Mr. Wilber. Then it is followed (I put in both sides) by an affidavit of some twelve pages given by this same man Wilber to the Bell people, which they put in evidence, and which entirely, as is claimed, overthrows anything which he had stated prior as affecting prejudicially the matter. Then there was the other testimony in the case that affected his statement.

Now, my argument of it is this: That the only evidence which Mr. Lamar had before him tending to show any irregularity or fraud in the issue of the Bell patent is based on Mr. Wilber's statement, when he, by his own affidavits, also before him, had completely overthrown that claim and left nothing in it, showing that there was no testimony before Mr. Lamar worthy of a moment's consideration on which to base a claim of fraud. That is the argument I base on it. The conclusion is another thing and I need not state it. To say that when you are judging of the opinion of Mr. Lamar, on which he based his recommendation, by the evidence of Wilber, before him and everything that affected the credibility of Wilber, to say that you should put in a part, which he had before him, and leave out the other part, and then proceed to form a judgment on the value of his opinion—for that is what it comes to—would not be claimed by any one as proper. We do not open the issue, but we open the character of the evidence.

The CHAIRMAN. Oh, no; it is not claimed there at all.

Mr. HALL. Do you claim that we are trying to see whether the judgment of the Secretary of the Interior was correct or not?

Mr. RANNEY. We certainly are called upon to pass upon that question.

Mr. HALL. I do not think that that is before the committee.

Mr. RANNEY. I say further than that, that it is settled in this record that the Department of the Interior record is in, and it is only a question for the committee to determine how much of it we will publish. A part of it has been put in because it was in the record.

The CHAIRMAN. I do not agree to that.

Mr. RANNEY. Well, that is the resolution on file. Has that resolution of Mr. Oates been printed?

The CHAIRMAN. The resolution referred to by the gentleman from Massachusetts will not, in my judgment, make that competent which would not otherwise be competent. He bases his right to put in this evidence against the character of Mr. Wilber, upon the assumption that it was before the Secretary of the Interior and that it is found in the record which was before the Secretary. He will remember that that record was made up by the Bell Company; that they had a right to put into it anything that they saw proper. It was not made up under the supervision of the Secretary of the Interior, and he did not pass on the relevancy, competency, materiality, or propriety of that testimony before it was printed in the record. They printed it and presented it to him. Now, if we are to assume that the Secretary was compelled to consider everything in that book, there might be some force in the argument made by the gentleman from Massachusetts. If we conclude that he did consider everything in that book, it might, with some propriety, be said here that we ought to take it into account as to what influenced him in coming to the conclusion that he did. But as the Secretary of the Interior is a lawyer, I take it that he did not permit the police court reports to be introduced, or if introduced, he did not permit them to have any weight with him as affecting the character of a witness before him. If he did, he went altogether outside of the law and did that which he had no right to do.

I admit that they had a right to put in and print in a book what they saw proper; but that the Secretary of the Interior weighed it, considered it, or that he was compelled to consider it because it was in there I deny. I take it for granted that he did not consider it, because it was not competent evidence. I claim that it has no right to be put in here because it was put in there. We did not agree to admit anything in the book because it was in the book. My understanding of the resolution we adopted was, that we might admit everything in the book which was competent and that we might fairly presume the Secretary of the Interior considered, because it was before him, and not because it was in the book.

As to the letter. It is no more competent or just to attack the character of Mr. Wilber than it would be to attack the character of General Sypher or Mr. Hill. We properly excluded such testimony, and we ought to exclude this. We ought not to go into the question of character here as we did not go into there. I took that to be the effect of the decision of the committee at that time—that they did not want to go into the question of character. We are not trying a case or determining a conclusion which would be final, and therefore we do not consider the question of character. That is the view I take of these affidavits—that they are reversing the former action of the committee, and that there is no action of the committee which makes them competent evidence. Therefore I think they should be stricken out.

The resolution which the gentleman refers to I find reads as follows: "*Resolved*, That the committee adhere to the resolution heretofore adopted, and refuse the motion to go into any investigation as to the alleged fraudulent issue of the Bell patent, further than the evidence in the record used before the Secretary of the Interior discloses."

Mr. RANNEY. Commencing on page 1134 there is an affidavit or statement, a part of this record, of General Duncan S. Walker, in reference to the Roberts torpedo and barbed-wire cases. When that statement was offered I objected to it and the matter was discussed. I said if it was understood that the whole of the record was to go in, that it was proper to put that in as a thing before the Secretary of the Interior. I took that ground. You ruled it in for one purpose, and I claimed that if it went in it should go in as a part of that record. You made a ruling on it which put it in on another ground which we overruled, and the clerk called the roll and the vote was taken.

The CHAIRMAN. Did the committee overrule the ground on which it was put, or the admission of the paper?

Mr. RANNEY. Overruled the ground. The record says: "So the decision of the chair was overruled, and the papers were admitted" on the ground that they were in that report.

The CHAIRMAN. I think the gentleman is inaccurate in his statement, if my memory is right about the matter. I first raised the question as to whether that paper was competent evidence, whether it was authenticated and proved. I said if it was not authenticated I would rule against its admission. That matter was waived. Then I held that it was admissible as giving a statement (assuming it to have been properly authenticated) of one of the cases that had been passed upon, as one of the applications for the suit by the Government.

Mr. RANNEY. I will refer to the record so that there will be no mistake about it.

The CHAIRMAN. The gentleman will agree that my reason for it could not be submitted to the committee, but the decision was submitted to the committee.

Mr. RANNEY. The discussion begins on page 1131 of our record, which reads as follows:

"The CHAIRMAN. I will not hold that these two volumes could be given in evidence.

"Mr. RANNEY. We have put in a part already.

"The CHAIRMAN. If there is no objection made to the method of proving it, the paper can go in.

"Mr. RANNEY. If you do not admit it on that ground, I shall make objection, because we have already put in what was deemed important in that book.

"The CHAIRMAN. Upon what ground?

"Mr. RANNEY. As being a part of the proceedings before the Secretary of the Interior.

"The CHAIRMAN. The gentleman ought either to make an objection that he thinks is a good one, and that he is ready to stand upon, or he ought to let it go in. I do not want to make a conditional ruling.

"Mr. RANNEY. On the ground you admit it, I shall object to it as incompetent proof, and I do it because a part is already in.

"The CHAIRMAN. I do not understand there is any objection to the method of making this proof, and therefore I hold the papers are admissible, and are in evidence.

"Mr. RANNEY. I object on that ground.

"The CHAIRMAN. If the objection is made that the facts in regard to the case are not properly proved, I shall sustain the objection.

"Mr. RANNEY. I make the objection.

"The CHAIRMAN. The objection is sustained.

"Mr. HALL. I appeal from the decision of the chair. I want that record that has been offered, introduced in evidence, and I want to make this statement—

"The CHAIRMAN. I will first state the question. From the ruling of the chair, the gentleman from Iowa [Mr. Hall] appeals, and the question is, shall the decision of the chair stand as the judgment of the committee?

"Mr. HALL. The point I make is that examination has been made again and again to show what was before the various Government officers in making their decision. When Mr. Goode was on the stand, his attention was called, with great detail, to the cases he had before him, and considered, and to cases he did not have before him; and he was asked if he did not know about this case and about that case. The whole direction of the examination was with reference to whether the order of the officer was in the ordinary course of business and supported by proper precedents. Here is the order of the Secretary of the Interior, which is one of the orders which we are investigating. There has been a great deal of evidence as to what procedure was had and what matter involved. I hold with reference to that feature of his order that it is proper to show what precedents he had before him, and whether it was in accordance with a very recent precedent which had received more or less consideration."

"Mr. EDEN. Mr. Chairman, without having examined the paper itself, I would not feel disposed to vote to overrule the decision of the chair. The others may have read it. I have not."

Then Mr. Oates says:

"Mr. OATES. I think it ought to be admitted for this reason: We have already treated the papers appearing on that record as being authentic. Mr. Ranney, the gentleman who raises the objection now, has offered several of them, which have been admitted on his motion."

Then the discussion proceeds, and I state on the next page, 1133, this:

"Mr. RANNEY. I wish to be perfectly fair about it, and wish to be understood. It is not captiousness on my part. The gentlemen on the other side have argued that the conduct of the Secretary of the Interior in granting this second suit is a matter that is open to our supervision and revision. That would lead to this idea, and I have had it in mind before: That either side may put in what it likes; Mr. Young may put in what he likes, and the committee have a right to put in everything on which that judgment was based. If you go into it on the ground of revising the opinion of the Secretary of the Interior, you have got to have everything in on which that opinion was based. Now, if the committee desire to go into that, then what I say is this: If it goes in on that ground of course it opens up the whole record. Mr. Young cannot be permitted to select a portion of it and put that in, but everything that bears on that issue and on the correctness of the judgment of the Secretary of the Interior should go in, and we must revise it. I am willing to go into it. I think it is open to us. I think it is within the scope of our inquiry; and further, I think the whole record is competent evidence if the committee are going to determine on the correctness of that decision or the reasons for it. That is why I make this objection. I do not mean that only a part of the record should go in."

"Mr. EDEN. We have a part of it in already."

"Mr. RANNEY. It has been offered. I have not heard the committee rule on it."

"Mr. HALL. You have been offering fragments of the record ever since the investigation first commenced, and now after you have got in what you want you ought not to object to other parts being put in."

"Mr. RANNEY. I claim that the whole record is competent."

"Mr. HALL. That question has never been raised before."

"Mr. RANNEY. I do not mean that you shall select a portion."

"Mr. HALL. I do not mean that you shall."

"Mr. EDEN. I do not understand that an appeal is to be taken from the Secretary of the Interior to a committee of Congress who is to revise his judgment. This committee is directed to inquire into the reason and authority on the part of the Government for the institution of the suit. I suppose, under that provision, we would have a right to see upon what ground it was ordered."

"Mr. OATES. The language of the resolution in that regard is as follows: 'What contracts have been made, what moneys paid or to be paid, to any person or persons as assistant counsel to the Attorney-General or Solicitor-General of the United States, the reason and authority for constituting the United States as a party to said suit or suits, and all matters connected therewith.'"

"The CHAIRMAN. Gentlemen, the question has already been stated. Those who favor sustaining the decision of the chair will vote ay, and those opposed will vote no."

"The clerk called the roll and the vote was as follows:

"Ayes, Messrs. Ranney and Moffatt. Noes, Messrs. Oates, Eden, and Hall."

"So the decision of the chair was overruled, and the papers were admitted."

Mr. HALL. How did you vote there?

Mr. RANNEY. I voted to sustain the decision.

Mr. HALL. You voted right the reverse of the position you are now maintaining?

Mr. RANNEY. I beg your pardon; the ruling of the chairman was this—

The CHAIRMAN. I just excluded the paper, that was all, and the committee overruled me and said it should go in.

Mr. RANNEY. The ruling of the committee was that it should go in because it was a part of the record.

The CHAIRMAN. I cannot say that, nor can you, because that does not appear.

Mr. RANNEY. I say here that the paper is admissible because it is part of the record.

The CHAIRMAN. On your objection that the paper was not proved I excluded the paper, after stating that if proof of it was waived I would hold it admissible. You objected on that ground. It was excluded, and from that decision Mr. Hall took an appeal and the decision of the chair was overruled, you voting to sustain the chair.

Mr. RANNEY. You do not state my position correctly. I say in my argument there distinctly that that paper is admissible, because it is part of the record, and Mr. Hall says so, too.

The CHAIRMAN. Then you put—

Mr. RANNEY. No, I don't. I said if you put it on the ground that it is admissible because it is part of the record, I say the ruling is right, and if you do not, I say it is

wrong. And then, whatever has been voted, the committee by decision have voted that in, because it is part of the record, and that is the decision of the committee overruling the chair.

Mr. HALE. Are we making any progress?

Mr. RANNEY. Yes, we are.

The CHAIRMAN. That is a statement not warranted by the facts as the chair sees them.

Mr. HALE. I want to state this: Although I have a poor memory and want to be careful, my recollection is that some days ago it was agreed, on motion of Mr. Oates, that whilst this Interior Department record was not to go into our record, it was to be considered as evidence so far as the committee desired to use it. Day before yesterday, as I remember, that action was rather reversed and Mr. Ranney was allowed to select out and give to the chairman a list of letters and documents that he wanted to introduce into our record, and the chairman was also authorized to act in concert with him and select such other parts of that record as he thought ought to go in. I voted against that action myself. I thought then and think now that we should adhere to the other resolution which was adopted. How far we are called upon as a committee to pass on the action of the Interior Department in ordering that second suit I am not prepared to say now. There are many things in that record, however, that perhaps every member of the committee would like to consider in making up his opinion and report, and I think it is the best plan to adhere to that resolution and consider all of that record which was before the Interior Department put in evidence for us to use for any purpose; and I am opposed to selecting out of that record documents not even proven as authentic to put into this record.

Again, this man Wilber is not before us as a witness. It is true certain affidavits were introduced here signed by him, but he is not here as a witness, and if not, we have no right to impeach him in the ordinary way. If there is anything appearing on that entire record which detracts from the force and effect of his testimony, perhaps we might consider it when we reach that branch of the case. But my view is we have nothing to do with the validity of the Bell patent. I do not think the resolution under which we are acting authorizes any investigation by us into the validity of that patent.

Mr. RANNEY. We have all agreed to that.

Mr. HALE. And if we are not authorized to do that, what have we got to do with the Wilber testimony or the Wilber affidavits? They are all intended to bear on that question—the question of fraud in the issuing of the Bell patent. As I have said, we have not yet determined how far we will consider the action of the Interior Department in the ordering of that suit. I suppose the language of the resolution would at least indicate that it was our duty to ascertain the main facts in regard to the bringing of that suit. But what judgment is to be based on it, I am not prepared to say. I shall vote to exclude from our record any one single document singled out of that Interior Department record and offered here by itself. I shall adhere to the original resolution to consider that record as before this committee, as in evidence for any purpose for which you desire to use it.

The CHAIRMAN. The gentleman must see that injustice may be done if we draw the line now, after papers have been put in in that way.

Mr. HALE. The way is to introduce witnesses.

The CHAIRMAN. No; Judge Ranney introduced into evidence a large number of papers—

Mr. RANNEY. They were put in under the resolution, and the chairman was to designate what he thought proper to go in.

Mr. HALE. You have got in all that you want, then?

Mr. RANNEY. Yes. It was done by decision of the committee.

Mr. HALE. If those papers are in our record the others ought to go in also; but I did not understand that they had gone into our record. I thought you and the chairman were to agree on the documents that should go in.

The CHAIRMAN. Yes; and my suggestion is that certain of them shall be stricken out of the record.

Mr. HALE. I voted against that action the other day, and I am satisfied you did wrong in admitting those single documents to go into our record.

Mr. RANNEY. You see where it would leave us. I propose to refer to those documents.

Mr. HALE. Couldn't you refer to them in the other record we have before us?

Mr. RANNEY. I should have to print them out of that record.

Mr. HALE. The resolution of the committee was that we were to regard that Interior Department record as evidence. Then why do you want it to go into our document?

Mr. RANNEY. We agreed the other day that there was a great deal of it, to wit, all that bore on the validity of the Bell patent and the priority and originality, that there was no need of printing. But what bore on certain things we agreed it was

proper should go in. It was first said that Mr. Boyle and myself might select a portion of it, whatever portion we thought necessary, to save printing. I designated half a dozen things which I thought should go in, and they have been put in, and Mr. Boyle was to designate what he thought should go in.

Mr. HALE. Do you claim or admit that the whole of that record is before the committee to be used as we choose to use it?

Mr. RANNEY. Yes; that has already been settled by the committee.

The CHAIRMAN. Only that part that the committee determines relevant and competent. I do not agree that simply because the Bell and other companies saw fit to print certain papers in those books that therefore they were in evidence before the Secretary. I say the Secretary regarded only those which he decided were competent evidence.

Mr. HALE. Haven't we what purports to be a record of the proceedings before the Commissioner or the Secretary of the Interior?

The CHAIRMAN. No; we have not.

Mr. HALL. Let me make a suggestion. Suppose this case that we call the proceedings before the Secretary of the Interior had been tried before a court where evidence could have been introduced formally, subject to objection and exception as they went along, and a record had been made as to which of those particular papers were admitted and which were not, it would be easy to take up that record and know exactly what the court used in making up its judgment. But that was not the procedure before the Secretary of the Interior. There the parties came and piled in any sort of document, whether competent or not, and it was put before the Secretary.

The CHAIRMAN. Further than that, it was all printed beforehand.

Mr. HALL. Yes, all printed beforehand, and that makes the point that there is a great deal of evidence in there which was incompetent, and the presumption must be that the Secretary of the Interior did not consider it for that reason.

Mr. HALE. That is the reason I do not want it to go into our record, because there was so much there totally incompetent and irrelevant to this issue. Therefore it was agreed that the record should be before us, and we might use such parts as we deemed material.

Mr. RANNEY. The difference in the hearing there was that each party put in its evidence or affidavits, and those affidavits were before him; and that was the record on which the case was argued. Now, can we speculate as to what particular part of them he considered?

Mr. HALE. We cannot enter his mind and ascertain what documents he was influenced by, but we have our own judgment to make up on this transaction from the record.

Mr. HALL. Let me make a further suggestion. Judge Ranney has read the conversation between members of the committee the other day when that paper was offered in evidence. Now I insist that we do not sit here to review or revise the decision of the Secretary of the Interior, as stated by Judge Ranney.

Mr. HALE. That is a question we have not come to.

Mr. HALL. Because the officer may have made a mistake. His decision may not have been correct on the papers before him. But we are not here to consider that. We are to consider whether any improper influence was brought to bear to induce him to make that decision. That is what we are here for.

Mr. HANBACK. I would like to make a suggestion. As I understand it, the record of the proceedings before the Secretary of the Interior was to be considered as a whole, and out of that we have selected such testimony as was deemed material.

Mr. HALE. To use it so far as we deemed it material, but not to go to the expense of printing it.

Mr. HANBACK. If that is so, who is to decide as to the materiality? Each member of the committee will make up his statement from these proceedings as presented to the Secretary of the Interior.

The CHAIRMAN. It comes back to this: The Walker and other matters do not affect the question I raised, from my standpoint. Here is Mr. Wilbur introduced as a witness, although not before the committee, and certain affidavits have been read here for the purpose of showing that he has given affidavits on both sides, at one time alleging irregularity in the granting of the Bell patent, and at another time not. Here are certain other affidavits introduced setting forth that Mr. Wilbur was arrested at a certain time for committing some offense.

Mr. HALE. That was in the Interior Department record.

The CHAIRMAN. Yes; but getting rid of that fact for a moment, here are certain affidavits proving that Mr. Wilbur was arrested and taken before a police magistrate and held over; I do not know what was done.

Mr. RANNEY. He plead guilty.

The CHAIRMAN. It is not material whether he plead guilty or was entirely innocent, in the view I take of it. At a certain time Mr. Wilbur writes a letter to Mr. Bell soliciting an interview, and Mr. Bell denies it. What is that introduced here for?

What is the purpose of it? The purpose is to discredit Mr. Wilber, and Mr. Wilber is, of course, to be a witness in the suit that the Government is to institute, and he is to be gotten rid of beforehand. That is to say, you are attacking the character of Mr. Wilber when we have refused to allow the character of General Sypher and others to be attacked. We have refused to go into the question of character, and yet here we are allowing, by affidavit, the character of a witness to be attacked and overthrown. By what? By evidence proving his general reputation? Not at all. But you bring in evidence of a particular offense that has no connection with the matter.

Mr. HALE. I am opposed to that.

The CHAIRMAN. Of course it is improper.

Mr. HALE. And yet I am in favor of considering that Department record as before the committee.

The CHAIRMAN. So am I.

Mr. RANNEY. The chairman will not understand me or cannot. I do not put it in to attack Mr. Wilber or try his character before this committee, or say that it shall go in for that purpose. I put it in to show the contradictory affidavits of Mr. Wilber; to show that he was contradicted before the Secretary of the Interior.

The CHAIRMAN. Why so? Contradicted because he was arrested and carried to a police court? That is not contradiction.

Mr. RANNEY. I put it in as the evidence that the Secretary of the Interior had before him.

The CHAIRMAN. It was not before him; it had no business before him; it would not have been admitted before him. The fact is it was printed by the Bell Company, and he could not get it out of his office, but he was not bound to consider it.

Mr. RANNEY. As a lawyer I have yet to learn that it is not competent to impeach a witness by proving his conviction in a court of a felony or an offense.

The CHAIRMAN. Now we do come to it. Then it is to impeach Mr. Wilber?

Mr. RANNEY. No; I said it was competent before the Interior Department.

The CHAIRMAN. A moment ago you denied any purpose of impeaching Mr. Wilber.

Mr. RANNEY. I never saw a man so blind! I say it was competent before the Secretary of the Interior to impeach him, and that it impeached him there; what he did was the basis of judgment.

The CHAIRMAN. Then why should we impeach witnesses here?

Mr. RANNEY. We are not trying that here. We are simply showing the judgment of the Secretary of the Interior on the evidence before him.

The CHAIRMAN. No; that is not correct, any more than the other is.

Mr. RANNEY. I say it is. I have all along agreed with the committee that we could not go into that evidence here, but we can show what was there.

The CHAIRMAN. You cannot impeach the character of Mr. Wilber here, but you can show that the character of Mr. Wilber was impeached before the Secretary of the Interior?

Mr. RANNEY. Yes, and that is just the difference.

The CHAIRMAN. You cannot impeach the character of the witnesses coming before this committee to testify to a material fact affecting our investigation? That would be a singular condition of things.

Mr. RANNEY. We are showing what the Secretary of the Interior had before him on which to base the judgment which is under our revision. I say it was competent to impeach any witness who had come before us and been sworn.

The CHAIRMAN. Why did we not do it? When Mr. Van Benthuyzen offered to come in and impeach Mr. Pulitzer, General Sypher, and Mr. Hill, the committee refused to allow it, with your concurrence.

Mr. RANNEY. It was because Mr. Oates's resolution shut down on it.

Mr. HALL. You cannot make that a reasonable ground of objection.

The CHAIRMAN. And you do not get rid of the fact, whatever may be the intention, that Mr. Wilber will be an important witness in the Government suit, and that a committee of Congress, having some regard for the Government interest, is putting that in beforehand to destroy him.

Mr. HANBACK. I am not helping to bolster up the Pan-Electric or the Bell Company. I do not give a continental which one goes up or down.

Mr. HALE. Mr. Wilber is not a witness and therefore we cannot impeach him. I am in favor of considering in evidence the whole of that Interior Department record. What is in it I do not know, and do not care much.

The CHAIRMAN. What I did this morning was simply to call the matter to the attention of the committee. There is no question pending.

Mr. HALL. I make this statement to go on the record: That when the proposition arose regarding these two books called the Interior Department record, I made a motion that the subject of determining what portion of those books should go into this record should be referred to the chairman and Judge Ranney, and where they disagreed the matter should be referred to the committee, and I think that was the proper

course and is the proper course now. I think there is a great deal in that record which is immaterial and incompetent. I want to say further, that I disagree *in toto* with the idea advanced to-day and heretofore, that we sit here for the purpose of determining whether the decision of the Secretary of the Interior was correct or not, or was supported by sufficient evidence. Whatever portion of that record is competent, is competent for the purpose of showing whether any improper influences were brought to bear on the Secretary of the Interior, whether any man in his Department had stock in these companies, and whether his opinion was a bought opinion, a corrupt one. It is only in that view that we have anything to do with his decision.

Mr. HALE. We may agree on that question when we get to it. I do not think it is before the committee now.

Mr. RANNEY. If there is anything in that record that Mr. Boyle or any other member of the committee wants printed, it can be indicated, and it is their right to put it in. I would put it in if I deemed it material.

Mr. HANBACK. It is admitted that that record is before us, but who is going to control my judgment in the report I may make as to what portion of it I will use. It is a question for the consideration of the committee, in making up its report, but no one can restrain me from sending in a report containing such portions of that record as I may choose to refer to. I can take from that book such evidence as I deem material to the issue. It is a question for each member of the committee. We cannot rule it out.

Mr. RANNEY. We can only judge what weight the Secretary of the Interior may have put upon it.

Mr. HALE. If we are to let each side select such parts of that record as they deem material, then the committee may have to decide upon the materiality of every document in it.

Mr. HALL. We have been doing that before.

Mr. HALE. And to obviate the trouble the first understanding was that we should admit the whole volume in evidence.

Mr. HALL. To settle the question I make the motion that these affidavits, which in my judgment are incompetent as evidence, and could not legally have been considered by the Secretary of the Interior, be stricken out.

Mr. RANNEY. How can you tell whether he considered them of weight or not? You form your opinion and say that he ought not to consider them.

Mr. HALL. I say it is evidence incompetent under the ordinary rules of law.

Mr. RANNEY. If I had been before the Secretary of the Interior and he had raised any question, I should claim that when any man was arraigned in a court of competent jurisdiction and charged with attempting the life of a woman, and he had plead guilty to it, it would be competent as affecting the man's credibility. That is one mode of impeaching a man, to show that he has been convicted of an offense.

Mr. HALE. I move to amend Mr. Hall's motion so as to provide that the whole of that record be considered as before the committee to be used by them for such purposes as they think proper.

Mr. RANNEY. That has already been decided by the committee, and it so appears in the record.

Mr. HALE. Then that is the understanding, is it?

The CHAIRMAN. That does not meet the question as to what shall be printed in our record.

Mr. HALL. The Bell Telephone Company saw proper to print certain books containing certain affidavits. The question is whether this committee is going to take up and advertise to the world what they saw proper to put in their books.

Mr. HANBACK. Isn't it so with the other side?

Mr. HALL. Yes; but we have not printed any such part of the record as that.

Mr. HANBACK. You have put in all you want of it.

The CHAIRMAN. It is not my judgment that everything that happens to be printed in that book is to go in evidence, or that that of itself makes it competent evidence. All competent evidence printed in that book may be considered as in evidence here.

Mr. HALE. If that record is before the committee, to be used by them as they think proper, each member would have the right to select his own testimony, and make a report based on that. We cannot control the action of any member of the committee on that subject.

The CHAIRMAN. We are not making a record for ourselves alone, but for the House as well, you should remember.

Mr. HALE. But Judge Ranney and Mr. Hanback or any other member would have the right to select any portion they deem material, and base their report on it.

Mr. HALL. Provided it is competent evidence.

Mr. HALE. Then we would have to pass on the relevancy and competency of everything in that book.

Mr. RANNEY. I do not think anything would be gained by attempting to suppress that.

The CHAIRMAN. It has been stated that the record of the proceedings has been printed in this book. That is not correct. It is nothing but extracts from newspapers.

Mr. HALE. With the understanding that the record is before the committee, I should vote to exclude anything in the record that is in that book.

The CHAIRMAN. What is the effect of your motion?

Mr. HALE. My motion is that that whole record be considered as before the committee, and as in evidence, but not to be printed in our record; but any portion of it may be used by the committee or any member of it.

The CHAIRMAN. Allow me to inquire what you would do with that portion already selected and put in the record?

Mr. HALE. I should recommend that you be allowed to select and put into the record any portion that you please. I believe that was the understanding.

The CHAIRMAN. I do not understand that I have a right to select any portion.

Mr. RANNEY. It was so regarded, and it was settled by a vote of the committee previously, when Colonel Young was allowed to select from it two articles which he put in; that was done on vote of the committee.

The CHAIRMAN. I should say that under the agreement Judge Ranney or myself might select anything that was competent evidence and put it in.

Mr. RANNEY. The ground on which you permitted that to be done restricted it, and it was ruled out by the committee; but it was ruled in on the ground that it was part of that record, and it is so recorded.

The CHAIRMAN. That is not according to my recollection of the occurrence.

Mr. RANNEY. I have read the record just as it is.

The CHAIRMAN. And I have heard it read.

Mr. HALE. My recollection is that the other day it was agreed that Judge Ranney should select such papers as he thought should go in from that book, and that the chairman was to do the same thing.

The CHAIRMAN. I do not think that Judge Ranney or myself should select what we please, because it was stated then that if we disagreed in regard to the matter the question should be laid before the committee for decision. You will find that in the record.

Mr. RANNEY. You will find that when that suggestion was made I had already put in what I desired, and had only three more papers to submit, and I said, "Now Mr. Boyle may select whatever he sees fit."

Mr. HALL. You will remember, right there, that you were selecting papers I had never seen, and therefore I could not make any objection to them, and I thought there ought to be some regulation about that matter?

Mr. RANNEY. How can you disagree about such a matter? Here on page 1161 of the record it says:

"Mr. OATES. It was decided the other day that we need not put in the whole of that record and have it printed in our record, but as it was already printed by itself, we could refer to it for the purpose of evidence."

It also says here:

"Mr. OATES. I thought it was understood that all the evidence in this record of the Department of the Interior was put in?"

Mr. MILLARD. Suppose we leave it to Judge Ranney and the chairman to determine what portion shall be put in our record?

Mr. HALL. On page 1162 of the record is what I said on this subject:

"Mr. HALL. I agree to the suggestion made by Mr. Oates, that the particular portions and parts of the record to be submitted as evidence should be left to the determination of the chairman and Mr. Ranney. That, I understand, was his motion. I have only to suggest that wherever a disagreement arises between them as to what should go in, it should be referred to the committee. I think that is the proper course. I do not like to sit here and have a lot of documents I have not read go in. I do not know what is in them."

There was the difficulty before me.

Mr. RANNEY. Then you will find on the following pages that the matter was discussed, and I said I did not want to meet the chairman for that purpose, as I had already indicated what I wanted to put in, and that he might do the same, and that ended the matter. We discussed each one as it came along, and when we came to the Adams book, which was the last thing after all had been put in, I submitted what was necessary from that and handed it to the chairman to see if there was anything more wanted, and I thought the matter was ended.

Mr. HALE. I see that all the way through that document was regarded as in evidence before the committee. Colonel Oates claimed it, and other members claimed they could use such parts as they might desire.

The CHAIRMAN. The gentleman from Iowa (Mr. Hall) moves to exclude the affidavits named, the affidavits of Bell, Tompkins, and Guy, from the printed record.

Mr. RANNEY. I say it is not in order to exclude them, because they have been admitted and printed in the record.

The CHAIRMAN. The gentleman from Missouri (Mr. Hale) moves as an amendment to the motion to exclude those affidavits, that the whole book be considered as before the committee as evidence to be used as may be thought proper.

Mr. HANBACK. That has already been done.

The CHAIRMAN. I do not think the motion of the gentleman from Missouri is germane.

Mr. HALE. That seems to have been admitted all the way through, the other day, by the committee.

The CHAIRMAN. The question is on the motion of the gentleman from Iowa.

The question was put and the motion was disagreed to.

Mr. HALE. Now, I move, to settle the matter finally, that all of that record be considered as before the committee, to be used as they may think proper in making up their report or reports, and not to be printed in our record.

The CHAIRMAN. I will state the motion. The motion of the gentleman from Missouri is that the entire record, the two volumes, be considered in evidence.

Mr. HALE. I did not say anything about two volumes, but I mean whatever purports to be the record of the proceedings before the Interior Department.

Mr. RANNEY. We might have adopted that course at the outset, but inasmuch as the committee has acted on a different basis, and part of the record is already put in and printed, you will have to go back in the record and take things out. Then there would be this difficulty about it: This record is to go to the House. There are only a few volumes of this Interior Department record printed, and nobody could make a report of anything in it except by copying from it.

Mr. HALE. We can make it a part of our record.

Mr. RANNEY. Then we will have to print all of it.

Mr. HALE. I am not willing to let the documents you select in and keep out the balance.

The CHAIRMAN. They are in now.

Mr. HALE. The chairman was to select such portions as he thought ought to go in; that was the understanding. There may be some other parts of that record that members of the committee would desire to use in making up the report, and that would be embraced by my motion.

Mr. RANNEY. We have that right now.

Mr. HALE. Is it your understanding, Judge Ranney, that this whole record is before the committee, so that any portion of it may be used by any member?

Mr. RANNEY. Yes, I understood it in that way, and Mr. Oates so understood it, I believe.

Mr. OATES. That is my understanding.

Mr. HALE. That precludes the necessity for my motion.

The CHAIRMAN. The entire discussion has been caused by a suggestion I made that the affidavits of two gentlemen showing that Mr. Wilber was arrested for some offense in Washington, and the letter from Mr. Wilber to Mr. Bell, requesting an interview with him, were not competent evidence for any purpose, and ought to be excluded. The committee has determined that they shall remain a part of the record.

Mr. RANNEY. Simply because they are part of the record of the Interior Department.

Mr. OATES. Yes; that is the only argument in favor it—that they were before the Interior Department.

The CHAIRMAN. Then I will indicate some of the papers I desire to put in evidence. I desire the affidavit of Mr. Wilber of the 30th of July, which is on page 24 h. of the Interior Department record, to go in, if it is not already in. (The affidavit referred to is already printed on page 313 of this record.) There are some other papers in this same record which I will indicate to the stenographer, and he can put them in the record.

Mr. RANNEY. Is there anything in the Adams book you desire to have go in?

The CHAIRMAN. Yes. I notice that the extracts you made from this book are single sentences. I agree with the suggestion made by you the other day that that part of the book which relates to the cases tried should go in. There is a good deal of it. It begins on page 230 and runs to page 265.

Mr. RANNEY. As coming out of the Adams book?

The CHAIRMAN. Yes. The adjudications which I have given in conclude the sentences which Judge Ranney put in.

I also desire to have put in our record the Reis prospectus, on page 275 of the Adams book and running to page 278. Also Elisha Gray's caveat, on page 369.

I will also submit here, to have go in the record, the report received from the Department of Justice, containing the records of the Department in regard to cases in which applications have been made for the institution of suits in the name of the

Government for the revocation of patents for inventions, which were granted. Also a list of the cases in which such applications were refused.

I introduce also the three opinions delivered by Assistant Secretaries Jenks and Muldrow, of the Interior Department, and the opinion of Mr. Montgomery, the Commissioner of Patents.

Also a copy of the bill filed in the Columbus suit. Also the statement of Gardiner G. Hubbard in reply to interrogatories addressed to him by the committee.

I have here the correspondence between General Bradley T. Johnson and Mr. Casey Young, which was handed to me yesterday, and which may go into the record if it is desired.

I intend to put in evidence the Bell application for the patent of 1876, and, from this record, to show the amendment that was made. I will put in the original application and then put in brackets the parts that are to be stricken out, and in italics the parts that are to be inserted, so that it will all go together.

The papers referred to by the chairman were then submitted, and are as follows:

List of papers submitted by Mr. Boyle.

[From Interior Department Record, vol. 1.]

	Pages.
Affidavit of W. J. Green	38 to 41
Affidavit of Thomas A. Edison	43 to 44
Affidavit of Ashael K. Eaton	348 to 350
Affidavit of A. E. Dolbear.....	351 to 354
Application of Alexander Graham Bell	95 to 102
Endorsements on same	113 to 115
The Bell patent.....	139 to 140
Caveat of Elisha Gray	89 to 91
Statement of Elisha Gray	167 to 174
Statement of Elisha Gray	385 to 391
Affidavit of Z. F. Wilbur.....	342 to 348
Affidavit of Z. F. Wilbur.....	377 to 378

Record of applications to Department of Justice for the institution of suits in the name of the Government for the revocation of patents for inventions, which were granted.

Record of applications to Department of Justice for the institution of suits in the name of the Government, for the revocation of patents for inventions, which were not granted.

Alleged adjudications. Extract from Prof. Wellington Adams's compilation entitled "The Telephone Case," pp. 230 to 265.

Opinion of Assistant Secretary G. A. Jenks, of December 22, 1885.

Opinion of Assistant Secretary H. L. Muldrow, of December 22, 1885.

Opinion of Commissioner of Patents M. V. Montgomery, of December 12, 1885.

Bill filed in U. S. circuit court for the southern district of Ohio, in the case of the United States *vs.* The American Bell Telephone Company.

Reis's Prospectus. Extract from Adams' Compilation, pp. 275 to 278.

Letter from Gardiner G. Hubbard to Hon. C. E. Boyle.

Affidavit of W. J. Green.

DISTRICT OF COLUMBIA, *City of Washington*, ss:

Before me, the subscriber, a notary public in and for said District, personally appeared William J. Green, who, being duly sworn, did depose and say:

My name is William J. Green. I am thirty-eight years of age, and reside in the city of Washington, D. C. My occupation is, and has been for sixteen years past, that of electrician. Since the year 1879 to the present date I have been electrician of the Smithsonian Institution and National Museum at Washington City, and for six years prior to 1879 I did most of the electrical work of the Smithsonian Institution. There is in the Smithsonian Institution, and under my care, an apparatus known as the Reis telephone, which I find, from the records of said Institution, was sent to the Institution from Paris, France, by Rudolph Koenig, a manufacturer of scientific instruments, and was received at the Institution in October, 1874. The instruments I have referred to above as the Reis telephone, consist of a telephonic transmitter and a receiver. They are still in the Smithsonian Institution, and are, to the best of my knowledge and belief, in exactly the same condition as when received at the Institute, with the following exceptions: The cavity in the top of the transmitter was covered with a circular glass plate, which served merely as a cover and performed no other function than to protect the plates; this glass was broken, but was replaced by another similar plate of glass. The skin diaphragm of the transmitter having become split by shrinkage, I replaced it by another skin diaphragm, which is attached to the instrument in the same way as was the original diaphragm. The original diaphragm is still in existence and in my custody. And the binding screw of the instrument

which holds the strip of platinum resting on the diaphragm, having become loose and detached, I replaced it with another and similar binding screw. Otherwise the instrument is now in its original condition. This transmitter has the figures "29" impressed in the glass plate near the speaking tube and the receiver has the same figures on it. These figures refer to corresponding figures on the invoice received with the instruments from Paris, and in Koenig's catalogue of scientific articles (a copy of which is in the possession of the Smithsonian Institution), and refer to the Reis telephone in said catalogue.

I have myself made a copy of the transmitter belonging to the Smithsonian Institution, to which I have referred above, which copy represents accurately all the working parts of the original instrument in possession of said Institution. To this copy is attached a piece of paper on which are the words, "Reis transmitter," with my signature and the date of this affidavit.

I have operated both of the original instruments above referred to, as the Reis transmitter and the Reis receiver at the National Museum in Washington City.

On one occasion in May, 1881, I placed the Reis transmitter in circuit with a battery; the transmitter was placed in my room at the National Museum and the Reis receiver was placed in the same circuit in a room overhead. These rooms are separated by a spiral staircase leading to the third story of the building. The building is a very solid one of brick and the ceiling between the rooms is made of brick arches with concrete over the arch and under the floor of the upper room. When the doors were closed, as they were during this experiment, no sound of speech could be heard by natural means from one room to the other. On this occasion I tried and tested the transmitter with two kinds of receivers, with the original Reis receiver and also with what is known as the Bell telephone. When used with the Reis receiver I used as a battery two Grenet cells, when used with the so-called Bell receiver I used a Le Clanche battery. With the Reis transmitter and the Bell receivers conversation was distinctly heard by me through the instruments and with the Reis transmitter and the Reis receiver I heard several sentences of articulate speech. I have tested these instruments at other times since that date.

On the 18th day of December, 1884, at the request of Mr. L. A. Duncan, of the Western Pennsylvania Telegraph and Telephone Company, and Mr. J. T. McConnell, I put the Reis transmitter, the same one which I have before referred to as being in possession of the Smithsonian Institution, in circuit with a magnetic receiver, such as is known as the Bell receiver, with four cells of the Le Clanche battery, and with the following result:

The Reis transmitter was placed in my room in the National Museum, and the receiver in the room overhead; these being the same rooms in which the trial I have before referred to was made, and the trial was made under the same conditions as the trial in 1881, before-mentioned. I spoke through the Reis transmitter several sentences, among which were the following:

"Will Conkling be the next Senator from New York?"

"Who will be Cleveland's Secretary of State?"

"How far is it from here to Pittsburgh?"

"I have found a bad contract, cleaned it up and think it is all right now."

During the time when I was speaking through the transmitter, Mr. Duncan and Mr. McConnell were in the upper rooms where the receiver was; when they came down-stairs to my room, they stated that they had been listening to me at the receiver, and one of them read to me from a paper or papers what had been transmitted by me, and I remembered what was read to me corresponded with what I had spoken into the transmitter.

The following corrections were made in the foregoing affidavits before the same was signed and sworn to by the affiant. On the second page the word "circular" written over an erasure on the 5th line, the word "protect" partly written over on the 7th line. On third page an erasure was made on 9th line, and also at end of 23d and beginning of 24th line. On fourth page the word "times" written over an erasure on 2d line, and the word "Duncan" on 4th line.

W. J. GREEN.

Sworn and subscribed before me this 13th day of June, A. D. 1885, and each page of the foregoing affidavit being also signed by me.

CHARLES L. DRURY,
Notary Public, D. C.

[Endorsement.]

4,409, Department of the Interior. P. and M. Div. Received Oct. 19, 1885. Affidavit of William J. Green.

489, 253, Office of Com. of Patents. Received Oct. 20, 1885.

Department of the Interior. Received Oct. 19, 1885.

Office of Com'r of Patents. Received Oct. 20, 1885.

Affidavit of Thomas A. Edison.

STATE OF NEW YORK, *city and county of New York*, ss :

Thomas A. Edison, being duly sworn, deposes and says :

I reside in New York, and am 38 years of age, and am by occupation an inventor. I am the Thomas A. Edison, the patentee mentioned in English patent of July 30, 1877, No. 2909, for telephone. The inventions described and stated in that patent were made by me in 1875, the experiments continuing from that time right along, and culminating in the carbon telephone, now universally employed. The transmitting telephones now used by the American Bell Telephone Company employ that invention. The dates of some of my patents are, as I verily believe, stamped upon their transmitters. I had no knowledge of Bell's inventions in speaking telephones when I made that invention. I had knowledge of the Reis publications at that time.

THOMAS A. EDISON.

Subscribed and sworn to before me this 15th day of June, 1885.

JOHN C. TOMLINSON,
Notary Public, New York County.

Affidavit of Ashael K. Eaton.

STATE OF NEW YORK, *Richmond County*, ss :

Ashael K. Eaton, of lawful age, being duly sworn, says: That he is a resident of Brooklyn, New York, and by profession is an analytical chemist and electrician. That he has received a number of patents for electrical appliances, including telephones. That he was the inventor of the instruments used by the Eaton Telephone Company of New York.

Affiant further saith, that since the first publication of Reiss, he has been familiar with the Reiss telephone, and frequently in his lectures referred to the same. That in 1875 he began to develop and improve the Reiss instrument; and that in 1875 he constructed a purely Reiss instrument, both receiver and transmitter, through which he was able to transmit and receive articulate speech, in the summer of 1875.

Affiant further saith that he has since then frequently made Reiss instruments, using the platinum points of contact in the transmitter and the Reiss receiver, with satisfactory results, receiving distinct articulation.

Affiant further saith, that the Reiss instrument, constructed precisely as Reiss directed it should be constructed, will transmit articulate speech. And that affiant has demonstrated this to many persons. That the Reiss instrument constructed as directed by Reiss, in his opinion, communicates articulate speech very much better than the instrument described in Bell's patent of 1876. That the Reiss system, including both electric receiver, in all respects is the basis of the systems attributed to Bell.

Affiant further saith that the Blake transmitter in use to-day for the Bell Company is simply an improved reproduction of the Reiss transmitter, which was known, discovered, and published as early as 1861 or 1862.

Affiant further saith, he never claimed to be inventor of the telephone, but claims to be, as he sought to be, an improver of the Reiss telephone.

Affiant further saith that it is well known to scientists and practical electricians as early as 1861 to 1864, that the art of telephony was known and published by Reiss, and what all practical electricians were working for, was an improvement therein.

It was in the summer of 1875 that I first made my talking telephone, which I devised from the Reiss publications. I had the same in my rooms in Brooklyn, New York, and Mr. S. S. Pratt, of the *New York World*, was rooming with me at the time, and he assisted me in my experiments, and was at one end of the line when we talked. We succeeded in getting articulate speech fairly well, so that we could understand various words and sentences. It was, I believe, in 1878, that I first met Mr. Meucci. I think it was Mr. S. S. Pratt who called my attention to him as the inventor of a telephone from some publications that he had seen in an Italian newspaper, calling attention to a telephone invented by Mr. Meucci, and referring to a description of it in a former number.

I inquired for the paper and found that the issue referred to in this item had been destroyed by fire, and it was impossible to obtain it.

Right away after that I called upon Mr. Meucci and found him at his home in Clifton, Staten Island. He explained to me his telephone and the researches that he had made in arriving at his invention. I could not understand Mr. Meucci very well, but I gathered from him that his telephone consisted of two electric magnets connected to a battery which actuated a small piece of iron connected with a diaphragm on which was a metallic button.

Mr. Meucci, at the time I called to see him, I found to be very poor, and the next day I gave my check to the Italian consul of New York for \$20 or \$25, for Mr. Meucci. Mr. Meucci never spoke to me about his distressed condition, and I felt a delicacy to speak to him about it, but I saw from his surroundings that they were very poor.

I was the inventor of the telephone in the Spencer case. I never saw Mr. Spencer until he called at my office in Brooklyn to purchase some telephones. I may have seen him once or twice at that time. He said that he was from Boston, and wanted them to establish a line from Boston to Providence. I sold him some instruments, and soon thereafter the Spencer case was instituted in Boston. I think I never saw Spencer after I sold him the instruments. I was not asked to give my testimony in the Spencer case.

I always considered Reiss the inventor of the telephone, and the rest of us, including Bell and Gray, as improvers only on Reiss.

I understood at the time that the reason why my testimony should not be used in the Spencer case was because it would make another than Bell the inventor of the art. And to establish another as the inventor would throw the telephone open to the world.

I have always supposed that my testimony was not required because I did not claim to be the original inventor of the telephone, but only an improver upon the telephone of Reiss.

A. K. EATON.

Sworn to before me and subscribed in my presence, this 16th day of Oct., 1885.

CHAS. C. SAWYER,
Notary Public, Kings County, N. Y.

Dolbear papers.

STATE OF MASSACHUSETTS, *Suffolk County, ss:*

A. E. Dolbear, of lawful age, being sworn, says that he is 47 years of age, born in the State of Connecticut, educated at and graduated from the Ohio Wesleyan University at Delaware, Ohio, and Michigan State University at Ann Arbor, Michigan, and for the past eleven years has been professor of physics at Tufts College, Massachusetts.

I began my experiments in telephony in the summer of 1876, and on the 20th day of September, 1876, I invented the apparatus which is now known as the magneto-telephone, and is now used as a receiver by the Bell Telephone Co. One of these was made for me in October, 1876, by one of my students, under my directions, at the college, and the same is now in my possession at No. 70 Washington street, Boston. As the instrument was to be used as a transmitter, as well as a receiver, another similar instrument was to be made by the same student, who for some reason failed to complete it, as he ceased going to the college. In December I met Mr. P. D. Richards, of West Medford, Mass., and described my magneto-telephone to him, and at his suggestion I concluded to apply for a patent for the same, and at once began to make models for the Patent Office. The instruments began at that time, namely, in December, 1876, are in existence, one in my possession and the other in the possession of the Gold and Stock Co. of New York. Before I could get them finished, said Richards informed me that Bell said he had patented that magneto-telephone device two or three years before, and it was not worth while to do more about it, as I believed; my work upon it was therefore stopped. It appears from testimony since attained that Richards conferred with Mr. G. G. Hubbard, who was interested in Bell's inventions, describing my magneto-telephone and recommending to him that he should purchase my claims. Mr. Hubbard wrote to Bell what Richards had said to him of my work, and Bell wrote back that he already had it patented two or three years before, which word was sent to me and prevented me from completing the application for a patent. This correspondence was during the first week in January, 1877. Bell's application for a patent for the magneto-telephone is dated January 16, 1877, and it was issued Jan. 30th, 1877. I had never seen Bell nor his devices, nor did I see him or them until after his Salem experiments, in Feb., 1877; and the first information I had of the facts as to Bell's patent of 1877 I got from the Patent Office record some time in March, when I discovered I had been deceived. The records show that as late as Nov. 12th, 1876, Bell was still at work with electro-magnets and strong battery currents, and that such a device as is presented in the 1877 patent he was not at work upon.

During the fall of 1877 I made an agreement with the Gold and Stock Company of New York by which they were to apply for a patent for my magneto-telephone, and control it; they having made a similar agreement with Edison and Gray for their telephonic inventions.

The Gold and Stock Company of New York was in alliance with the Western Union Telegraph Company. As soon as the Gold and Stock Company made arrangements with me they began to manufacture my magneto-telephones and organizing exchanges, and so continued to do until the settlement and compromise between the Bell Company and the Gold and Stock Company in the Dowd case; at which time my magneto-telephone practically became the property of the Bell Telephone Company, and is now used by them. In the telephone interference case at the Patent Office I was not represented, as my invention was then controlled by the Bell Company.

In the Dolbear case I did not admit that the Reis telephone was not a speaking telephone, but, on the contrary, I stated that Reis did invent a speaking telephone in 1861, that he used his device, or, as he called it, his telephone for the transmission of speech, and that the only difference between the Reis transmitter and the Blake transmitter consists in the substituting of a piece of carbon for the platinum used by Reis, and that the system employed by the Bell company to-day is nothing but an improvement upon Reis's telephone, an improved transmitter and a more sensitive receiver, not differing at all in principle from Reis, but simply in efficiency. I did not admit that Bell was the first inventor of the speaking telephone. I am familiar with all the different devices that have been invented for telephonic purposes, and know that it is not very difficult to make almost any kind of telegraphic apparatus to serve in some way for a telephone, and among them all there is not a *poorer* device for telephonic purposes than the one shown in Bell's patent for 1876.

That I do not stand alone in my opinion as to Reis's telephone, its structure and mode of operation may be seen by the subjoined letters received from some of the scientific men in the country, whose opinion I asked as to Reis's work. I had asked their opinion—

1st. As to whether Reis invented an electric speaking telephone or not.

2d. Whether its mode of operation was or was not similar in all respects to the present Bell telephone system.

3d. Whether Reis used his telephone for the transmission of speech.

4th. Whether the chief difficulty with Reis's apparatus was not in the receiver rather than in his transmitter, the receiver being not very sensitive.

I hereto attach these written statements to my affidavit marked Exhibits 1, 2, 3, &c., and make them part hereof.

A. E. DOLBEAR.

Sworn to before me this 27th day of October, 1885.

WM. A. COPELAND,
Notary Public.

Application of Alexander Graham Bell.

[United States Patent Office. Alexander Graham Bell, of Salem, Massachusetts. Improvement in telegraphy. Specification forming part of letters patent No. 174,465, dated March 7, 1876; application filed February 14, 1876.]

To all whom it may concern:

Be it known that I, Alexander Graham Bell, of Salem, Massachusetts, have invented certain new and useful improvements in telegraphy, of which the following is a specification:

In letters patent granted to me April 6, 1875, No. 161,739, I have described a method of, and apparatus for, transmitting two or more telegraphic signals simultaneously along a single wire by the employment of transmitting instruments, each of which occasions a succession of electrical impulses differing in rate from the others; and of receiving instruments, each tuned to a pitch at which it will be put in vibration to produce its fundamental note by one only of the transmitting instruments; and of vibratory circuit breakers operating to convert the vibratory movement of the receiving instrument into a permanent make or break (as the case may be) of a local circuit, in which is placed a Morse sounder, register, or other telegraphic apparatus. I have also therein described a form of autograph-telegraph based upon the action of the above-mentioned instruments.

In illustration of my method of multiple telegraphy I have shown in the patent aforesaid, as one form of transmitting instrument, an electro-magnet having a steel-spring armature, which is kept in vibration by the action of a local battery. This armature in vibrating makes and breaks the main circuit, producing an intermittent current upon the line-wire. I have found, however, that upon this plan the limit to the number of signals that can be sent simultaneously over the same wire is very speedily reached; for, when a number of transmitting instruments, having different

rates of vibration, are simultaneously making and breaking the same circuit, the effect upon the main line is practically equivalent to one continuous current.

[My present invention consists in the employment of a vibratory current of electricity in place of a merely intermittent one; and of a method of, and apparatus for, producing electrical undulations upon the line-wire.]

In a pending application for letters patent, filed in the United States Patent Office February 25, 1875, I have described two ways of producing the intermittent current—the one by actual make and break of contact, the other by alternately increasing and diminishing the intensity of the current without actually breaking the circuit. The current produced by the latter method I shall term, for distinction sake, a pulsatory current.

My present invention consists in the employment of a vibratory or undulatory current of electricity in contradistinction to a merely intermittent or pulsatory current, and of a method of, and apparatus for, producing electrical undulations upon the line-wire.

The distinction between an undulatory and a pulsatory current will be understood by considering that electrical pulsations are caused by sudden or instantaneous changes of intensity, and that electrical undulations result from gradual changes of intensity exactly analogous to the changes in the density of air occasioned by simple pendulous vibrations. The electrical movement, like the aerial motion, can be represented by a sinusoidal curve or by the resultant of several sinusoidal curves.

*Intermittent or pulsatory and undulatory currents may be of two kinds, accordingly as the successive impulses have all the same polarity, or are alternately positive and negative.**

The advantages I claim to derive from the use of an undulatory current in place of a merely intermittent one are, first, that a very much larger number of signals can be transmitted simultaneously on the same circuit; second, that a closed circuit and single main battery may be used; third, that communication in both directions is established without the necessity of special induction coils; fourth, that cable dispatches may be transmitted more rapidly than by means of an intermittent current or by the methods at present in use; for, as it is unnecessary to discharge the cable before a new signal can be made, the lagging of cable-signals is prevented; fifth, and that as the circuit is never broken a spark-arrester becomes unnecessary.

It has long been known that when a permanent magnet is caused to approach the pole of an electro-magnet the current of electricity is induced in the coils of the latter, and that when it is made to recede a current of opposite polarity to the first appears upon the wire. When, therefore, a permanent magnet is caused to vibrate in front of the pole of an electro-magnet an undulatory current of electricity is induced in the coils of the electro-magnet, the undulations of which correspond, in rapidity of succession, to the vibrations of the magnet, in polarity to the direction of its motion, and in intensity to the amplitude of its vibration.

That the difference between an undulatory and intermittent current may be more clearly understood, I shall describe the condition of the electrical current when the attempt is made to transmit two musical notes simultaneously, first upon the one plan and then upon the other. Let the interval between the two sounds be a major third; then their rates of vibration are in the ratio of 4 to 5. Now, when the intermittent current is used the circuit is made and broken four times by one transmitting instrument in the same time that five makes and breaks are caused by the other. A and B, Figs. 1, 2, and 3, represent the intermittent currents produced, four impulses of B being made in the same time as five impulses of A. *c c c, &c.*, show where and for how long time the circuit is made, and *d d d, &c.*, indicate the duration of the breaks of the circuit. The line A and B shows the total effect upon the current when the transmitting instruments for A and B are caused simultaneously to make and break the same circuit. The resultant effect depends very much upon the duration of the make relatively to the break. In Fig. 1 the ratio is as 1 to 4; in Fig. 2, as 1 to 2, and in Fig. 3 the makes and breaks are of equal duration. The combined effect, A and B, Fig. 3, is very nearly equivalent to a continuous current.

When many transmitting instruments of different rates of vibration are simultaneously making and breaking the same circuit the current upon the main line becomes for all practical purposes continuous.

Next, consider the effect when an undulatory current is employed. Electrical undulations induced by the vibration of a body capable of inductive action can be represented graphically, without error, by the same sinusoidal curve which expresses the vibration of the inducing body itself, and the effect of its vibration upon the air; for, as above stated, the rate of oscillation in the electrical current corresponds to the rate of vibration of the inducing body—that is, to the pitch of the sound produced. The intensity of the current varies with the amplitude of the vibration—that is, with the loudness of the sound; and the polarity of the current corresponds to the direction of the vibrating body—that is, to the condensations and rarefactions of air produced by the vibration. Hence the sinusoidal curve A or B, Fig. 4, represents graphically the

* The paragraph in brackets erased, and those in italics inserted by amendment of February 29, 1876.

electrical undulations induced in a circuit by the vibration of a body capable of inductive action.

The horizontal line $a d e f$, &c., represents the zero of current. The elevations $b b b$, &c., indicate impulses of positive electricity. The depressions $c c c$, &c., show impulses of negative electricity. The vertical distance $b d$ or $c f$ of any portion of the curve from the zero line expresses the intensity of the positive or negative impulse at the part observed, and the horizontal distance $a a$ indicates the duration of the electrical oscillation. The vibrations represented by the sinusoidal curves B and A, Fig. 4, are in the ratio aforesaid of 4 to 5—that is, four oscillations of B are made in the same time as five oscillations of A.

The combined effect of A and B, when induced simultaneously on the same circuit, is expressed by the curve $A \times B$, Fig. 4, which is the algebraical sum of the sinusoidal curves A and B. This curve $A \times B$ also indicates the actual motion of the air when the two musical notes considered are sounded simultaneously. Thus when electrical undulations of different rates are simultaneously induced in the same circuit, an effect is produced exactly analogous to that occasioned in the air by the vibration of the inducing bodies. Hence the coexistence upon a telegraphic circuit of the electrical vibrations of different pitch is manifested not by the obliteration of the vibratory character of the current, but by peculiarities in the shapes of the electrical undulations, or, in other words, by peculiarities in the shapes of the curves which represent those undulations.

There are many ways of producing undulatory currents of electricity, dependent for effect upon the vibrations or motions of bodies capable of inductive action. A few of the methods that may be employed I shall here specify. When a wire through which a continuous current of electricity is passing is caused to vibrate in the neighborhood of another wire an undulatory current of electricity is induced in the latter. When a cylinder upon which are arranged bar magnets is made to rotate in front of the pole of an electro-magnet an undulatory current of electricity is induced in the coils of the electro-magnet.

Undulations are caused in a continuous voltaic current by the vibration or motion of bodies capable of inductive action; or by the vibration of the conducting-wire itself in the neighborhood of such bodies. Electrical undulations may also be caused by alternately increasing and diminishing the resistance of the circuit, or by alternately increasing and diminishing the power of the battery. The internal resistance of a battery is diminished by bringing the voltaic elements nearer together, and increased by placing them farther apart. The reciprocal vibration of the elements of a battery, therefore, occasions an undulatory action in the voltaic current. The external resistance may also be varied. For instance, let mercury or some other liquid form part of a voltaic circuit, then the more deeply the conducting-wire is immersed in the mercury or other liquid, the less resistance does the liquid offer to the passage of the current. Hence, the vibration of the conducting-wire in mercury or other liquid included in the circuit occasions undulations in the current. The vertical vibrations of the elements of a battery in the liquid in which they are immersed produces an undulatory action in the current by alternately increasing and diminishing the power of the battery.

In illustration of the method of creating electrical undulations, I shall show and describe one form of apparatus for producing the effect. I prefer to employ for this purpose an electro-magnet, A, Fig. 5, having a coil upon only one of its legs, b . A steel spring armature, c , is firmly clamped by one extremity to the uncovered leg d of the magnet, and its free end is allowed to project above the pole of the covered leg. The armature c can be set in vibration in a variety of ways, one of which is by wind, and, in vibrating, it produces a musical note of a certain definite pitch.

When the instrument A is placed in a voltaic circuit, $g b e f g$, the armature c becomes magnetic, and the polarity of its free end is opposed to that of the magnet underneath. So long as the armature c remains at rest, no effect is produced upon the voltaic current, but the moment it is set in vibration to produce its musical note a powerful inductive action takes place, and electrical undulations traverse the circuit $g b e f g$. The vibratory current passing through the coil of the electro-magnet f causes vibration in its armature h when the armatures $c h$ of the two instruments A and I are nominally in unison with one another; but the armature h is unaffected by the passage of the undulatory current when the pitches of the two instruments are different.

A number of instruments may be placed upon a telegraphic circuit, as in Fig. 6. When the armature of any one of the instruments is set in vibration, all the other instruments upon the circuit which are in unison with it respond, but those which have normally a different rate of vibration remain silent. Thus, if A, Fig. 6, is set in vibration, the armatures of A^1 and A^2 will vibrate also, but all the others on the circuit will remain still. So if B^1 is caused to emit its musical note the instruments $B B^2$ respond. They continue sounding so long as the mechanical vibration of B^1 is continued, but become silent with the cessation of its motion. The duration of the sound may

be used to indicate the dot or dash of the Morse alphabet, and thus a telegraphic dispatch may be indicated by alternately interrupting and renewing the sound.

When two or more instruments of different pitch are simultaneously caused to vibrate, all the instruments of corresponding pitches upon the circuit are set in vibration, each responding to that one only of the transmitting instruments with which it is in unison. Thus the signals of A, Fig. 6, are repeated by A¹ and A², but by no other instrument upon the circuit; the signals of B² by B and B¹; and the signals of C¹ by C and C²—whether A, B², and C¹ are successively or simultaneously caused to vibrate. Hence by these instruments two or more telegraphic signals or messages may be sent simultaneously over the same circuit without interfering with one another.

I desire here to remark that there are many other uses to which these instruments may be put, such as the simultaneous transmission of musical notes, differing in loudness as well as in pitch, and the telegraphic transmission of noises or sounds of any kind.

When the armature *c*, Fig. 5, is set in vibration the armature *h* responds not only in pitch, but in loudness. Thus when *c* vibrates with little amplitude, a very soft musical note proceeds from *h*; and when *c* vibrates forcibly the amplitude of the vibration of *h* is considerably increased, and the resulting sound becomes louder. So, if A and B, Fig. 6, are sounded simultaneously (A loudly and B softly), the instruments A¹ and A² repeat loudly the signals of A, and B¹ and B² repeat softly those of B.

One of the ways in which the armature *c*, Fig. 5, may be set in vibration has been stated above to be by wind. Another mode is shown in Fig. 7, whereby motion can be imparted to the armature by the human voice or by means of a musical instrument.

The armature *c*, Fig. 7, is fastened loosely by one extremity to the uncovered leg *d* of the electro-magnet *b*, and its other extremity is attached to the center of a stretched membrane, *a*. A cone, A, is used to converge sound vibrations upon the membrane. When a sound is uttered in the cone the membrane *a* is set in vibration, the armature *c* is forced to partake of the motion, and thus electrical undulations are created upon the circuit E *b e f g*. These undulations are similar in form to the air vibrations caused by the sound—that is, they are represented graphically by similar curves.

The undulatory current passing through the electro-magnet *f* influences its armature *h* to copy the motion of the armature *c*. A similar sound to that uttered into A is then heard to proceed from L.

In this specification the three words “oscillation,” “vibration,” and “undulation,” are used synonymously, and in contradistinction to the terms “intermittent” and “pulsatory.”* By the term “body capable of inductive action,” I mean a body which, when in motion, produces dynamical electricity. I include in the category of bodies capable of inductive action—brass, copper, and other metals, as well as iron and steel.

Having described my invention, what I claim, and desire to secure by letters patent, is as follows:

1. A system of telegraphy in which the receiver is set in vibration by the employment of undulatory currents of electricity, substantially as set forth.

2. The combination, substantially as set forth, of a permanent magnet or other body capable of inductive action, with a closed circuit, so that the vibration of the one shall occasion electrical undulations in the other, or in itself, and this I claim, whether the permanent magnet be set in vibration in the neighborhood of the conducting wire forming the circuit, or whether the conducting wire be set in vibration in the neighborhood of the permanent magnet, or whether the conducting wire and the permanent magnet both simultaneously be set in vibration in each other's neighborhood.

3. The method of producing undulations in a continuous voltaic current by the vibration or motion of bodies capable of inductive action, or by the vibration or motion of the conducting wire itself, in the neighborhood of such bodies, as set forth.

4. The method of producing undulations in a continuous voltaic circuit by [alternately] *gradually* increasing and diminishing the resistance of the circuit, or by [alternately] *gradually* increasing and diminishing the power of the battery, as set forth.†

5. The method of, and apparatus for, transmitting vocal or other sounds telegraphically, as herein described, by causing electrical undulations, similar in form to the vibrations of the air accompanying the said vocal or other sounds, substantially as set forth.

In testimony whereof I have hereunto signed my name this 20th day of January, A. D. 1876.

ALEX. GRAHAM BELL.

Witnesses:

THOMAS E. BARRY,
P. D. RICHARDS.

* Words in italics inserted by amendment of February 29, 1876.

† The words in brackets erased from, and those in italics inserted, in this paragraph by amendment of February 29, 1876.

[Endorsements on same.]

EXAMINERS' ROOM, No. 118, U. S. PATENT OFFICE,
Washington, D. C., February 19th, 1876.

A. G. BELL,
Care Pollok & Bailey, Present:

Telegraphy, Feb'y 14th, 1876.

In this case it is found that the 1st, 4th, and 5th clauses of the claim relate to matters described in a pending caveat.

The caveator has been notified to complete, and this application is suspended for 90 days, as required by law.

Z. T. WILBER, *Ex.*

[Endorsement.]

Official letter. Feb'y 19th, 1876.

In the matter of the application of A. Graham Bell, for imp'ts in telegraphy. Filed Febr'y 14, '76.

Hon. COMM'R OF PATENTS:

SIR: In this matter we beg to acknowledge receipt of official letter notifying us of the suspension of our application for completion of an interfering caveat.

We respectfully request, before it is concluded to suspend our application for 3 months, that you determine whether or not our application was not filed prior to the caveat in question.

We have inquired the date of filing of the caveat (inasmuch as we are entitled to the knowledge), and find it to be February 14, 1876, the same day on which our application was filed. If our application was filed earlier in the day than was the caveat, then there is no warrant for the action taken by the office.

We suggest that an examination of the books in the examiner's, Mr. Moore's, and the chief clerk's rooms, be made with a view of determining this question. We can say that our application was filed early in the day of Feb'y 14, and at our request was on the same day sent to the examiner.

We also call attention to the fact that our client's oath of invention is dated Jan'y 20, '76.

Respectfully,

POLLOCK & BAILEY, *Att'ys.*

[Endorsement.]

The application, in order to become liable to suspension, to await the completion of his application by a caveator, must have been filed "within the year" of the life of the caveat. Ordinarily, the day of filing is not completed, and is considered *functum temporis*. Yet, where justice requires it, the exact time in the day when an act was done may be shown by proof. Kent's Comm., 95 N. The examiner will be guided by this rule in the present case, and if the record shows that the application was filed earlier in the day, then the caveat should be disregarded; and otherwise, not.

25, 2, 76.

ELLIS SPEAR,
Act'g Com'r.

EXAMINER'S ROOM, 118,
Feb'y 24, 1876.

Respectfully referred to the Hon. Comm'r for instructions. The regular practice in the office has been to determine dates of filing by *days alone*, and in accordance with such practice I suspend the application herein referred to on ac. of a caveat, the application and caveat being filed upon the same day, viz: Feb'y 14, 1876. In view of the practice above noted, I have paid no attention to the alleged differences between the times of the filings on same day.

Resp. submitted.

Z. F. WILBUR, *Exe.*

Ex'r's Room, 118,
Feb'y 25, 1876.

The cash blotter in the chief clerk's room shows conclusively that the application was filed some time earlier on the 14th than the caveat. The appli. was received also in 118 by noon of the 14th, the caveat not until the 15th.

Z. F. WILBUR, *Ex'r.*

12, 8, 58. App'ts protest. Feb'y 24th, 1876.

U. S. PATENT OFFICE,
Washington, D. C., Feb'y 25th, 1876.

A. G. BELL,
Care Pollok & Bailey, Present:

Telegraphy, Feb'y 14th, 1876.

The suspension of this app'n having been declared under a misapprehension of app't's rights, is withdrawn.

Z. F. WILBER, *Ex'r.*

Copy of Bell patent.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

To all persons to whom these presents shall come, greeting :

This is to certify that the annexed is a true copy of the records of this office of the letters-patent granted Alexander Graham Bell March 7, 1876, No. 174,465, for improvement in telegraphy.

In testimony whereof I, M. V. Montgomery, Commissioner of Patents, have caused the seal of the Patent Office to be affixed this 26th day of October, in the year of our Lord one thousand eight hundred and eighty-five, and of the Independence of the United States the one hundred and tenth.

[SEAL.]

M. V. MONTGOMERY,
Commissioner.

No. 174,465.

[2-155.]

THE UNITED STATES OF AMERICA.

To all to whom these presents shall come :

Whereas, Alexander Graham Bell, of Salem, Massachusetts, has presented to the Commissioner of patents a petition praying for the grant of letters-patent for an alleged new and useful improvement in telegraphy, a description of which invention is contained in the specification, of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such case made and provided ; and

Whereas, upon due examination made, the said claimant is adjudged to be justly entitled to a patent under the law ;

Now, therefore, these letters-patent are to grant unto the said Alexander Graham Bell, his heirs or assigns, for the term of seventeen years from the seventh day of March, one thousand eight hundred and seventy-six, the exclusive right to make, use, and vend the said invention throughout the United States and the Territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed at the city of Washington this seventh day of March, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States of America the one hundredth.

[SEAL.]

Z. CHANDLER,
Secretary of the Interior.

Countersigned:

R. H. DUELL,
Commissioner of Patents.

Elisha Gray's caveat.

[United States Patent Office—Specification.]

To all whom it may concern :

Be it known that I, Elisha Gray, of Chicago, in the county of Cook and State of Illinois, have invented a new art of transmitting vocal sounds telegraphically, of which the following is a specification :

It is the object of my invention to transmit the tones of the human voice through a telegraphic circuit, and reproduce them at the delivering end of the line, so that actual conversation can be carried on by persons at long distances apart.

I have invented and patented methods of transmitting musical impressions or sounds telegraphically, and my present invention is based upon a modification of the principle of said invention, which is set forth and described in letters patent of the United States granted to me July 27, 1875, respectively numbered 166,095 and 166,096, and also in an application for letters patent of the United States filed by me February 23, 1875.

To attain the objects of my invention I devised an instrument capable of vibrating responsively to all the tones of the human voice, and by which they are rendered audible.

In the accompanying drawings I have shown an apparatus embodying my improvements in the best way now known to me ; but I contemplate various other applications, and also changes in the details of construction of the apparatus, some of which would obviously suggest themselves to a skillful electrician or a person versed in the science of acoustics on seeing this application.

Figure 1 represents a vertical central section through the transmitting instrument ; Figure 2, a similar section through the receiver, and Figure 3 a diagram representing the whole apparatus.

My present belief is that the most effective method of providing an apparatus capable of responding to the various tones of the human voice is a tympanum, drum, or diaphragm, stretched across one end of the chamber, carrying an apparatus for producing fluctuations in the potential of the electric current, and consequently varying in its power.

In the drawings the person transmitting sounds is shown as talking into a box or chamber, A, across the other end of which is stretched a diaphragm, A, of some thin substance, such as parchment or gold-beater's skin, capable of responding to all the vibrations of the human voice, whether simple or complex.

Attached to this diaphragm is light metal rod A, or other suitable conductor of electricity, which extends into a vessel, B, made of glass or other insulating material, having its lower end closed by a plug, which may be of metal, or through which passes a conductor, b, forming part of the circuit.

This vessel is filled with some liquid possessing high resistance, such, for instance, as water, so that the vibrations of the plunger or rod A', which does not quite touch the conductor b, will cause variations in resistance, and consequently in the potential of the current passing through the rod A'. Owing to this construction, the resistance varies constantly, in response to the vibrations of the diaphragm, which, although irregular not only in their amplitude, but in rapidity, are nevertheless transmitted, and can consequently be transmitted through a single rod, which could not be done with a positive make and break of the circuit employed, or when contact points are used. I contemplate, however, the use of a series of diaphragms in a common vocalizing chamber, each diaphragm carrying an independent rod, and responding to a vibration of different rapidity and intensity, in which case contact points, mounted on other diaphragms, may be employed. The vibrations thus imparted are transmitted through an electric circuit to the receiving station, in which circuit is included an electro-magnet of ordinary construction acting upon a diaphragm, to which is attached a piece of soft iron, and which diaphragm is stretched across a receiving vocalizing chamber, c, somewhat similar to the corresponding vocalizing chamber, A.

The diaphragm at the receiving end of the line is thus thrown into vibration corresponding with those at the transmitting end, and audible sounds or words are produced.

The obvious practical observation of my improvement will be to enable persons at a distance to converse with each other through a telegraphic circuit, just as they now do in each other's presence, or through a speaking tube.

I claim, as my invention, the art of transmitting vocal sounds or conversations telegraphically, through an electric circuit.

ELISHA GRAY.

Witnesses:

WILLIAM J. PEYTON,
WM. D. BALDWIN,

STATE OF ———, *County of, District of Columbia.*

Elisha Gray, the within named petitioner, being duly sworn, doth depose and say, that he verily believes himself to be the original and first inventor of the art of transmitting vocal sounds, described in the foregoing specification; that he does not know or believe that the same was ever before known or used, and that he is a citizen of the United States.

ELISHA GRAY.

Subscribed and sworn to before me this 14th day of February, A. D. 1876.

JOHN T. ARMS,
Notary Public.

TO THE COMMISSIONER OF PATENTS:

The petition of Elisha Gray, of Chicago, in the county of Cook, in the State of Illinois, respectfully represents that he has made certain improvements in the art of transmitting vocal sounds telegraphically, and that he is now engaged in making experiments for the purpose of perfecting the same, preparatory to applying for letters patent therefor.

He therefore prays that the subjoined description of his invention may be filed as a caveat in the confidential archives of the Patent Office.

ELISHA GRAY.

[Endorsement.]

Received Oct. 20, 1885. Copy of caveat of Elisha Gray.

Statement of Elisha Gray, inventor and discoverer, resident of the city of Chicago, Ill.

1. Having received from the Government a number of patents which were supposed among other things to relate to telephony, I made a conveyance of the same to the Harmonic Telegraph Co., in the year 1876. In consideration of that conveyance I received a stock interest in the said company.

2. This company conveyed to the American Speaking Telephone Company all its right, title, and interest in said patents, so far as they related, or might relate, to speaking telephones. The Harmonic Co. received, in consideration of said conveyance, one-third of the stock of the American Speaking Telephone Company. My interest in this stock was owned jointly and equally by myself and Dr. White, of Philadelphia.

3. The American Speaking Telephone Co., the Harmonic Telegraphic Co., the Gold and Stock Telegraph Co., and the Western Union Telegraph Co. were the real defendants in the suit of the American Bell Telephone Co., commonly known as the Dowd case. Some time after the institution of this suit a compromise was effected between the complainant and the defendants, by which the complainant company and the defendant companies jointly owned all the patent rights involved—the American Speaking Telephone Co. receiving, in said compromise, twenty per cent. of the royalty received upon all the patents owned by the said companies. It was also to be interested in future patents that might be acquired by the combination and was to contribute its proportion of the purchase expended in acquiring such new patents. From that time forward, said company was also to pay its part of any litigation that the combination might be involved in. Soon after the beginning of the Dowd suit the subject of a compromise was suggested, and before finally consummated it was generally understood that a compromise would be effected; that the parties in interest could probably make more by compromise and by owning the patent-right of the several companies as common property than could be made otherwise, and that such a settlement especially was better than the hazards of the ultimate result of the litigation. Before said combination was effected, and after it was substantially understood that the settlement would be made, it is my belief now, the litigation was not carried on energetically, or in strict good faith with the view of an arm's length litigation and a final settlement by the court. This resulted from the fact that a determination by compromise was looked to by the several parties in interest.

4. After this settlement, the property being owned by the complainant and defendants, in the proportion agreed upon, there was, of course, as I suppose now, no such thing as litigation in good faith, but from that time everything was done for the common benefit of the complainant and the defendants, and such decree was entered in the case as they desired, the whole being conducted in such manner as to subserve the common interest.

5. I had no control over this case at any time. The corporation in which I was interested as a stockholder represented such interest as I had. After the terms of

settlement were agreed upon, then the interest being common, the cause was carried on to a conclusion in a way to promote the common interest.

(6) I was the inventor of an Electric Speaking Telephone. I described that invention in a caveat which I filed on the 14th of February, 1876. I afterwards learned that on the same day Professor Bell filed an application for an improvement in "Multiple telegraphy." I learned, but not until after his patent on said application was issued, that in the said application he claimed to have discovered and invented an electric speaking telephone. Not long after my caveat was filed I received notice that an application had been filed that in some way conflicted with it, and that I must prepare an application on my caveat with the view of declaring an interference on account of said conflict. Soon after this I learned that the interference had been dissolved. I did not then know that the supposed conflict was between my caveat and said application of said Bell. In March, 1876, a patent issued to said Bell upon his said application. I am informed and believe, that in a few days after the issuance of said patent said Bell made an instrument with which he transmitted articulate speech. Long afterwards I learned that the instrument with which he first transmitted articulate speech was a liquid transmitter, and substantially the same as that described in my caveat, but wholly unlike anything described in the said application and patent of said Bell. I believed, and remained under that belief for a long time, that said Bell actually invented the instrument with which he thus first transmitted articulate speech. I then believed that he and I were both aiming at the same end, and that each, without knowing what the other was doing, had discovered and invented a speaking telephone. At the Centennial, Mr. Bell exhibited a telephone which transmitted articulate speech. I witnessed the exhibition. He did not use a liquid transmitter on this occasion, but used an instrument very nearly resembling the receiver of my invention. I communicated this fact to my counsel, and requested his opinion as to how my case stood in view of said fact. He informed me that practically my claim was defeated; that Bell's application was filed on the same day as my caveat, and that Bell having made an instrument that successfully transmitted articulate speech, he occupied a better position, and would undoubtedly succeed. I then did not for a moment suspect anything wrong, but supposed that in the eye of the law Bell had, as my counsel advised me, the advantage. Every oral statement made by me on the subject, and every letter written by me, which in any way indicated that I regarded said Bell as an original inventor of the telephone, with probable priority in the eye of the law over my discovery, were made and written under the belief then entertained as to perfect fair dealing with regard to my caveat.

(7) Recently, and long since the oral statements were made and the letters referred to were written, and long since I gave my deposition in the Dowd case and in the interference cases in the Patent Office, facts came to my knowledge that convinced me I was wrong in assuming and believing that Professor Bell had fairly made his invention. But I now believe that he, on the contrary, had learned in some way of my caveat and of its contents; that he made use of that knowledge, and constructed the instrument with which he first successfully transmitted articulate speech. I suppose my discovery remained a secret in the Patent Office, as it should have done, and was not known to Mr. Bell at the time he made his first successful transmission of speech. What I now state on the subject is made in view of this information which satisfies me that Mr. Bell, having obtained my secrets, claimed my discovery as his own, and by this means got the credit of my invention. Acting, however, at the time under the belief of his fairness in the matter, and advice of counsel as to my rights, as before explained, I made such statements and gave said depositions.

(8) Being under this belief, I did not take steps to file my application upon my caveat promptly, but the matter rested without any application until November, 1877. This long delay will be understood in view of what I have already stated. Some time prior, however, to the filing of said application, it was suggested by the American Speaking Telephone Company, under the idea that it was the owner of said caveat, that an application had better be filed any way for a patent upon the caveat; that some advantage or benefit might be derived from it. I accordingly filed the application. This was my act, done, and done by counsel at the request of said company; but before any further steps were taken under said application, except to declare an interference between my application and the Bell patent, the compromise had been effected between the contestants in the Dowd case, and acting under the belief, which I then entertained, that my conveyance, the American Speaking Telephone Co. was the owner of said application, and said caveat, and the rights therein mentioned, and believing that these rights had become the common property of the complainant and defendants in the Dowd case compromise, and believing whatever interest I had was only as a stockholder in the American Speaking Telephone Co., and that under that compromise I had no longer any financial interest in pressing the interference suit, nor had the American Speaking Telephone Co., as it was immaterial how that contest was terminated, provided it was done in such a way as to subserve what was believed to be the common interest of this combination.

After the combination, and without any action on my part, the said interference suit growing out of my caveat and the application thereon was again set in motion and conducted to a result. I was examined as a witness in the interference suit,—my deposition being taken in the city of Chicago. I had no counsel employed, however, and took no interest in it, and only gave my deposition when called upon by the combination referred to. These companies, as they believed, and so did I at the time, held and owned all the patents and all the claims in said interference cases, and the other interference cases that were carried along with these, and although there appeared to be opposing counsel and a struggle and a contest, and much proof was taken, deponent verily believes there was really no struggle and no contest, and that it was intended to carry these interference cases on and bring out the final result in such way as best to subserve the interest of the combination made up of these three corporations. By looking at the record in these cases, it appears that I had counsel; that I was a litigant actually contesting this matter and asserting or attempting to assert the priority of my discovery over that of Prof. Bell's, and the other alleged discoverers and inventors that were made parties to the same controversy. Such was not the fact, however. I had no counsel. I was not a litigant. The whole apparent controversy was, as I now believe, collusive, and carried on with the appearance of an array of an opposing counsel; that these counsel all understood each other and were working for a common end agreed on beforehand by the combination. It was supposed, as I have lately been informed, that these interference suits, thus carried on and worked out, would strengthen the claims of the corporations that were engaged in carrying them on in their interests. I was not consulted except to give my deposition, which I did when called upon, and did under the honest belief that Mr. Bell had the advantage which I have already mentioned as explained to me by my counsel. The counsel named in the record as representing me in said interference suit were paid, as I understood, by the said combination, consisting of the parties complainant and parties interested in the Dowd case, in pursuance of their agreement and understanding that all litigation carried on for the joint benefit was to be paid for by the combination. Not only was this the case, but one of my counsel so-called, was at some time, the precise time I am unable to state, retained for the American Bell Telephone Company, and is now in its employment, as I learned some time since, when speaking to that counsel with a view of a proposed employment which might conflict with the interest of said company. It is not a fact that the result in the Dowd case was reached by a trial upon the merits, and a decision according to the merits, but it was reached by the agreement and understanding of the parties in interest. *Nor is it a fact as I believe that the interference suits were carried on upon their merits in a real *bona fide* controversy, but, on the contrary, I believe that said interference litigation, although seemingly hostile, was really friendly, and the result reached was not a decision upon the merits in a hostile controversy, but in a collusive controversy in which the only parties interested were the parties in interest in the Dowd litigation.

9. The stock which Dr. White and myself received for our interest in the sale to the American Speaking Telephone Co. for the patents embraced in that sale, all went to Dr. White, as by our contract he had a lien upon my half for debts that I owed him, and my half was absorbed in the payment of these debts. I subsequently bought stock and by speculating in it made something.

10. In some correspondence that passed between Prof. Bell and myself in the year 1877 I accorded to him credit as an actual discoverer and inventor, which was done, however, under the belief that he was entitled to priority, and that without any knowledge of my caveat he had really been enabled to appear to be a discoverer and inventor, when such was not the fact, as I now verily and truly believe. I also wrote them under the belief and advice of counsel that by reason of his claiming to have filed his application before my caveat, and of his practical demonstration with an electric speaking telephone made according to my discovery, but which I then supposed was made according to his own independent discovery, that therefore in the eye of the law his claim would take rank over mine. About the same time that said correspondence took place I delivered a lecture in the city of Chicago when I exhibited the instrument claimed by Prof. Bell as his invention. In order that the matter may be properly understood it must be borne in mind that the letter in which it is claimed that I gave Prof. Bell credit as the original inventor was written long before I knew that his first transmission of articulate speech was with a liquid transmitter like that described in my caveat, and that at the time of writing that letter and giving the lecture I only knew of the transmission of speech made at the Centennial with the instrument made like my receiver, which I had never used as a transmitter.

11. The opening and concluding arguments of the counsel who nominally represented me in the interference cases, but really representing the said combination, and in whose employment he then was in the said interference suit conceded the discovery of the broad art to Mr. Bell, claiming for me only a device or improvement on the art which Mr. Bell was conceded to have discovered. I did not know until long

after that such was the case, but it plainly appears on the inspection of these arguments which I have lately made. These arguments, however, are in harmony with the main intent of the combination and to carry out its purpose in these collusive and simulated contests.

12. The combination claimed my caveat and all the rights thereunder, by virtue of my conveyance to the Harmonic Telegraph Co. I did not intend to convey it, but labored under the belief that I had been overreached, or by mistake had conveyed more than was in contemplation when the trade was made. After being informed that I had been wronged in the Patent Office touching my caveat, either by design in disclosing my secrets, or by remissness, or accident, and that it was my discovery with which Prof. Bell first transmitted speech soon after my caveat was filed, as I am informed, and believing he had learned my secrets, I concluded I would have the said conveyance examined by counsel, which I did, and was advised that my said conveyance did not cover the caveat, but only certain specific patents then granted, and which it was supposed by the purchasers related, among other things, to telephony, and which patents they believed, although not granted expressly in reference to that art, yet embraced principles that might be controlling in contests touching it. I was misled, by the assumption on the part of said company and its assignees, that my said contract covered said caveat, and I labored under this mistake until I had the contract examined, as above stated.

ELISHA GRAY.

Sworn to and subscribed before me this 9th day of November, 1885.

(Signed)

G. A. ARMES,
Notary Public for the District.

Statement of Elisha Gray.

WASHINGTON, D. C., Nov. 16, 1885.

Hon. L. Q. C. LAMAR, *Sec'y of the Interior, Washington, D. C. :*

DEAR SIR: In an affidavit by Mr. M. D. Baldwin, sworn and subscribed to on the 14th day of November, 1885, he says:

"Mr. Gray has intimated by his affidavit that I did not urge his claim as an inventor as I should have done, and that he, not for the first time, has ascertained what was done in his behalf, and finds that he is not satisfied with it."

In order to prove that I knew at the time was going on, and that I was satisfied with it, he has introduced several letters of his and mine, and has quoted extensively from his argument before the examiner of interferences.

In reply to this statement and to other statements in Mr. Baldwin's affidavit, it seems proper for me to make some statements in explanation of letters which I wrote at the time and of my inaction and want of complaint of Mr. Baldwin's course.

Referring now to his letter of March 3d, 1876, to Doctor S. S. White, with whom I was then engaged in Philadelphia on electrical work, as to the beginning of the matter in controversy, it will be seen that, acting upon Mr. Baldwin's advice, given in this letter, I failed to file an application in the Patent Office forthwith, pursuant to my caveat of February 14th, 1876.

The letter is as follows:

"Dear sir: I find that Gray's 'Talking Telegraph Caveat' interferes with an application of Bell's, but as Gray's caveat was filed the same day as Bell's application, but later in the day, the Commissioner holds that he is not entitled to an interference, and Bell's application has been ordered to issue. This is confidential. The point of interference is in the gradual interruption of the current, as contradistinguished from the abrupt breakages of the previous systems. Bell's application was sworn to as early as the 20th of January last, and was prepared some time previously. We could still have an interference by Gray's coming down to-morrow and promptly filing an application for a patent. If you want this done, telegraph me in the morning, on receipt of this, and I will have the papers ready in time to stop the issue of Bell's patent; but, my judgment is against it, as Gray made the invention, as I understand it, while here, after Bell's application was sworn to. He may, however, have invented the resistance part of the application at an earlier date, and Bell's claim is for the system of graduated interruptions by a varying resistance instead of the abrupt interruptions, as I have mentioned.

"(Signed)

WM. D. BALDWIN."

Subsequently and after the issue of a patent to Prof. Bell of March 7, 1876, in communication with Mr. Baldwin in person and by letter he advised me in substance that he did not see any interference between Bell's patent and my caveat for speaking telephone filed February 14, 1876.

Still later, and after the exhibition made by Mr. Bell at Philadelphia, in answer to an inquiry as to my rights under the caveat I was informed, as stated in my former affidavit, that I had no standing in law. I here quote from that affidavit:

"At the Centennial Mr. Bell exhibited a telephone which transmitted articulate speech. I witnessed the exhibition. He did not use a liquid transmitter on this occasion, but used an instrument very nearly resembling the receiver of my invention. I communicated this fact to my counsel and requested his opinion as to how my case stood in view of said fact, *and he informed me that practically my claim was defeated*, that Bell's application was filed on the same day as my caveat, and that Bell having made an instrument that successfully transmitted articulate speech, he occupied a better position and would undoubtedly succeed."

Upon this advice of my counsel and my friend I acted. I had the fullest confidence in him. I believed that he was not only faithful in all respects, but that he had the necessary learning, ability, and experience to advise me rightly. In the latter it seems I was mistaken, but I did not for a long time find out the mistake, and did not know that the advice thus given was wrong and not in accordance with the law, as I am now advised.

All my subsequent correspondence, admissions, statements, and interviews must be construed with this in mind and in view of the fact that I supposed I had parted with all my pecuniary interests in this and other inventions and was therefore only interested as to my reputation as an inventor, and it seems my counsel, so called, had the same idea in view, as stated in his letters of October 24 and 29, 1881, as set forth in his last affidavit, in which he wrote as follows:

"I am devoting my argument more to a vindication of your position than to attacking your adversary, though I am stating some facts in regard to Bell and Edison very plainly." In the letter of October 29, 1881, he says: "Enclosed find an advanced copy of my argument in your behalf in the speaking telephone interference case. My object has been mainly to place you right before the public on the scientific side of the question. I hope I have succeeded, but I am not proud of the performance." I quote from his argument as follows:

THE BELL PATENTS.

"In the beginning of this controversy Bell's patent of March 7, 1876, comprised all the information Gray had as to the history and development of the invention therein claimed. As that patent was then understood it was believed not only to claim the telephone transmission of articulate speech, but the apparatus therein shown was believed to be incapable of such action."

"Even as late as January, 1879, apparatus carefully constructed in accordance with Bell's specifications failed to work successfully."

"As the alleged inventor of a new art involving a physical law little understood that time and the pending for its success, so far as then known, upon certain peculiarities of construction, Bell was particularly bound to set forth in the clearest manner all the conditions necessary to the successful operation of the apparatus. He would be a bold man who claimed that this was done by the patent. It says not one word about the wetting of the membranes, the necessary relation of the fundamental tone of the instrument itself to the tones to be transmitted, of the relative proportions of the parts, or of the theory of forced vibrations of a loaded membrane—all essential to the proper operation of the apparatus shown."

"In view of the clamor and the glamour created by the success of the speaking telephone, as subsequently developed, it is almost impossible to separate what is now known of that instrument from what was disclosed in Bell's patent, and his assignees have taken care to mix things as much as possible."

"It is hard now to realize that this magnificent invention was tucked away in a patent, under the guise of an improvement in telegraphy, and described so ambiguously as a modification of longer or shorter duration, to correspond with the dot or dash of the Morse alphabet; that it has required the conjoint interpretation of the experts and the courts to bring out the facts that the telegraphic reproduction of articulate speech was really what was meant to be covered by the immortal fifth claim and the apparatus represented in figure 7 of the drawings and attempted to be described in the patent. As a matter of fact, neither Bell nor any one else ever successfully transmitted articulate speech through an apparatus like that shown in figure 7, until after the date of his patent. Some time after that such instruments were made to work."

"The very remarkable fact remains that Bell's first successful transmission of articulate speech was with the apparatus delineated and described in Gray's caveat filed February 14, 1876, the same day with the application of Bell's patent, and after Bell's visit to Washington, during which he had been informed of the probability of threatened interference and its nature imitated."

"This was the celebrated apparatus subsequently exhibited at the Centennial June 25, 1876, consisting in part of the liquid transmitter and membrane receiver, with a piece of clock spring glued thereon as an armature, arranged close to a magnet."

"Gray's caveat presents a remarkable contrast to Bell's patent in its clearly setting forth the art of transmitting articulate speech, and delineating and describing the apparatus by which that art was successfully practiced."

"Bell's patent neither shows nor describes Gray's apparatus, and it is not pretended that he ever invented special that form of apparatus prior to Gray or that Gray ever derived it from Bell."

Surely, Mr. Baldwin "did himself proud." Up to this point the argument is good, the statement is complete, and the conclusion ought to have been irresistible, but he concludes as follows:

"When, however, in the course of subsequent litigation, the fact was developed that as between Gray and Bell, the latter really was the first to conceive the invention of transmitting articulate speech, and to reduce the invention into practice, Gray voluntarily came forward like the straightforward, fair-minded man that he is, and conceded that fact to his rival."

"We shall, therefore, *retire from the contest over the issue in case A and B, so far as relates to the question of the electric transmission of articulate speech.*"

At the time Mr. Baldwin wrote me, inclosing the argument referred to in his letter of October 29, 1881, I had just returned from a four months' trip to Europe, where I was exhibiting my Harmonic Telegraph in the Electrical Exhibition at Paris.

From the time of the consolidation of interests between the Western Union Co. and the Bell Telephone Co. growing out of the Dowd suit, my time and attention had been absorbed in perfecting and marketing my Harmonic Telegraph inventions. Before I started for Europe I had commenced negotiating with the Postal Telegraph Co. for the sale to them of these patents and inventions. This negotiation was carried on by correspondence during my stay in Europe, and kept up actively for a long time after my return until the sale was effected. Being thus busily occupied with matters which promised financial returns, and having in mind the settlement in the Dowd case, which I then supposed carried with it all my pecuniary interests in telephone, and feeling no special interest in the subject, but remembering his assurance of his efforts to place right before the scientific world, whatever he meant by that, I naturally wrote that he "did himself proud." I meant no more, and under the circumstances followed his advice, trusting to his conclusions, and relying upon his ability and integrity, I could hardly have said less, particularly as under his advice I had no right of any kind.

In Mr. Baldwin's argument in the interference cases before the Commissioner, he uses this language:

"In the Dowd suit Mr. Gray frankly stated the facts. I take occasion to say right here that as far as I have been engaged in this contest, since 1875, I have always found Mr. Gray a fair-minded, straightforward man, indeed so much so, as you will find in the record in the Dowd suit, that when a certain question arose between himself and Mr. Bell he frankly wrote a letter stating that he did not regard the caveat as a reduction to practice, and therefore Mr. Bell was entitled to the invention. He did this without consulting counsel."

"The Commissioner: He says the transmission of speech."

"Mr. Baldwin: Yes, sir; when it was suggested to him that that was an imprudent thing for him to do under the circumstances, he said, 'It was right.' It would come out sooner or later, and I prefer have it come out in this way."

In considering the letters and statements referred to, it should not be forgotten that I was acting under his advice of the third of March, 1876, and reiterated from time to time in numerous interviews and correspondence at the time when he was my actual counsel, as I have before alleged. I never fully appreciated the position that I had been drawn into until lately, when I learned some facts which led me to suspect that the patent granted to Mr. Bell was not in all respects above suspicion as set forth in my former affidavit.

A patent in which an instrument is described, that Prof. Bell himself alleged, after its issue had not transmitted articulate speech. A patent in which it is not asserted, that it will transmit articulate speech. It describes an instrument upon which the fifth claim is based, and one that is made *strictly* in accordance with the description. In all respects and in the light of the art *at that time*, and *not* in the light of to-day—I say it describes an instrument that never has, and *never will successfully*, transmit articulate speech. I will put, if you please, in a parallel column with this, another statement. It is this: On the 14th of February, 1876, I filed in this office, and it is now a part of its records, the *first* clear and concise description of "a method of, and an apparatus for, transmitting articulate speech," and the records show that it was with such an apparatus that speech was *first* transmitted by Prof. Bell.

Coming back to Mr. Baldwin, I will say that I have carefully examined his several affidavits, and compared them with mine, and so far as I can see they confirm all I

have said. I would not go out of my way one step to do Mr. Baldwin, Professor Bell, or any one connected with this case, a wrong, even if millions were involved in it, but in view of the facts that have been alleged in my affidavits, the time has come when my position in this matter ought to be defined. These facts are indisputable. The responsibility must rest where it belongs.

ELISHA GRAY.

Sworn and subscribed to before me this 16th day of November, 1885.

GEORGE A. ARMES,
Notary Public District of Columbia.

Affidavit of Z. F. Wilber.

STATE OF NEW YORK, *New York County*, ss:

Zenas F. Wilber, being duly sworn, deposes and says as follows:

I am 43 years of age, and by profession a solicitor of patents and expert in patent causes. I was employed in the U. S. Patent Office for some years; first as an acting assistant examiner, and then as an assistant examiner for several years; most of which time I was engaged in the examination of applications for patents in the branch of electricity. Afterwards, for some years, I was principal examiner in charge of what was then known as the philosophical division, embracing the classes of electricity, horology, optics, mathematical and measuring instruments, etc.

While so engaged I was called upon to investigate many thousand applications for patents and to pass upon their utility and patentability, a large number of which related to electrical matters. I was finally promoted to be examiner of interferences, from which position I resigned to engage in the practice of my profession. As such last-named examiner I passed upon and determined the question arising in interferences all classes of invention.

Since resigning I have prosecuted several hundred applications for patents for various clients, nearly all involving the utilization, generation, or regulation of electricity; have in many instances been called upon to investigate and report upon the practicability, utility, and patentability of such inventions, the legality and scope of patents issued on such subjects, and have testified as expert in a number of litigated cases relating to electrical subjects.

At the time, in December, 1871, Antonio Meucci filed a caveat for "Sound Telegraphs," I was an assistant under Prof. B. S. Hedrick, principal examiner, and engaged under him in the examination of cases relating to electrical inventions; hence the Meucci caveat came under my charge at that time. At the time of the last renewal thereof, in Dec., 1873, I was in charge of applications involving or relating to electricity as principal examiner myself, and the Meucci caveat was still in my charge.

During 1876 the electrical department was under my charge as principal examiner, and I received as such examiner, from the proper division of the office, the Bell application which became U. S. Patent No. 174465 of March 7th, 1876, and the caveat of Elisha Gray, now generally known as the "Gray Caveat." The files of both were endorsed as having been received by the office on February 14th, 1876. Of my knowledge I did not know, and had no facilities for knowing, which was first filed in the office; and, indeed, when I first compared them to ascertain if there was any conflict or interference, I made no enquiry, my own opinion then being that in the relation existing between an interfering application and a caveat, the day was simply *punctum temporis*, and hence that when an application interfering with a caveat was filed upon the same day as the caveat, the "application is made within the year" (R. S. 4902), and that the application should be suspended, and the caveator given the statutory three months to file a completed application.

Accordingly, on February 19th, 1876, I suspended the Bell application, and notified the caveator, Gray, to complete his application within three months.

On February 24th, 1876, Bell, by his attorneys (Messrs. Pollok & Bailey), filed a protest against this suspension, averring in substance that there was reason to believe that the Bell application was filed first, *i. e.*, earlier on the day of the 14th of February, 1876, than the caveat, the whole protest and argument of that date being based on a knowledge of that fact, or a belief that such was the fact.

Now, Mr. Bell, or his attorneys, obtained such knowledge I do not know. It was not given by me officially or unofficially. The only information given by me was in the official letter notifying Mr. Bell of the suspension of his application, because of a caveat interfering with his first, fourth, and fifth claims, neither the caveators nor the date of filing, information he was not entitled to have, being mentioned or hinted at. Such information was obtained, however, evidently, for it is the basis of a com-

munication of February 24th, 1876, to the office in Bell's behalf, but how obtained, as before stated, I cannot say, being entirely ignorant on that point.

The point raised being an entirely new one, there being no recorded precedent in the Office, I refer the matter to the honorable Commissioner of Patents in person for his instructions as to my course. The Commissioner decided that as between an interfering application and caveat a day was not "*punctum temporis*," but an exception thereto that the time of the day was an element to be considered in determining the relation of the parties, directing me to ascertain the exact time of day of filing; that if the records showed that the application was filed earlier in the day, the caveat should be disregarded; otherwise not. In determining this, I consulted the cash blotter in the cashier's room, where I found the receipt of the fee for the Bell application entered before the receipt of the fee for the Gray caveat.

There was no regularity of entering on the fee-book. Applications came in by attorneys and mail, and were filed on the receipt clerk's table in a pile, and the clerk entered the cash received on the book as he picked up the letter or application. I was governed largely by what Mr. Bailey said, and he told me Bell's application was received before the caveat on same day.

I therefore determined, hastily, that the Bell application was filed the earlier in the day and revoked the suspension. In doing this I had no other proofs than that mentioned, no affidavits or depositions from or on behalf of either party, nor, as it appears from the record, was Gray notified by the Commissioner to appear and defend my original ruling in his favor, as it seems might equitably have been done. This is the only case I ever knew in some eleven years' experience in the Patent Office of such a ruling. In this case had the usual course of suspension of the application been followed, Bell would never have received a patent, and had Mr. Meucci's caveat been renewed in 1875, no patent could have been issued to Bell. I did not suspect any crookedness at the time.

The suspension being revoked and the Gray caveat disregarded, Bell by his attorneys was permitted to file certain amendments, which show for themselves without further or additional oath of invention, and his case was permitted to go to issue and become the patent hereinbefore noted.

At the time of the prosecution and allowance of such application it was not intended by any one in any way whatever, that I can remember, that it was for a talking telephone, a telephone for the transmission of articulate speech. The human voice was but once referred to in the whole specification, viz, in the 2d column of page 3, as printed, where it is stated "whereby motion can be imparted to the armature by the human voice, or by means of a musical instrument." I understood this to mean the same class of sounds given by the voice as are given by a musical instrument, that the voice and musical instruments were named as equivalents for the same class of sounds, musical or harmonic vibrations in contradistinction to uttered intelligible speech. I considered that the invention related to "harmonic multiplex telegraphy," the object of which was to enable several operators to use one wire simultaneously, a system on which it was known that both Profs. Gray and Bell had been working, and not to a talking telephone.

If I had believed that it was for a talking telephone, in view of the fact that the accounts of Reiss' experiments in that line, which were then accessible to me, were so vague and unsatisfactory, I would have required a practical demonstration of its utility and operativeness as a talking machine before granting the patent, for I believe that any instruments made, as shown and described in the patent noted, can be used to transmit and reproduce articulate speech. Changes and modifications must be made therein for that purpose amounting to independent and separate invention.

In looking back over the case, I am convinced that I should not have allowed the fifth claim, but should have objected to it as vague and indefinite. As set out it amounts simply to "causing electrical undulations similar in form to the vibrations of the air". No one has seen "electrical undulations"; it is simply an abstract term; there is no way of telling whether the cause termed electricity is thrown into undulations, and if yea, whether these invisible undulations are similar in form to some other visible undulations. There are no clear, explicit standards set up in the claim by which infringement or non-infringement may be determined, but it is a claim so general and so abstract as to amount in effect to a claim for the result, not the means. Its parallel in a tangible thing would be a claim for making shoes by "causing a machine to stitch the parts together by stitches resembling in form hand-made stitches," so that all machine-stitched shoes, no matter how different the means, the machinery employed would infringe the claim, because the result was accomplished.

There is no doubt in my mind that a large amount of this patent is anticipated in the patent to T. A. Edison, 141,777, dated August 12, 1873. In that patent Edison shows a contact moving in water towards and from another contact, so that the resistance between the two is increased or diminished. This is one of the many ways set out by Bell for the same purpose in his patent; see near bottom of 2d column,

page 2, as printed, "Let mercury or some other liquid form part of a voltaic circuit, then the more deeply the conducting wire is immersed in the mercury or other liquid, the less resistance does the liquid offer to the passage of the current. Hence the mercury or other liquid included in the circuit occasions undulations in the current."

His "undulations" are rise and fall of electric tension in the circuit due to "gradual increasing and diminishing the resistance of the circuit," as stated in fourth claim, or by other means recited, *all* being equivalent for this purpose.

Edison says, "I make use of metallic contact points within a liquid, such as glycerine or water, so that the motion of one contact point nearer to or farther from the other raises and lowers the electric tension in the telegraph line, and operates a distant magnet without forming a spark or breaking the circuit."

Both operate a distant instrument or magnet without forming a spark or breaking the circuit by rise and fall of electric tension; *i. e.*, the so-called "undulations," both Edison's and Bell's patents, were applied for as "improvements in," the same class, "telegraphy."

I am convinced, on careful analysis of the two cases, that in so far as the application of Bell and the patent based thereon disclose his invention, the broad claims in the Bell patent should have been rejected on the Edison patent, and Bell confined to any novel mechanism or means he had invented for accomplishing this result, which was common to both and prior to him in Edison.

Judging at the time, however, that the Bell application related on to harmonic multiplex telegraphy, an entirely new branch, the talking telephone of to-day, with its development being almost undreamt of, the case did not, it now seems to me, receive the careful scrutiny and pruning which it should have had.

From my experience in examining a vast number of electrical specifications, I have become familiar with the terms and nomenclature used, and have found that the terms used by Reiss and Meucci are expressed or meant by different later inventions under different names. I have noticed this in the specification of Reiss and the specifications of Meucci, Bain, Edison, Gray, Bell, the caveat of Meucci, etc. The rise and fall of tension of the Edison case is the same as the "undulations" and the "undulative current" of Bell; the "closed circuit" of Bell is the "continuous metallic conductor" of Meucci, while the drawings intended to graphically indicate sound waves in Bell's patent and the description thereof are the same as those published by Reiss. And much more.

Z. F. WILBER.

Subscribed and sworn to before me on this 10th day of October, 1885.

OWEN FITZSIMMONS,

Notary Public, Kings Co., N. Y., cert. filed in N. Y. Co.

Affidavit of Z. F. Wilbur.

CITY OF WASHINGTON, *District of Columbia*, ss:

Zenas Fisk Wilbur, being duly sworn, hereby deposes and says as follows: I am of lawful age, and by profession a solicitor of patents. I was for some years a principal examiner in the United States Patent Office, having for years the class of electricity under my charge. Since resigning from that office I have acted as solicitor in several hundred electrical cases, have been called on frequently to report upon the scope and validity of patents for electrical inventions, and to testify as expert in litigated cases.

I have carefully examined U. S. letters patent granted to James W. McDonough, No. 245,534, dated August 9, 1881, No. 236,800, dated September 6, 1881, and No. 248,002, dated October 4, 1881, and also what purports to be a copy of the original application of said McDonough for an "Improvement in Telilogues" (the apparatus now designed telephone), filed by him April 10, 1876.

The said patents appear to be legitimate and lawful divisions of such original application, the drawings or apparatus shown being the same in all the patents and the same as shown in the original application. The description in the various patents seem to be based entirely and legitimately thereon, and the claims such as could properly be made upon the apparatus shown and the description given thereof.

This application and these patents show a practical speaking telephone—that is, one by which articulate speech can be practically transmitted, reproduced and received. In general principles it resembles the prototypes of all speaking telephones (Reis and Meucci).

The arrangement in the transmitter for connecting the electrodes by the loose spring yoke insures a variable pressure contact, and is in substance and reality of the same type as the subsequent modification of the Reis telephone, known as the Blake transmitter. The receiver shown in said patents is a true electro-magnetic receiver. There

can be no doubt that the entire apparatus shown in McDonough's patent and application is much more operative and practical for the purpose of a speaking telephone than that shown in the patent of A. G. Bell, No. 174,465, March 29, 1876, if it be conceded (which does not seem to be the case) that there is any practicability or value in the alleged invention of such last-named patent for a speaking telephone, both the inventions of Bell and McDonough being modifications only of the prototypes named, viz, the telephones of Reis and Meucci.

ZENAS FISK WILBUR.

Sworn to and subscribed before me this 7th day of November, A. D. 1885.

[SEAL.]

N. CALLAN,
Notary Public.

Record of Department of Justice respecting applications made and granted for the institution of suits in the name of the Government for the revocation of letters patent.

PATENT CASE J. L. STEVENS.

On March 6, 1874, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings. On March 13, 1874, the Secretary replied, and on March 14, 1874, the United States attorney for the northern district of Illinois was authorized to sign the name of the Attorney-General to the application for repeal of patent.

DEPARTMENT OF JUSTICE,
Washington, March 6, 1874.

Hon. C. DELANO,
Secretary of the Interior:

SIR: I have the honor to inclose a copy of a letter addressed to me by Messrs. West and Bond, with the accompanying papers, in which application is made for leave to use the name of the Attorney-General on behalf of one Abner Bryant to repeal a patent issued to one John L. Stevens and others for a new and useful improvement in egg-carriers. I respectfully ask that you will refer these papers to the Commissioner of Patents and request him to give me any information he may have in respect to the subject, and also his views as to the propriety of my acceding to the request of Messrs. West and Bond. Nothing appears to show that any proceedings have been taken by the patentees against any one for an infringement of their patent, nor does it appear that they did not act in good faith and did not honestly believe themselves to be the inventors when they obtained the patent.

I am doubtful as to whether or not any person who obtained a patent should be called upon to defend its validity against a suit brought in the name of the Attorney-General at the instance of any person who may allege its invalidity. I do not think, at any rate, that the Attorney-General ought to allow his name and authority to be used for the purpose of attacking a patent by suit, unless he is advised by the Secretary of the Interior that it is desirable and proper that such suit should be commenced; otherwise one Department of the Government would be put in the attitude of attacking the acts of another Department. I respectfully request, therefore, that you signify to me your wishes in respect to the inclosed application of Messrs. West and Bond.

Very respectfully,

GEORGE H. WILLIAMS,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, March 14, 1874.

J. O. GLOVER, Esq.,
United States Attorney, Chicago, Ill.:

SIR: I inclose affidavit and bill which were sent to me by Messrs. West and Bond, of your city, with an application to allow the name of the Attorney-General to be used to repeal the patent described in the bill.

I have concluded, after conferring with the Secretary of the Interior upon the subject, to grant their request, upon the condition that they make the necessary provision to save the United States harmless from all costs or expenses in the proceedings. You are, therefore, authorized to sign my name to the inclosed bill, and deliver the same, with the affidavit, to Messrs. West and Bond, whenever the necessary arrangements are made as to costs and expenses.

Very respectfully,

GEO. H. WILLIAMS,
Attorney-General.

PATENT CASE OF RUMFORD CHEMICAL WORKS.

On April 9, 1875, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings. On April 17, 1875, the Secretary replied, and on April 17, 1875, the United States attorney for the district of Rhode Island was authorized to attach the name of the Attorney-General to the application for repeal of patent.

DEPARTMENT OF JUSTICE,
Washington, April 9, 1875.

Hon. COLUMBUS DELANO,
Secretary of the Interior:

SIR: I herewith respectfully submit an application of George V. Hecker for leave to file an information in the name of the United States to set aside certain letters patent held by the Rumford Chemical Works with the accompanying papers.

Before taking action upon the subject I desire an expression of your views as to the propriety of granting the application.

Very respectfully,

GEO. H. WILLIAMS,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, April 17, 1875.

JOHN A. GARDNER, Esq.,
U. S. Attorney, Providence, R. I.:

SIR: Application has been made to me by George V. Hecker to file an information in my name against the Rumford Chemical Works, and another to vacate certain letters patent held by that company, which are described in the inclosed copy of the information which Hecker proposes to file.

I have duly considered this application after obtaining a report thereon from the Commissioner of Patents, and am of the opinion that it should be granted.

You will therefore file an information substantially like the one a copy of which is here inclosed in the circuit court of the United States for the district of Rhode Island; and you are authorized to attach my name thereto; and I think it proper that yours should also be attached as district attorney for the district in which the suit is brought. You are to understand that the proceedings after the information is filed are to be conducted altogether by the attorneys of Mr. Hecker and at his expense. Before filing the information you will require him to secure in some proper way the United States against all expenses in the proceeding, and after such security is given and the information properly filed you will take no further action in the case until otherwise instructed by this Department.

I inclose a copy of the report of the Commissioner of Patents, and of a communication to me from the Acting Secretary of the Interior; but in view of the decisions of the Supreme Court, and the statements made in the report of the Commissioner, I do not agree with the opinion expressed by the Acting Secretary.

Very respectfully,

GEO. H. WILLIAMS,
Attorney-General.

WOODBURY PATENT PLANING MACHINE COMPANY.

On May 10, 1875, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings. On May 11, 1875, the Secretary replied, and on May 11, 1875, the U. S. attorney for the district of Connecticut was authorized to allow a *scire facias* or a bill in equity to be filed in the name of the U. S., &c.

DEPARTMENT OF JUSTICE,
Washington, May 10, 1875.

Hon. COLUMBUS DELANO,
Secretary of the Interior:

SIR: I herewith inclose an application made to me by L. Gould, president, &c., for a *scire facias* proceeding against the patent granted to Joseph Page Woodbury, of Boston, Massachusetts, April 29, 1873, numbered 138,462, U. S. Patent Office, duly assigned to the Woodbury Patent Planing Machine Company, of Hartford, Connecticut, also a copy of a letter addressed to me by the attorneys for the said company.

I respectfully request an expression of your opinion as to whether or not this application should be allowed.

Very respectfully,

GEO. H. WILLIAMS,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, May 11, 1875.

CALVIN C. CHILDS, *U. S. Attorney, Stamford, Conn. :*

SIR: I inclose the petition of L. Gould for a *scire facias* proceeding against the patent granted to Joseph Page Woodbury, of Boston, Massachusetts, April 29, 1873, numbered 138,461, U. S. Patent Office, duly assigned to the Woodbury Patent Planing Machine Company, of Hartford, Connecticut; also a copy of a letter from the Commissioner of Patents to the Secretary of the Interior upon the subject of the petition, and a copy of one from the Secretary to me, inclosing a copy of the Commissioner's.

I have determined, in view of the facts as presented in the petition and letter of the Commissioner, to whom it was referred for a report, to allow a *scire facias* or a bill in equity to be filed in the name of the United States in the proper court to carry into effect the object of the petition. When, therefore, a bill is duly prepared by the counsel for Mr. Gould and presented to you, setting forth in substance the case as stated in the petition, you are authorized to subscribe your name thereto as district attorney, and also mine as Attorney-General of the United States, and cause the said bill so prepared to be filed in the proper court. The cause thereafter, on the part of the petitioner, will be conducted by his counsel, and you are to require of him, upon the filing of the bill, proper security to indemnify the United States against all costs in the prosecution.

Very respectfully,

GEO. H. WILLIAMS,
Attorney-General.

EDISON *et al.* v. WESTERN UNION TELEGRAPH COMPANY.

On May 25, 1876, the Secretary of the Interior wrote to the Attorney-General, and on May 26, 1876, the U. S. attorney for the District of Columbia was instructed to examine the matter, and, if necessary, enter an appearance for the United States.

DEPARTMENT OF JUSTICE,
Washington, May 26, 1876.

HENRY H. WELLS, Esq.,
U. S. Attorney, Washington, D. C. :

SIR: I inclose a copy of a letter of the 25th instant, received by me from the Secretary of the Interior.

In compliance with his suggestion you will examine the case of Edison *et al.* vs. The Western Union Telegraph Company, and, if necessary, you will enter an appearance for the United States.

The subpoenas inclosed in the Secretary's letter are herewith forwarded to you.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

PATENT CASE OF THOS. H. CURREY.

On November 25, 1876, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings. On November 29, 1876, the Secretary replied, and on December 5, 1876, the U. S. attorney for the Southern district of Ohio was authorized to allow a *scire facias* or bill in equity to be filed in the name of the United States.

DEPARTMENT OF JUSTICE,
Washington, November 25, 1876.

Hon. Z. CHANDLER,
Secretary of the Interior :

SIR: I have the honor to transmit herewith a letter of the 22d inst., addressed to me by Zera Getchell, of Cincinnati, Ohio, and the inclosures therewith.

He claims that letters patent No. 99,856, granted to Thomas H. Currey, of Cincinnati, on the 15th of February, 1870, for the exclusive use of a certain improved elastic point, were procured by fraud, and he presents affidavits in support of this allegation, and asks leave to bring an action in the name of the United States to set aside the patent.

I have the honor to request that you will have the case examined by the Commissioner of Patents, and that you will transmit to me his report, with such advice thereon as you may see fit to give me.

Very respectfully, your obt. servt.,

ALPHONSO TAFT,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, December 5, 1876.

WARNER M. BATEMAN, Esq.,
U. S. Attorney, Cincinnati, Ohio.

SIR: I enclose the petition of Zera Getchell, of Cincinnati, Ohio, in which he asks leave to bring an action in the name of the United States in the United States circuit court for the southern district of Ohio, to set aside and declare null and void letters patent No. 99,856, granted to Thomas H. Currey, of Cincinnati, Ohio, on the 15th day of February, 1870, for the exclusive use of a certain improved elastic paint, also the affidavits supporting said petition; also a copy of a letter, of the 28th ultimo, from the Commissioner of Patents to the Secretary of the Interior upon the subject of the petition; also a copy of a letter of the 29th ultimo from the Secretary to me.

I have determined, in view of the facts as presented in the petition, and as recommended by the letter from the Secretary of the Interior, to allow a *scire facias* or bill in equity to be filed in the name of the United States in the proper courts to carry into effect the objects of the petition.

When, therefore, a bill is duly prepared by the counsel for Mr. Getchell, and presented to you, setting forth, in substance, the case as stated in the petition, you are authorized to subscribe your name thereto, as district attorney, and also mine, as Attorney-General of the United States, and cause the said bill so prepared to be filed. The cause thereafter, on the part of the petitioner, will be conducted by his counsel, and you are to require of him, upon the filing of the bill, proper security to indemnify the United States against all costs in the proceeding.

Very respectfully,

ALPHONSO TAFT,
Attorney-General.

PATENT CASE JOHN GUNNING.

On December 8, 1882, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings. On December 18, 1882, the Secretary replied, and on January 13, 1883, the U. S. attorney for the southern district of New York was authorized to file a bill in chancery for annulment of patent.

DEPARTMENT OF JUSTICE,
Washington, December 8, 1886.

Hon. HENRY M. TELLER,
Secretary of the Interior:

SIR: I have the honor to transmit herewith the petition, with affidavits, of Messrs. Cæsar Bros., of New York, by Louis C. Raegener, their attorney, asking for proceedings by the United States to annul letters patent No. 265,061, granted Sept. 26, 1862, to John Gunning, of New York.

I respectfully ask that any information upon the subject that may be in the power of the Patent Office to give may be furnished me; also your opinion whether any action of this Department, with a view to set aside the said patent, is proper or expedient.

With your reply I will thank you to return the enclosures herewith.

Very respectfully,

BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, January 13, 1883.

STEWART L. WOODFORD, Esq., U. S. Attorney, New York:

SIR: I return herewith the papers pertaining to the petition presented to this Department by Louis C. Raegener, esq., in behalf of his clients, Messrs. Cæsar Bros., asking that proceedings by bill in equity be instituted by the Government to annul letters patent issued in September, 1882, to John Gunning, of New York, for a new and useful improvement in enameled letters and figures.

Upon an examination of the affidavits, and of the reports upon the subject made to me by the Commissioner of Patents, and by Mr. Clarke of your office, I have determined that it is right and expedient, and that it will be for the public good that suit for the above purpose should be commenced.

You are therefore hereby directed to file in the proper court in my name as Attorney General of the U. S. a bill in chancery, the object of which shall be the annulment of said patent. If agreeable to you, you will invite Mr. Raegener to assist in

framing the bill and in the conduct of the case, but your office will retain the control thereof.

I will suggest that your assistant, Mr. Clarke, who has already looked into the case, and is familiar to the law pertaining to patent rights, have charge of this matter.

I enclose a communication for Mr. Raegener, giving him authority as your assistant to aid in the cause, but without compensation from the U. S. If it is not agreeable to you to have Mr. Raegener thus employed, you will not deliver to him this letter of authority.

Very respectfully,

BREWSTER,
Attorney-General.

PATENT CASE SAM'L FRAZIER.

On July 21, 1884, the Attorney-General wrote to the Commissioner of Patents for information as to institution of proceedings. On July 22, 1884, the Commissioner replied, and on July 30, 1884, the U. S. attorney for the northern district of Illinois was authorized to sign the name of the Attorney-General to a bill in equity.

DEPARTMENT OF JUSTICE,
Washington, July 21, 1884.

COMMISSIONER OF PATENTS:

SIR: Herewith I send a draft of a bill in equity, *The United States vs. Samuel T. Frazier*, northern district of Illinois, and three affidavits in support of the same.

These have been sent to this Department with a request that the same be allowed to be filed for the purpose of vacating the patents therein mentioned.

I have read the bill, and before coming to any conclusion upon the request transmit the same to you, asking that the same may be examined, and that any remarks which you may think proper to make upon this application, in the interests of the public, shall at your earliest convenience be returned.

Such examination and early return will confer an obligation upon me which I hereby anticipate and acknowledge.

I also add the original letters (jacketed) here received in connection with the bill, being two each from United States Attorney Tuthill, and from Messrs. West and Bond, of Chicago, Illinois.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, July 30, 1884.

R. S. TUTHILL, Esq.,
United States Attorney, Chicago, Ill.:

SIR: Herewith I return the draft of a bill in equity, *the United States of America v. Samuel Frazer*, of Galena, Illinois, which Messrs. West and Bond of Chicago propose to file, for the purpose of vacating patents Nos. 310,455 (Sept. 9, 1870), and 343,407 (October 10, 1880).

Upon a sufficient bond being filed to secure the United States against all costs; it being understood as well that the United States are to be at no expense on account of this proceeding, you are hereby authorized to sign the name of the Attorney-General to the inclosed bill, and file it accordingly. You will also give your attention from time to time to the progress of the suit, and whenever you think fit, advise this office thereabouts.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

PATENT CASE ZENAS C. WARREN.

On October 6, 1885, the Attorney-General wrote to the Secretary of the Interior for information as to the institution of proceedings. On October 20, 1885, the Secretary

replied, and on October 21, 1885, the U. S. attorney for the district of Massachusetts was instructed to institute proceedings to annul grant of letters patent.

DEPARTMENT OF JUSTICE,
Washington, October 6, 1885.

The SECRETARY OF THE INTERIOR:

SIR: I transmit herewith two letters from Mr. Roberts (member of the law firm of George L. Roberts & Bros., of Boston, Mass.), with accompanying documents, relative to the institution of proceedings against Zenas C. Warren to set aside certain letters patent, and to ask that you cause the same to be considered at an early day and return them to me with such suggestions and advice as you think proper to give in the premises.

Very respectfully,

A. H. GARLAND,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, October 21, 1885.

GEORGE P. SANGER, esq.,
United States Attorney, Boston, Mass.:

SIR: At the suggestion of the Commissioner of Patents, concurred in by the Secretary of the Interior, that the evidence in the matter of letters patent, No. 318063, to Zenas C. Warren, makes at least a strong *prima facie* showing of abundant reason why the patent is fraudulent and void; and in accordance with the recommendation of the Commissioner and Secretary to that effect, you are instructed to institute proceedings to annul the said grant of letters patent. Mr. John L. S. Roberts, of Boston, has this day been appointed assistant United States attorney, without compensation, for the purpose of aiding in the prosecution of this suit. It is distinctly understood that the United States shall not be charged with any costs or expense whatever in connection with the case.

I return herewith the bill of complaint with my signature, together with the evidence submitted by Mr. Roberts to the Commissioner of Patents.

Respectfully,

A. H. GARLAND,
Attorney-General.

Record of Department of Justice respecting applications made and refused for the institution of suits in the name of the Government for the revocation of letters patent.

CASES REFUSED.

PATENT CASE KILBOURNE & KILBOURNE.

On January 11, 1876, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings.

On January 13, 1876, the Secretary informed the Attorney-General that the matter had been referred to the Commissioner of Patents for report.

On March 6, 1876, the Commissioner of Patents reported that in his opinion no reason existed for calling in question the legality of the existence of the Kilbourne patents.

DEPARTMENT OF JUSTICE,
Washington, January 11th, 1876.

Hon. Z. CHANDLER,
Secretary of the Interior:

SIR: Herewith I transmit the petition of James Talcott for leave to file a bill in the name of the Attorney-General, to repeal the letters patent granted to Kilbourne & Kilbourne, of Norfolk, Connecticut, Oct. 12, 1858, and numbers 21,762 extended Oct. 11, 1872.

You will confer a favor by referring this petition to the Commissioner of Patents in order that he may report to me any information that he may have or any particular views that he may entertain in such connection.

It is of course desired to have the petition returned along with the report.

Very respectfully,

EDWARDS PIERREPONT,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, March 10, 1886.

Mr. JAMES TOLCOTT, *President, &c.,*
Washington, D. C.:

SIR: Having referred to the Commissioner of Patents your petition that the U. S. attorney for the district of New Jersey be directed to file a bill in equity in the name of the United States, to set aside certain letters patent granted to Joseph K. Kilborn and Edward E. Kilborn, October 12, 1858, and numbered 27,762, and having received the Commissioner's report, I have considered the question, and decline to allow the process asked for. The case appears to be one in which the ordinary remedy open to you is sufficient.

Very respectfully,

EDWARDS PIERREPONT,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, February 29, 1878.

Hon. R. H. DUELL,
Commissioner of Patents:

SIR: Since your report of the 11th instant upon the application of George Olney for the use of the name of the Attorney-General in a case to set aside a certain patent, Mr. Olney has sworn to and filed in this Department an amended petition, alleging that the letters-patent specified in his original petition were obtained through bribery of an officer in the Patent Office, whom he names.

I have now the honor to request that you will examine the case upon the amended petition, report to me the facts, and your judgment upon them.

The amended or original petitions and other papers in the case are herewith forwarded.

Very respectfully,

EDWARDS PIERREPONT,
Attorney-General.

PATENT CASE HENRY M. MARTIN.

On February 1, 1876, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings.

On May 27, 1876, the Commissioner reported that in his opinion there was no cause for action.

DEPARTMENT OF JUSTICE,
Washington, February 1, 1876.

Hon. R. H. DUELL,
Commissioner of Patents:

SIR: I have the honor to transmit to you herewith the petition of George Olney, of Brooklyn, New York, that he be allowed to use the name of the Attorney-General in proceedings to set aside patents number 163,323 and 163,324, issued to Henry M. Martin May 5, 1875.

I have the honor to request that you will at as early a date as possible examine the petition and the accompanying papers, report to me the facts, and your opinion as to the propriety of granting the prayer of the petition.

Messrs. Gilmore, Smith and Company, whose letter accompanies the papers, are attorneys for the petitioner.

Very respectfully,

EDWARDS PIERREPONT,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, Feb'y 29, 1876.

Hon. R. H. DUELL,
Commissioner of Patents:

SIR: Since your report of the 11th instant upon the application of George Olney for the use of the name of the Attorney-General in a case to set aside a certain patent, Mr. Olney has sworn to and filed in this Department an amended petition alleging

ing that the letters-patent specified in his original petition were obtained through bribery of an officer in the Patent Office, whom he names.

I have now the honor to request that you will examine the case upon the amended petition, report to me the facts, and your judgment upon them.

The amended and original petitions, and other papers in the case, are herewith forwarded.

Very respectfully,

EDWARDS PIERREPONT,
Attorney-General.

PATENT CASE JOHN STEVENS, ROLLER GRINDING MILLS.

On January 25, 1881, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings.

On February 3, 1881, the Secretary replied that the Commissioner of Patents states there is no evidence of irregularity or improper action in connection with patent.

DEPARTMENT OF JUSTICE,
Washington, January 25, 1881.

Hon. CARL SCHURZ,
Secretary of the Interior:

SIR: I have the honor to transmit herewith a letter of this date addressed to me by W. G. Rainey, a lawyer of good reputation, of St. Louis, Missouri.

He requests that a suit be instituted by the Attorney-General on behalf of the United States to annul patent No. 228,001, granted to John Stevens, of Neenah, Wisconsin.

I have the honor to request your advice as to whether the petition should be granted. With your reply, which is desired should be as early as possible, please return the inclosed letter.

Very respectfully, your obedient servant,

CHAS. DEVENS,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, February 4, 1881.

W. G. RAINEY, Esq.,
Attorney and Counsellor, St. Louis, Missouri:

SIR: Your letter of the 25th ultimo, addressed to this Department, in which letter you ask the Attorney-General to institute a suit on behalf of the United States to cancel letters patent No. 228,001, issued to John Stevens on the 25th of May, 1880, was referred by me on the 25th of January to the Secretary of the Interior.

I transmit to you herewith a copy of his reply, bearing date the 3d instant; also, copy of a letter of the Commissioner of Patents, bearing date the 1st instant, and a copy of a report made by E. D. Boyd, examiner, dated January 31, 1881.

These papers are transmitted to you upon the supposition that you may desire to make some reply to them. In any event you will please return the copy of the Commissioner's letter and the report of Mr. Boyd, the examiner.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, February 21, 1881.

W. G. RAINEY, Esq.,
Attorney at law, St. Louis, Missouri:

SIR: Your application for permission to institute a suit in the name of the Attorney-General, on behalf of the United States, with the purpose of setting aside and declaring void the patent for an improvement in roller grinding mills, issued May 25, 1880, to John Stevens, of Neenah, Wisconsin, has had my attention, and upon full consideration I do not see it to be my duty to grant your request.

Very respectfully,

CHAS. DEVENS,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, February 21, 1881.

R. L. DOWNTON, Esq.,
Hudson, Wisconsin:

SIR: Your favor of the 16th instant, in relation to institution of a suit in the name of the Attorney-General, in behalf of the United States, for the purpose of setting aside and declaring void the patent for the improvement of roller grinding mills, issued to John Stevens, is received.

I have to-day informed Mr. W. G. Rainey, of St. Louis, who has addressed me upon this subject, that I do not see it to be my duty to grant the request.

Very respectfully,

CHAS. DEVENS,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, April 28, 1881.

W. G. RAINEY, Esq., Attorney at Law, St. Louis, Missouri:

SIR: I have received your letter of the 22d instant, renewing your request that suit be brought in the name of the United States, the object of which shall be to cancel letters of patent No. 228,001, granted to John Stevens, of Neenah, Wis., May 25, 1880. Your statements in letters of the 25th of January and 7th of February, 1881, have been re-examined.

It does not seem to me to be right that the United States should seek to set aside its patent, issued after such examination and consideration as the law requires, upon the suggestion of an attorney, however reputable, supported by no statement or affidavit of his client, who is not even named.

The application should be accompanied by the affidavits not only of the real applicant himself, but of other persons having knowledge of the facts and grounds relied on. Moreover, in such a case it is proper, I think, that the patentee should have notice of the application, and have opportunity to be heard.

As at present advised, I concur with my predecessor in thinking the case not such as requires the favorable action of this Department.

Very respectfully,

WAYNE MACVEAGH,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, May 10, 1881.

Messrs. PARKINSON & PARKINSON,
Counselors, Cincinnati, Ohio:

GENTLEMEN. Replying to your letter of the 7th instant, I beg to inform you that no application for authority to institute proceeding in the name of the United States for the repeal of the patent issued to John Stevens for roller grinding mills is pending in this Department.

If such application should be made, it may be thought proper and expedient to require the applicant to give notice to the patentee as a preliminary condition to the hearing of the case. It is a matter in the discretion of the Department.

When applications are made to the Attorney-General for leave to bring suit in the name of the United States to set aside patents for lands or for inventions, there is no rule of practice in the Department which requires him to give notice to opposing interests.

I must decline therefore to notify you directly if the case apprehended by you should arise.

Very respectfully,

WAYNE MACVEAGH,
Attorney-General.

PATENT CASE CHARLES W. BOYNTON.

On July 15, 1879, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings.

On July 21, 1879, the Secretary of the Interior replied that the Commissioner of Patents saw no reason to doubt the propriety of the grants.

DEPARTMENT OF JUSTICE,
Washington, July 15, 1870.

Hon. CARL SCHURZ,
Secretary of the Interior :

SIR : I have the honor to transmit a copy of a letter of the 12th inst., from Messrs. Banning and Banning, attorneys at law, Chicago, in which letter they request authority to file a bill in the name of the Attorney-General to set aside a certain patent mentioned in the letter.

With your reply, I have the honor to request that you will return such information from the Patent Office as concerns the patent and such advice as you may think proper to give in the case.

Very respectfully,

CHAS. DEVENS,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, July 22, 1879.

Messrs. BANNING AND BANNING,
Attorneys at Law, Chicago, Ill. :

GENTLEMEN: Replying to your letter of the 12th inst., in which you request authority to use the name of Attorney-General in a suit to repeal patents issued to Charles W. Boynton for an improvement in grain-drying kilns, I have to state that having for information referred the matter to the Secretary of the Interior, I find that upon a re-examination of the patents there is no good reason to doubt the propriety of the grants.

The Commissioner of Patents states that no facts are known to him showing the United States to be interested in the proceedings suggested, and cites the case of the Attorney-General *ex rel.* Hecker *v.* The Rumford Chemical Works *et al.*, Patent Office Gazette, vol. 9, p. 1062. Upon this information received from the Patent Office, I must decline to comply with your request.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, July 26, 1879.

Messrs. BANNING AND BANNING,
Attorneys at Law, 147 Randolph St., Chicago, Ill. :

GENTLEMEN: I am informed that the Attorney General, on the 22d inst., replied to your first request for authority to file a bill to annul the patent of Charles W. Boynton; and in view of the decision thus conveyed to you, there seems to be no other duty on my part but to acknowledge the receipt of your note of the 23d inst.

Very respectfully,

S. F. PHILLIPS,
Acting Attorney-General.

PATENT CASE ANNIE J. BROWN.

On October 24, 1882, the Attorney-General wrote to Joshua Pusey, esq., in relation to the institution of suit.

DEPARTMENT OF JUSTICE,
Washington, October 24, 1882.

JOSHUA PUSEY, Esq.,
903 Walnut St., Philadelphia, Pa. :

SIR: I am in receipt of your favor of the 30th ult., inclosing for my consideration the petition of Isaac W. Heysinger, of your city, praying that a suit may be brought in the name of the United States to annul the letters patent No. 260,565, for improvements in devices for inserting and clinching metallic staples, granted to Annie J. Brown, assignee of William J. Brown, jr. (her husband), on the 4th day of July, 1882.

Your letter has had my careful consideration. Before taking any action in the premises it will be necessary for me to select a competent person, at your expense, to carefully review the case, and after a thorough investigation of its merits to report to me whether it is proper for me to accede to your request.

I desire to add that, if I conclude to grant the petition of your client, I must select a counsel, at his expense, to represent the Government. Awaiting your reply, I am, very respectfully, yours,

BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, April 24, 1883.

JOSHUA PUSEY, Esq.,
Atty. at Law, 905 Walnut St., Phila.:

SIR: Replying to your letter of the 13th instant, I transmit herewith petition (with models and other exhibits) received at this Department in Oct., 1882, praying that a suit might be brought in the name of the U. S. to annul certain letters patent of Annie J. Brown, assignee of William J. Brown, dated July 4, 1882.

Very respectfully,

BREWSTER,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, April 28, 1883.

JOSHUA PUSEY, Esq.,
Atty. at Law, 905 Walnut St., Phila.:

SIR: Your letter of the 28th inst., replying to my communication of the 24th of April, has been called to my attention. I have directed that the exhibits referred to in your letter be sent to you by Adams Express.

Very respectfully,

BREWSTER,
Attorney-General.

On Oct. 21, 1883, the Attorney-General wrote to Geo. D. Seymour, esq., in relation to taking steps to repeal patent granted after invention had been in public use, &c.

DEPARTMENT OF JUSTICE,
Washington, October 21, 1883.

GEO. D. SEYMOUR, Esq.,
81 Church St., New Haven, Conn.:

SIR: In reply to your letter of the 18th inst., I beg to refer you to the case of *Mowry vs. Whitney*, 14th Wallace's Supreme Court Reports, page 434.

I know of no *decided* case where a patent right has been vacated on suit instituted in the name of the U. S., or in the name of Attorney-General on behalf of the U. S.

Two or three suits are pending which have been brought in the name of the Attorney-General, leave to institute suit having first been granted by the Attorney-General. These, however, proceeded on the ground of fraud in obtaining the patent, going no farther than the instructions (?) intimation of the court in *Mowry vs. Whitney*.

If it is desired that judicial proceedings be instituted by the Attorney-General to set aside a patent, a petition should be addressed to him, setting forth all the facts and grounds for such proceedings.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

PATENT CASE CHAS. NELSON.

On January 27, 1885, the Attorney-General wrote to the Commissioner of Patents for information as to institution of proceedings.

On February 13, 1885, the Commissioner replied, and invited attention to report made by the examiner who had under consideration the application of Nelson for patent for "noiseless slates."

DEPARTMENT OF JUSTICE,
Washington, Jany. 27, 1885.

COMMISSIONER OF PATENTS:

SIR: Upon a perusal of the within papers (3), being an application, &c., by A. J. Perry, of New York, for leave to file a bill to vacate letters patent 281,785, issued to Charles Nelson, in regard to slate frames, it may be that you shall have some observation to make important to the interestsof the public. I therefore submit the same to you, and ask that at your earliest convenience you will return them with any observations that may occur as above.

Very respectfully,

BENJAMIN HARRIS BREWSTER,
Attorney-General.

PATENT CASE JAS. SARGENT & MARION WARREN.

On July 23, 1885, the Attorney-General wrote to the Secretary of the Interior for information as to institution of proceedings.

On Aug. 3, 1885, the Secretary replied, and said that in his opinion there was no question raised as to the patentability of the invention.

DEPARTMENT OF JUSTICE,
Washington, July 23, 1885.

The SECRETARY OF THE INTERIOR:

SIR: I am in receipt of your communication (by Asst. Secy. Muldrow) with accompanying papers, touching the application of Albert S. Bigelow for the bringing of a suit to vacate a certain patent therein named issued Sept. 30, 1884, to James Sargent and Marion Warren.

The communication does not give any wish or expression of opinion as to the request made by Mr. B. As the patent comes from your Department it is usual in such cases, before any action is taken here, for your Department to give some expression of opinion or indicate some wish in reference to the propriety of granting the application; and as I consider the cases in which suits should be brought very rare indeed, I would much prefer the Interior Department would in this case indicate its will or its opinion as to the propriety of the course insisted upon by Mr. Bigelow.

With high regard, &c.,

A. H. GARLAND,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, Aug. 5, 1885.

GEORGE R. SELDEN, Esq.,
Attorney at Law, 50 and 51 Arcade, Rochester, N. Y.:

SIR: I have to-day returned to Hon. Martin I. Townsend, U. S. attorney, a reply to the request heretofore sent up through him for the use of the name of the United States to vacate letters patent to Sargent & Warren, made on behalf of Albert S. Bigelow, and I have sent to him the papers which accompanied that application.

Very truly, yours,

A. H. GARLAND,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, Aug. 5, 1885.

Hon. MARTIN I. TOWNSEND,
U. S. Attorney, Troy, N. Y.:

SIR: The application of Albert S. Bigelow for the use of the name of the United States in a suit to vacate Letters Patent 305,956, issued to James Sargent and Marion Warren, has been for some time before the Secretary of the Interior, and to-day I have received from him the papers, with his recommendation that the name of the United States for that purpose be not granted. The Secretary of the Interior concurs in the report made upon this subject by Mr. Montgomery, the present Commissioner of Patents, a copy of which report I herewith send you. I have also mailed to you the other papers in the case.

After a careful examination of the report of Mr. Montgomery, and the accompanying papers, I am of the opinion that his conclusion is correct, and that a proper case for interference by the United States has not been furnished, and therefore I decline to grant the use of the name of the United States for that purpose.

Very respectfully,

A. H. GARLAND,
Attorney-General.

[Extract from Professor Wellington Adams's compilation entitled *The Telephone Case*, pp. 230 to 265.]

ALLEGED ADJUDICATIONS.

The alleged prior adjudications are as follows, stated in the order of their dates:
American Bell Telephone Co. *vs.* Charles E. and W. H. Jones; U. S. circuit court, Cincinnati, 1878.

American Bell Telephone Co. *vs.* Addison G. Hard; bill filed September 2, 1878.

American Bell Telephone Co. *vs.* Peter A. Dowd; bill filed September 12, 1878.

American Bell Telephone Co. *vs.* Jesse H. Bunnell; bill filed October 21, 1878.

American Bell Telephone Co. *vs.* Jerome Reading; bill filed January 24, 1879.

Same *vs.* Ashael K. Eaton and others; bill filed June 22, 1880.

Same *vs.* Pearce and Jones and others; bill filed July 7, 1880.

Same *vs.* Albert Spencer *et al.*; bill filed July 8, 1880.

Same *vs.* John H. Lazelle; bill filed August 18, 1880.

Same *vs.* The People's Telephone Co.; bill filed October, 1880.

Same *vs.* Edward E. Harbert, N. D. Illinois; bill filed January 17, 1881.

Some *vs.* Foster Magnet Telephone Company and others, N. D. Illinois; bill filed February 23, 1881.

Same *vs.* A. H. Craney and others, S. D. New York; bill filed February 25, 1881.

Same *vs.* Henry Shaw, and others, S. D. New York; bill filed June 15, 1881.

Same *vs.* Amos E. Dolbear, district of Massachusetts; bill filed November 7, 1881.

Same *vs.* John J. Ghegan, district of New Jersey; bill filed May 26, 1882.

Same *vs.* Andrew Albright, district of New Jersey; bill filed June 8, 1882.

The docket entries in most of these cases appear in the *Overland Record*, pages 35 to 45.

There was no real contest in any of these cases, except the following five: The Dowd case, the Spencer case, the Ghegan case, The People's Telephone Company case, and the Dolbear case.

The nature and circumstances of these five cases will be considered hereafter in detail.

As to the others:

In the Hard case: An injunction was issued on the affidavit of C. E. Hubbard within ten days after filing a bill, and the bill was taken *pro confesso* for want of appearance and answer.

In the Bunnell case: A final decree was entered and injunction issued without any answer.

In the Reading case: An agreement for final decree and satisfaction of judgment was filed January 24th, being the date of filing the bill.

In the Eaton case: The Eaton case followed the Spencer case and was determined accordingly—the facts being the same.

In the Pearce & Jones case: The bill being filed July 7th, 1880, a consent and interlocutory decree were filed August 11th. There was no answer or contest.

In the Lazelle case: There was no appearance or answer, and the bill was taken as confessed.

In the Harbert case: There was no appearance or answer, and the bill was taken as confessed.

In the Foster Magnet case: There was no appearance or answer, and a decree by default; reference to master waived; damages assessed at six cents.

In the Craney case: There was an appearance and answer; proofs filed on the part of the complainant, but no evidence offered on the part of the defendants, and an interlocutory decree was thereupon entered with reference to a master and an injunction issued, but nothing further done.

In the Shaw case: There was no appearance or answer, and the bill was taken as confessed.

In the Albright case: An appearance and answer were filed; testimony was taken and filed on the part of the complainant, but none on the part of the defendant.

With respect to the case of Charles E. and W. H. Jones, in Cincinnati, we have no information, and the Bell Co. has made no proof. It must be assumed that they were substantially in the same situation as the foregoing.

These cases, in which there was no real contest or discussion, are of course of no importance as prior adjudications. They only serve to show that from the outset the rights under the Bell patents were challenged and disregarded in various parts of the country.

The other five cases are the only ones which can be relied upon to establish such prior adjudication as will justify an injunction, and all of these cases will be considered in some detail in the order of their dates.

THE DOWD CASE.

This case was against Peter A. Dowd, an agent of the Western Union Telegraph Company, the Gold and Stock Telegraph Company, and the American Speaking Telephone Company, which had associated themselves together, as alleged in the tenth paragraph of the bill, for the purpose of contesting the rights of the American Bell Telephone Company. It was, therefore, apparently, at its inception, a real contest, and the defendants were large corporations, amply able to conduct such a controversy to a final conclusion.

This bill was founded upon the two patents which are the foundation of all suits. It simply alleged the issuing of the patents and their assignment to the Bell Telephone Company, and the introduction of the patented invention into public use, and the infringement by the defendant.

The answer alleged the want of novelty of said invention specified in the patent of March 7, 1876. That it was known and used by Elisha Gray, Thomas A. Edison, Amos E. Dolbear, Alfred G. Holcomb, W. F. Chaming, W. F. Edmunds, and James Hamblet, jr., before any invention by Bell, and was described in and patented by certain letters granted to Edison and Harrington, William Thompson, and to Charles Wheatstone by the Government of Great Britain, and that it had long before been described in the following publications:

Electricity and Magnetism, by Jenkins, published in London and New York in 1877, p. 334.

In Schellen's Electro-Magnet Telegraph, published in Germany in 1867, pp. 468, 496.

The Electric Telegraph, by Sabine, published in London in 1867, at pages 45 and 46.

The Electric Telegraph, by Dr. Lardner, published in London in 1867, at pages 164, &c.

None of these inventions had any reference whatever to the publications of Philipp Reis.

The answer alleged with regard to the second Bell patent of January 30, 1877, that Bell was not the original and first inventor of the improvement in the patent, and that before any invention thereof the same was known to Elisha Gray, Thomas A. Edison, Amos E. Dolbear, and Alfred G. Holcomb, Philip H. Vanderweyde, and W. F. Hamilton, and that it was described in British letters patent to J. H. Johnson; Canada letters patent to Elisha Gray, July 7, 1875; United States letters patent to Elisha Gray, July 27, 1875; United States letters patent to Elisha Gray, April 11, 1876, and has been described in the same publications above stated, and also in the *Zeitschrift des Oesterrichischen Telegraphen Verein*, published in Berlin, 1862, volume 9, page 125.

In the Telegraphic Journal, London, 1872, volume 1, page 4.

In Electricity, by R. H. Ferguson, 1867, page 257.

In the Telegrapher, New York, 1869, volume 5, No. 39.

The Manufacturer and Builder, November, 1869, volume 1, page 129.

Of Electricity, by J. Baile, New York, 1872, page 140; and the Telegraphic Journal, London, 1879, volume iii, 286.

The answer also alleges the invalidity of the Bell patents on several grounds, and denied that the telephones showed and used by the defendant infringed any valid claim of either the patents.

The answer was amended, by consent as of November 4th, 1878, by inserting as additional anticipating patents relating to the Bell patent of March 7th, 1876, the following patents:

English patent to John Henry Johnson, July 7th, 1875.

English letters patent to said Johnson, March 6th, 1875.

United States letters patent to Elisha Gray, July 20th, 1875.

United States letters patent to said Gray, July 27th, 1875, No. 166,094.

United States letters patent to said Gray, July 27th, 1875, No. 166,095.

United States letters patent to said Gray, February 15th, 1876, No. 173,460.

United States letters patent to said Gray, dated February 15th, 1876, No. 173,618.

The amendment also inserted in the answer the same letters patent as anticipations of the second Bell patent, but did not in any way refer to any other publication.

The amendment also stated in detail Gray's application of February 14th, 1876, and alleged that in granting the patent to Bell it had been overlooked by mistake or inadvertence.

On the part of the complainant the *prima facie* case consisted of the deposition of Henry B. Renwick, the complainant's patents and the assignment thereof.

The evidence for the defendant consisted of the testimony of William H. Goodridge, Elisha Gray, Milo C. Kellogg, Enos M. Barton, Anson Steger, Edward S. Renwick, and Amos E. Dolbear, Frank L. Pope, and some of the patents and publications mentioned in the answer; but the "Zeitschrift," which is the Von Legat article concerning Reis, though mentioned in the answer with reference to the second Bell patent, was not offered in evidence, and none of the publications now known as the "Reis Publications" were offered in evidence.

In fact the only publication offered in evidence, referring in any way to the Reis publications or to the Reis inventions, was a paper entitled "Electricity," by Robert Ferguson, which appears on page 702, volume ii Dowd Record, which article contains a drawing of the first Reis instruments, and a very brief description of the same, without any reference to its origin or history.

The complainant, in reply, re-examined Professor Charles R. Cross, Alexander Graham Bell, and Thomas A. Watson, and several other witnesses, and before any further evidence was offered on the part of the defendants the case was ended by a settlement.

It is alleged by the bill in this case—

"That upon consideration of the proofs and the opinions of their professional advisors, the defendant and the said corporation became satisfied that Bell was the true, original, and first inventor of the speaking telephone and the inventions covered by the patents, and agreed to desist from further infringement, and have since desisted from further infringement, and placed and caused to be placed all the telephones within their power or control under license under said Bell patents, and paid or caused to be paid the usual and customary yearly royalty therefor habitually charged by the assignees of said Bell to other parties for like use, and agreed that they would not thereafter make electric speaking telephones, and would not thereafter use electric-speaking telephones, except such as should be made and furnished to them by your orator or the assigns of said Bell and under license under said Bell patents, and that for their use of the same they should pay not less than the usual and customary royalty from time to time charged to others by your orator."

It is alleged that in accordance with the advice of the counsel of the telegraph companies, a final decree was made for the complainant with the consent of the defendant, and by said decree said two Bell patents were adjudged and declared to be valid, and the defendant was perpetually enjoined.

Upon referring to the affidavit of Mr. George Gifford, given in the proofs of the complainants in reply on this motion (p. 192), it is manifest that the statement in the bill is not a fair relation of the circumstances under which the decree in the Dowd suit was made. Mr. Gifford states that the Western Union Telegraph Company, which is one of the real defendants in the suit, owned the Page patent, which covered the induction coil, the two patents of Gray for harmonic telegraphs, which it was contended would be infringed by the use of the Bell telephone, and controlled also the applications for patents by Gray for a receiver, and by Edison for carbon transmitters and microphone, which it was claimed and expected would be granted in the Patent Office over Blake, whose transmitter the Bell Telephone Company claimed to control and had in use. He says that while he believed that Bell was the inventor of the telephone described and claimed in his patent, and that his patent covered the various devices of telephones controlled by the Western Union Telegraph Company in which the carbon transmitter and microphone were elements, yet the Western Union Telegraph Company controlled patents and inventions which it was claimed might cover all known devices of telephones, and that under his advice negotiation was opened with the complainant on that basis; that he admitted that Bell's patent was valid and that the defendant infringed it, and that those questions formed no part of the discussion, but claimed that all the patents should be put together, and that the defendants should have one-half interest in the resulting combination.

That this claim was refused, but that the negotiation was taken up by the principals and resulted in the surrender by the Western Union Company to the Bell Company of certain telephone lines and exchanges, and in their giving to the Bell Telephone Company an exclusive license under all the patents which they claimed were infringed by the Bell telephone, and that in exchange for this license the Western Union Company gave a small interest, much less than he claimed for them, and the results of the combined patents and the entire business was left in the hands of the Bell Telephone Company.

Mr. Gifford, in this affidavit, was speaking of his knowledge in 1878 and 1879, at a time when not even the now well known publications concerning Reis's telephones were sufficiently familiar to have been put in evidence in the cause, and when the claims of McDonough seemed to have been entirely unknown to any of the parties, no mention of them being made throughout the case.

It is not to be wondered at, therefore, that at that time Mr. Gifford was induced to concede, in the interest of his clients, that Bell was the first inventor of the telephone.

It is manifest, from all the proceedings in that case, that the contest was between Bell and Gray, whose application had been filed January 27th, 1876, and whose caveat was filed February 14th, 1876, being the same day on which Bell's application was filed.

Much the larger part of the testimony and exhibits in the Dowd case related to the controversy between the Bell patents, owned by the Bell Telephone Company, and the Gray patents and inventions, owned by the associated corporations which defended the suit.

It was not to the interest of either party to expose or to prove any prior inventions by other parties, or any printed patents or publications, which intended to invalidate the claims of either. It was for this reason, manifestly, that all reference to Reis's publications, with relation to the Bell patent of March 7th, 1876, were carefully excluded from the answer, and for this reason also that the "Zeitschrift" publication of the Von Legat article, which fully sets forth the nature of the Reis invention, was only referred to in the answer with respect to the *second patent*, and was not put in evidence at all.

It is manifest, also, that the result of this case was simply a compromise between the two contending parties seeking to control for their own purposes the entire telephone business of the country, to the exclusion of all others, and that the case was carefully managed in order to avoid revealing the weakness of either in this respect, and that when the controversy had reached a proper stage for that purpose, the principals in interest took the matter out of the hands of counsel and away from court and adjusted their respective rights as they considered best in view of their own interests and the avoidance of any interference by others.

The bill disingenuously states the result as a complete surrender by the defendant and his submission to the complainant's alleged claims without any special advantages given in return.

Mr. Gifford states that he claimed one-half of all the joint interests for the defendants, but that they settled on less advantageous terms.

In order to ascertain what those terms were, so that the effect of this case might be truly understood, the Overland Telephone Co., during the trial of their case, gave notice to the Bell Company's solicitor, January 9, 1884, to produce all agreements, stipulations, or contracts made by the Bell Telephone Company with these associated companies on the settlement on the Dowd suit referred to in Mr. Gifford's affidavit. They were at first informed by the solicitor of the Bell Company that they would refuse to produce these papers as private matters with which it was alleged they had no concern. It was admitted that they had no concern with them unless the case was to be used as an alleged adjudication of the Bell Company's rights. In that case it was contended that the nature of the settlement upon which the decree was based was a matter in which the Overland Co. was concerned, and that those agreements were important and they were entitled to examine them in order to contradict the statement in the bill concerning the result of that case as contained in paragraph 10. From one of these agreements, a copy of which was furnished the Overland Co., it is clear that the Dowd case must be considered simply as the initial piece of legal machinery by which the Bell Telephone Company and its successors and the Western Union Telegraph Company and its associates contrived an arrangement by which they might control the whole telephone business to their own advantage to the exclusion of other prior inventors.

In order to maintain this assertion it is necessary to present the terms of that agreement in some detail, but before stating them a few dates should be borne in mind.

The Dowd case was begun on September 12th, 1878. The taking of evidence was begun January 25th, 1879, and the last day upon which evidence was taken was September 19th, 1879, at Boston. No evidence was taken between July 25th and September 25th, 1879, and then only the testimony of George D'Infreville, Edward E. Quinby, and Henry B. Renwick, all of whom have since been familiar witnesses for the Bell Company, was taken and occupied only four days. The taking of the evidence then ceased without any formal close. It ends abruptly with the last page of part first of the Dowd record. The second part contains a careful collection of exhibits on both sides, and both these volumes were evidently prepared with great care and continuous paging with full indexes and printed at Boston during the year 1880, as appears by the title page. It consists, in fact, of two large volumes entitled Telephone Suits.

A final decree was entered April 4th, 1881, as follows:

CIRCUIT COURT OF THE UNITED STATES, DISTRICT OF MASSACHUSETTS.

BELL TELEPHONE COMPANY ET AL.	} In equity.
<i>against</i>	
PETER A. DOWD.	

In this cause upon the Bell answer and replication, and the proof taken and filed, and settlement having been thereupon made between the parties upon considerations accepted by the parties; *it is now*, to wit, April 4th, eighteen hundred and eighty-one, with the consent of the counsel of the parties respectively, *ordered, adjudged, and decreed* that Alexander Graham Bell is the original and first inventor of the invention specified in the fifth claim of the patent No. 174465, granted to said Bell March 7th, A. D. 1876; and the third, sixth, seventh, and eighth claims of the patent No. 186737, granted to the said Bell January 30, 1877, being the claim in respect of which the proofs were taken; that the said patents are good and valid patents therefor; that the defendant has infringed the same; that he pay to the plaintiff the sum of one dollar, in full satisfaction of profits, damages, and costs, and that he be enjoined from further infringing said patents.

(By the court:)

JOHN G. STETSON,
Clerk.

(See evidence of complainants in the Ghegan case, page 49.)

Now, with these dates in mind, and the form of this decree and the injunction alleged in the bill as the result of the Dowd suit, let us examine the agreement of November 10, 1879, which has been furnished to the Overland Telephone Company as containing the terms of the submission to the claims of the complainant alleged in the tenth paragraph of the bill.

That agreement is between the Western Union Telegraph Company, for itself, and for the Gold and Stock Telegraph Company, the American Speaking Telephone Company, and the Harmonic Telegraph Company, which it represents, party of the first part, and the National Bell Telephone Company, party of the second part.

It appears by the certified copy from the records of the National Bell Telephone Company, appended to this agreement, that a special meeting of stockholders was held in Boston, October 24, 1879, at which it was "voted that the president, treasurer, and clerk be authorized to execute and deliver an agreement with the Western Union Telegraph Company, acting for itself and the Gold and Stock Telegraph Company, the American Speaking Telephone Company, and the Harmonic Telegraph Company, by subscribing and affixing the seal of the company to the contract to be prepared by counsel in accordance with the agreement signed by the special committee of said companies, and submitted to the stockholders at this meeting with such alterations as shall be approved by the board of directors."

And the clerk of the company certifies that the agreement thus submitted to the stockholders, and voted on, was the agreement dated September 27, 1879, between the same companies, a copy of which contract was placed on file.

It appears that at a meeting of the directors of the National Bell Telephone Company, in Boston, November 12, 1879, it was "voted that the agreement made between the Western Union Telegraph Company, acting for itself, and the Gold and Stock Telegraph Company, the American Speaking Telephone Company, and the Harmonic Telegraph Company, party of the one part, and the National Bell Telephone Company of the other part, of which a copy has been laid before this board and placed on file, dated the 10th day of November, 1879, and signed, sealed, and delivered by the president, treasurer, and clerk of the corporation, in pursuance of authority heretofore given them, is hereby declared to be in accordance with the agreement of September 27, 1879, by and between the same parties, and it is hereby authorized, approved, ratified, and confirmed as the act and deed of this corporation."

It thus appears that the agreement of November 10, 1879, was made in pursuance of and in accordance with the prior agreement of September 27, 1879, which was eight days after the taking of the testimony ceased.

In order to learn the true terms of the agreement, which is called in the bill the submission of the defendants to the claims of the complainant, it was necessary to refer to this contract of September 27, 1879.

The Overland Telephone Company accordingly notified counsel of Bell Company to produce that contract, to which they gave this reply, January 16th:

"The copy of the contract with the Western Union Telegraph Company and others, which we sent to you, contained only the contract existing between the National Bell Telephone and the Western Union Telegraph Companies. The contract, earlier

referred to in it and by you in your letter, was an informal agreement pending the preparation and execution of the formal one, of which you have a copy, and was superseded by it, though the former had not ceased to exist when the former one, of which you have a copy, was delivered."

To this the Overland Telephone Company replied:

"Your reply to my notice, served on the 16th instant, is received. The bill in this case states in substance that the associated companies contesting the Dowd case, after all the evidence is in, admitted the rights claimed by Bell Company, and made a complete surrender, and that an injunction was afterwards issued. It appears that on September 27, 1879, an informal agreement was made pending the preparation and execution of the formal one, of which you have furnished a copy, and was superseded by it. Since the point is: What kind of a surrender was made and what were the prices and terms of the subsequent arrangement between the parties, I must again request that you produce and furnish me a copy of the first agreement, which ended the controversy."

The Overland Telephone Co. has not yet obtained any copy of the first agreement, but the former agreement now existing is very important, in view of the attempt of the complainants to put forward the Dowd case as the earliest adjudication of their right, and to use it, as has constantly been done, as a basis, for their claim in subsequent suits.

The associated companies, which had been contesting the Bell claims and concerning their own rights under Bell's patents, are the parties of the first part in this agreement, and the Bell Company is the party of the second part.

The first article provides that the Bell Company shall pay to the associated companies a royalty or *bonus* of twenty per cent. of all rentals or royalties on all telephones used in the United States, under any license from the Bell Company, express or implied, the rentals or royalties to be ascertained by deducting from the gross rentals and commissions the allowance provided for in the agreement.

The second article provides that the royalty or *bonus* to be paid on telephones made in the United States solely for export and not licensed for use in the United States, shall be twenty per cent. of the net profit actually derived by the Bell Company in their manufacture and sale above the cost of such manufacture, not including any part of the general expense of the Bell Company as part of such cost, and not including in the manufacturer's profit any enhancement of price fairly due to the fact that the Bell Telephone Company holds, or in any way controls, monopoly of the use of such telephones in any other foreign country other than Canada, if such case shall exist: *Provided*, however, that where the party of the second part shall be in any way interested in the purchase or use of such telephones in such foreign countries it shall be at the option of the party of the first part to require an accounting for all telephones so exported, as if sold at a fixed profit of thirty-three and one-third per cent. upon the cost of manufacture.

After various and minute provisions as to the arrangements established between the parties and the mode of carrying them into effect, article fourth provides:

"The party of the first part shall bear and pay twenty per cent. and the party of the second part eighty per cent. of all reasonable legal expenses incurred in ascertaining, investigating, and determining, and in prosecuting and defending rights which the party of the second part may have, claim, or wish to acquire pertaining to telephones, or the right to use telephones, and concerning patent rights which I or others may claim respecting the same, including expenses in suits and in proceedings in the Patent Office relating to such rights or to the collection of rental or royalties on telephones. Expenses incurred in whole or in part in respect to inventions or improvements which were or may be used otherwise than in telephones shall be apportioned, and such part thereof as may be justly chargeable to the telephone interests shall be borne by the parties hereto in the proportion above stated, and such part thereof as shall justly be chargeable to other interests shall be borne by the owners thereof."

By article five the associated companies granted to the Bell Company an exclusive license for full terms for all patents which had been or might be granted to them or *those it represented*, to use and license others to use the speaking telephone called Bell's, and switches and other appliances for the use of telephonic lines, reserving, however, the right to use those inventions and the switches, call-bells, and appliances other than telephones, in connection with telephones, which they are or may become entitled to use under this contract.

This article also provided that the associated companies would acquire other inventions for telephones which it had the right to acquire under certain contracts with George H. Phelps and Thomas A. Edison, to license the telephone company to use the same. The latter agreed to pay whatever the associated companies might be required to pay to Edison and Phelps for them, and that if the associated companies should acquire the ownership of other inventions adapted to the telephone, the Bell Company should have the right to use them for telephone purposes, and should be bound to pay the costs, or a true proportion of it.

And it made also the following provisions:

"(5) This contract shall operate as a release to the parties hereto, and those they represent, and their respective licensees and predecessors for all claims for infringements of patents on which suits are now pending in which said parties or any of their licensees or predecessors are parties, and all claims for infringement of other patents or inventions owned or controlled by them, or either of them, growing out of or based upon the manufacture or use of telephones now used in territory to which this contract applies at once; but as to the telephones in territory to which it does not apply at once, it is not to operate as such release (and each party stands on its right in such conflicting territory) until settlements are made and interests harmonized as hereinafter provided, or until the parties hereto agree that it shall operate as a release upon telephones in such localities, and either of such cases it shall thereupon operate as a release in respect of telephones in such locality."

Article 6 provides:

"Except as hereinafter provided, the first party and the companies it represents agree to withdraw from the manufacture, rental, and use of telephones."

Article 7 provides:

"The party of the first part agrees to give assistance and co-operation in developing and extending the use of telephones of the party of the second part, and that the party of the second part shall, during the term of this contract, and when in the judgment of the first party it shall not interfere with the enjoyment and use of the same by said first party for telegraphic purposes, have permission to build lines under any franchises, contracts, licenses, or rights of way enjoyed or controlled by the party of the first part, or to use any poles, fixtures, structures, or plant of said first party, upon reasonable terms, subject, however, to a revocation of such license to use any poles, structures, fixtures, or plant at any time, by a reasonable notice with the party of the second part."

Article 8:

"Whereas it is intended as a part of this agreement, that all telephones heretofore put out under lease or under license by and from the party of the first part and those it represents, shall, without any exception (except temporarily, where this contract does not at once apply), become the property of and come under the lease and license from the party of the second part, and when so transferred and placed under lease and license in accordance with the terms hereof, shall not be pursued or treated as infringing instruments in respect of any use thereof prior to the date of this agreement."

"And whereas it is also intended that all telephone exchanges, which have heretofore be and established by the party of the first part, or those it represents, by or under contracts with them or some of them, shall, together with their plant, be transferred to the party of the second part and become its property, and that all the interests of the party of the first part, or those it represents, whether as holders of stock or other interests in telephone exchanges, or corporations or organizations owning and maintaining exchanges, shall be transferred to the party of the second part and become its property, except in the localities named in section fifth of this article."

Article 8 then went on to provide immediately as to the terms of this combination, and provided in section 4 that the price to be paid by the Bell Company to the associated companies for instruments and all properties and interests to be transferred, including a long lease of property described in the schedule and with the value fixed for each item, amounting in the whole for instruments alone, of the various accounts turned over by the associated companies to the Bell Company, to over two hundred thousand dollars, and showing many thousand instruments in use by the associated companies prior to that time and turned over in pursuance to this agreement.

After other minute provisions for future business of this combination, and the adjustment of the relation of the parties in the management of the business of telegraphy and telephony, it was provided in article 11 as follows:

"The first party reserves all such rights as it now possesses to continue to manufacture and supply its own telephones, notwithstanding the stipulations of this contract to its own exchanges already established and in actual operation, and subscribers thereto and their licensees until the local conflicting interests between the respective licensees of the two parties hereto can be harmonized, and until any property of said first party at such places shall be turned over to said second party and paid for as hereinbefore provided; but said first party shall organize no new exchanges nor grant any new or additional licenses (except to additional subscribers to exchanges already established) creating new or additional conflicts or complications, *except within the radius of thirty-three miles from the New York City Hall*, and within the territory covered by the Ormes contract hereinafter referred to, and such places where such conflicting interests of licenses shall exist, until they can be so harmonized, be exempt from the operation of this contract as aforesaid. But it is distinctly understood as an essential feature of this contract that all telephone, district, or exchange sys-

tems, except those within the radius of thirty-three miles of New York City Hall, and within the territory covered by said Ormes contract, are to be transferred to and accepted by the party of the second part at the earliest possible day, and that their continuance in the hands of the party of the first part, during the mean time, is merely to give an opportunity for local interests to become harmonized and to avoid inconvenience to the public, and not as a source of revenue or advantage to the party of the first part or those that it represents."

Article 13 provides:

"(1) The right to connect telephone, district, or exchange systems for the purpose of personal conversation between persons at the instruments, and the right to use telephones on all lines not forming a part of a telephonic district or exchange system, for such personal conversation (except so far as licenses for private lines are to be granted to the party of the first part under article 14), are to remain exclusively with the party of the second part and those licensed by it for the purpose; but such connecting and other lines are not to be used for the transmission of general business messages, market quotations, or news for sale or publication, in competition with the business of the Western Union Telegraph Company, or with that of the Gold and Stock Telegraph Company; and the party of the second part, so far as it lawfully and properly can prevent it, will not permit the transmission of such general business messages, market quotations, or news for sale or publication over lines owned by it, or by corporations in which it owns a controlling interest, nor license the use of its telephone or patents for the transmission of such general business messages, market quotations, or news for sale or publication in competition with such telegraph business of the Western Union Telegraph Company or that of the Gold and Stock Company."

"(2) The terms 'general business messages' and 'telegraphic messages,' or 'messages for hire,' are defined to mean all communications in behalf of other parties than those who directly communicate by the telephone by themselves, or their servants, or agents, personally present at the instruments; and no person engaged in the business of transmitting messages for other parties shall be authorized or knowingly allowed by the party of the second part, or its servants or agents, to transmit such messages through the telephone."

There are various provisions relating to the adjustment of the interests of the parties in the use of the telephone in connection with telegraphy which it is not necessary to state in more detail.

The agreement provided (article 18) that the Bell Company shall keep in regular books accounts of the number of telephones manufactured, licensed, and put out for use in the United States, and the rentals received and commissions allowed, and that such accounts should be open for inspection by the party of the first part, and for the payment of royalties and commissions at stated periods, and article 16 provides "existing suits and interferences shall be disposed of as counsel of the parties of the first and second parts may advise to recognize and protect the rights of the several inventors to their respective inventions, subject to the orders of the courts and the decisions of the Patent Office."

This is the substance of the agreement which the bill filed in this case describes as an entire submission to the claims of the complainants, and an agreement to desist from further infringement, and to pay the usual and customary royalties virtually charged to other parties for like uses.

It was made November 10th, 1879, in pursuance of the informal agreement of September 27th, 1879, which, according to Mr. Gifford, had been the subject of negotiations for several months before, and may be presumed to have been substantially completed long before the taking of the testimony ceased.

By the terms of the agreement it was left to counsel of both parties to dispose of the existing suits and interferences in such a way as to recognize and protect the rights of the several inventors to their respective inventions.

The manner in which the eminent counsel concluded to fulfill the desire of their principals was to keep the Dowd suit alive until April 4, 1881, more than eighteen months after this agreement had been made; to print and prepare in two careful volumes all the evidence that had been taken and all the exhibits that had been put in; and then, after the Bell Company had paid to the associated companies the large amount of money provided in the agreement to be paid for their patents and properties, and had paid them the large royalties and bonus therein provided, and after the joint arrangement by which these corporations had contrived to absorb the whole field of telegraphic and telephonic operations in this country had been got into working order, and after the testimony of the complainants in the Spencer case had been closed, the counsel for the parties advised, as the best way to choose, "recognize, and protect the rights of the several inventors to their respective inventions," was to obtain a final decree with one dollar damages, and to cause a formal injunction to be issued at the suit of the second party to this agreement to restrain the first party from any infringements of these patents. Certainly, this statement of the terms of the settle-

ment of the Dowd case fully maintains the assertion that the statement of that case as an adjudication upon which a court ought to rely in granting a preliminary injunction was wholly disingenuous, and that the case itself was but a piece of machinery contrived by these corporations to enable them to control the entire telegraphic and telephonic business, and to use the case itself in future attack upon any other party who should presume to invade the vast field of enterprise appropriated to themselves.

This Dowd case has always heretofore been set up as an instance of prior adjudication in favor of the Bell Co., and its result has been claimed and the agreement with which it ended has been asserted to be a surrender to the Bell Company, but now, when reluctantly produced, it turns out that this agreement did not contain any terms of capitulation, but was in fact a treaty of alliance, offensive and defensive, designed and carried out between these great corporations for the purpose of fighting off all intruders and dividing the whole country between themselves.

Mr. Storrow, in his brief in the Ghegan case, thus stated the origin and result of the Dowd case, which he styled one of the "litigious recognitions," page 3:

"Suit was brought against the Western Union Telegraph Company, and defended with a vigor and pertinacity which might have been expected from so powerful a corporation fighting for the possession of the most widely used electrical instrument in the world. In that suit evidence was taken and completed on both sides, and thereupon the Western Union Telegraph Company, under advice of counsel and experts, submitted to a decree and entirely retired from the field."

This is the statement of the result of the Dowd case presented to the court in 1882 by the counsel who took the last testimony in that case in September, 1879, ten days before the agreement of settlement, which had long been under negotiation, was executed.

Unless the terms of the agreement were withheld from the counsel of the Bell Company this is a very remarkable way in which to describe the elaborate alliance then entered into by these corporations. The evidence was not completed but was abruptly ended. The result was not the submission and retreat of one party, leaving the other master of the field, but the union of all the contending forces and the fortification of the entire field against all common enemies who might be bold enough in the future to "fight for the possession of the most widely used electrical instrument in the world," the prize which those powerful antagonists at first fought over, but soon found it more prudent to divide.

The disclosures made by this agreement in the Dowd case not only deprive it of all significance as an adjudication, but admonish us how little reliance is to be placed on the outward facts of the subsequent cases, the secret history of which we have not been as yet able to explore.

THE SPENCER CASE.

Next is the Spencer case. First came the Dowd case, and this was founded upon patents Nos. 174,465 and 186,787, granted to A. G. Bell, the former in 1876 and the latter in 1877, and these same patents have appeared as the sole foundation for suits in every case since. The Spencer case was filed in July, 1880, while the Dowd case was still pending. It also was founded upon the same two patents above referred to, and was substantially the same in its statements as the Dowd case. The answer was filed September 6th, 1880, in which it was alleged that before the invention of Bell the latter's improvements were known and used by various persons, including Phillip Reis, but not including or mentioning in any way James W. McDonough.

It is also alleged that the inventions were described and patented in the same publications and patents referred to in the Dowd case, and also in publications known as the "Reis Publication," and it denied the complainant's right to relief. It was stipulated in this suit that all testimony in the case should be used in the Eaton case. The complainant's testimony consisted only of the deposition of Prof. Charles R. Cross, his examination and cross-examination occupying about forty pages. Professor Cross appears in every case, it will be observed. It was also stipulated that the depositions, for the defendant, of William N. Goodridge, Elisha Gray, and Edward S. Renwick, taken in the Dowd case, should be considered as taken in the evidence in this case on the part of the defendants, the complainants to have the like liberty to put in other parts of the same record, and the defendants offered in evidence a number of printed publications. The Dowd case was treated as a mine, from which either party should draw its treasures, if they could find them, and the following publications were put in evidence by the defendants:

"The 'Jahres Bericht des Physikalischen, Vereins zu Frankfort-an-Main,' 1862, page 195 (Reis-legal article). The Die neueren Apparate der Akustik, 1865, page 96 (Reis-Pisco article)."

The defendants offered no other testimony, but the deposition of Professor Henry Morton and the deposition of William E. Geyer, setting forth the American translation of these German publications. They also offered a publication called Du Moncel's Work on "Applications of Electricity." Then, after some argument, the whole of the Dowd record was put in. The defendant's evidence occupied about five days, and the evidence of the plaintiff, in reply, was completed in one day more. On May 10th, 1881, they gave evidence, documentary in its character; no evidence in rebuttal of this documentary evidence was offered by the defendant, although it consisted of the deposition of Mr. Bell and the deposition of Mr. Watson, in the interference cases going on in the Patent Office, covering the origin and progress of Bell's alleged inventions. This seems strange when it is remembered that the statements to be found in those depositions are not in conformity with the facts in the case, when it is possible, by Bell's own statements, at other times and other circumstantial evidence to contradict the major portion of the statements there made.

No mention is made anywhere in the case of the application of McDonough, although McDonough's application was filed within a few days after the issuing of Bell's 1876 patent, which, it must be remembered, is not for a telephone, but for a system of harmonic multiple telegraphy. The testimony of McDonough and his witnesses had been taken, upon notice to Mr. Storrow, counsel for Mr. Bell, in January, 1881, nearly four months before the testimony in the Spencer case was closed. It is very important that this fact should be borne in mind. It seems strange that not even McDonough's application for a patent was put in as evidence in the case, particularly when it is remembered that the facts in this case must have been well known to the parties interested in it through the interference cases in the Patent Office and the suits in the courts which were then in process. The Spencer case, therefore, did not contain the facts that will be introduced in this case, and therefore cannot govern it. The Spencer case, therefore, appears to be based solely upon such Reis publications as were known of and introduced, and upon the allegation that the Spencer instruments were not such as to infringe the Bell patent. It is very important to bear this point also in mind, since the decision of the court was based solely upon this latter proposition; that is, that the Spencer instruments were not such as to infringe the Bell patent. It is quite different with us, since we admit that, if the Bell patents are held valid, we most certainly do infringe. The evidence in the Spencer case was closed the 10th of May, 1881, and the opinion of Judge Lowell, who heard the case, was filed on the 27th of June, 1881. That opinion contains a sentence which is of the utmost importance in considering the question whether or not it is to be regarded as an adjudication which can, in any way, govern our case. When Judge Lowell was referring to the question as to whether or not Fig. 7, of the 1876 patent, would transmit speech, which was doubtful then, and which is known to be impossible now, he said:

"The importance of that point is, that if Bell, who is admitted in this case to be the original and first inventor of any mode of transmitting speech, had not completed his method and put it into working form when he took his first patent, he may lose the benefit of his invention, because, in his second patent, he makes no broad claim to the method or process, but only to improvements upon a process assumed to have been sufficiently described in his patent."

"But Bell discovered a new art—that of transmitting speech by electricity—not the abstract art, or the abstract right of sending sounds by telegraph without any regard to the means, but with means and processes which he has both invented and claimed. The invention is nothing less than the transfer to wire of electrical vibrations like those which a sound has produced in the air."

Judge Lowell also refers to the Reis apparatus, and says that "it is relied on to limit the scope of Bell's invention."

It must be borne in mind here that our position is quite different, since we rely upon the work of Reis to completely anticipate any claim which Bell may have or set up to the invention of the speaking telephone, and to completely invalidate the fifth claim of the 1876 patent. Judge Lowell also informs us as to what his conception is of what the Reis apparatus was and what it is, according to the evidence before him in this case.

So that the whole meaning of the Spencer case is this: In some way—we will not undertake to say how, since it does not appear on the record, except so far as we might say it appears from the feeble nature of the defense and the fact that evidence of great importance was not brought into the case, although presumably known to both parties—this one cardinal fact appeared to the judge when he came to render his opinion, that it was admitted that Bell was the first and original inventor of this new mode of transmitting speech. Although that is not in the case, and does not appear upon the record, yet, in some way, best known to the counsel on both sides, such admission was brought to the knowledge of the judge. The court therefore begins by saying that it strikes away the whole foundation upon which we now seek to build our denial of that very point. We contend that Bell was not the first and original inventor of any mode of transmitting speech by electricity. Our position will be that

others invented a mode of transmitting speech by electricity long before Bell set foot in America. In the Spencer case, however, the judge declares—and guards himself by declaring—that he had nothing to do with that question; that this was a thing which his mind was not called upon to consider at all, since it was admitted in that case that Bell was the first and original inventor of any mode of transmitting speech by electricity. It must not be forgotten that there is no such formal admission upon the record. If this fact, however, was admitted—and since the judge says it was, we are compelled to believe that it was—no other result than that which followed could have been expected. If, in our case, we should, even by implication, neglect to deny that Bell was the first and original inventor of any mode of transmitting speech by electricity, and did not place ourselves firmly in the position of denying such a proposition, then, of course, this Spencer case might be cited as a prior adjudication in support of a motion for preliminary injunction. If we should, even indirectly, admit this proposition, then a preliminary injunction might very properly be asked for, based upon the Spencer case, because it would be said:

“His honor Judge Gray, and his honor, Judge Lowell, have decided this question already, and they have decided that Bell was the inventor of the electric telephone, which he also undertook to perfect, and which he did perfect, in all the forms in which it can be employed by the aid of the microphone, and in all the other forms in which this mysterious process can be performed.”

When the contrary, however, is maintained, as we do now maintain and deny that Bell was the first and original inventor of the art of transmitting speech (and when we claim that we can show him not to have been the first and original inventor), then it cannot be asserted that the Spencer case was an adjudication such as could have any influence in deciding a court to grant a prayer for a preliminary injunction.

This admission, therefore, in itself deprives the Spencer case of any force as an adjudication. It will be our effort to show that Philip Reis was the first and original inventor of any method of transmitting articulate speech and all other sounds by means of electricity, and to show that this method and the apparatus employed for carrying it out were subsequently improved by Reis himself, and by Dr. Wright, Mr. Yeates, Mr. Vanderweyde, Mr. Gray, Mr. McDonough, Mr. Edison, Mr. Dolbear, and others, long prior to Bell's alleged invention of the telephone.

THE GHEGAN CASE.

This was not in any sense a decided case. There was no opinion of the court rendered on the final result of the case, nor on motion for the granting of a preliminary injunction. In that case the bill was filed on the 26th of May, 1882. A defense was attempted, but no proof whatever in regard to the McDonough inventions was introduced in the case. The same old incorrect and irrelevant Reis publications which had been brought into the Dowd case were here again introduced. The defendants put in evidence only the McDonough application, filed on April 10th, 1876. No proofs whatever concerning the facts of the McDonough case were offered. When it came to the argument it was suggested that the decision of Judge Lowell, in the Spencer case, controlled the matter as far as preliminary injunction was concerned. Counsel for the defendant, Mr. A. Q. Keasbey, was not then familiar with the subject, but endeavored to show that while, in the Spencer case, Judge Lowell stated that it was admitted, by the parties in the case, that Bell was the first and original inventor of the art of transmitting speech, that admission was not a matter of record anywhere in the case. The Bell Company, on the other hand, endeavored to show that no admission was ever made, but that Judge Lowell's view was a necessary view from the result of the controversy. That was so palpable, so clear, and so well known to all the world, that Bell was the first and original inventor of the art of transmitting articulate speech by means of electricity, that, therefore, Judge Lowell said it was beyond dispute; and counsel for defendant attempted to argue that there was no such admission appearing anywhere on the record in the Ghegan case, and that such admission was not made; but, on the contrary, that proposition was distinctly denied. When it came to the argument upon the motion for a preliminary injunction, the Spencer case was referred to only that it might be ascertained what was the distinction between the Hopkins, which was the basis of the Ghegan case, and the Spencer systems. Some considerable preparation was made for the final argument in this case, so Mr. Keasby, counsel for the defendant, subsequently admitted, in his argument for the defendant in the Overland case. But it was determined, by counsel, to admit and consent to the granting of the motion for a preliminary injunction. Accordingly, after the argument of Mr. Storrow, counsel for complainant, was concluded, counsel for defendant went into court and formally consented to the granting of a preliminary injunction. Such decree was, in consequence, immediately entered, without any further hearing of the case and without any application of the judicial mind to the subject. The order for an injunction was made, and the case proceeded

to final hearing. Testimony was taken on the part of the complainant. No testimony was offered on the part of the defendant. No cross-examination was made of the complainant's witnesses; no testimony was put in on the part of the defendant whatever. The case came up for final hearing with the counsel for the defendant absent, the same being in an adjoining room, where he remained while the case was disposed of in favor of the complainant.

In the mean time the defendant, Ghegan, had been engaged by the Western Union Telegraph Company to go off and attend to telephone matters in Mexico, a very significant circumstance. The Ghegan case, therefore, was not decided by the court, and cannot be construed as a prior adjudication. Notwithstanding this fact, however, the Ghegan case was used in the Dolbear case as a prior adjudication in support of motion for preliminary injunction, and, like the Dowd case, has since been used to sustain a similar motion in another case, in which the American Bell Telephone Company is the complainant. The Ghegan case constituted another scalp hung at the girdle of the American Bell Telephone Company's strategem, and they bring these scalps into every court they enter, and there parade them in each and every case, the lines growing longer as they continue their march, and one decision after another is added, founded upon these first cases—the Dowd and Spencer cases.

THE DOLBEAR CASE.

It will be remembered that Dolbear, in early days, claimed the invention of the telephone, and that his claims were purchased by the Western Union Telegraph Company in support of its interests and the combination it was undertaking. It will also be borne in mind that this case was finally settled agreeably to both parties, and that therefore all those claims, including those of Gray, Edison, Dolbear, and others, which had been purchased and which were under the control of the Western Union Telegraph Company, were withdrawn without further contest. It has not, however, as yet been stated as part of the private history of this settlement that each of these claimants received handsome cash bonuses, in addition to a provision for future royalties to each, as a salve for their injuries; and that Prof. Dolbear, in particular, received somewhere in the neighborhood of ten thousand dollars (\$10,000) as his cash bonus for his consent to this quietus, which had been placed upon his and other claims.

As time went on and new developments were made, and it became clearly demonstrated that Prof. Reis had invented all that was essential in the modern art of telephony, and the value of the telephone business had been demonstrated to be beyond any former conception, many, who had yielded up their claims to the important features which rendered the telephones virtually valuable, amongst whom was Prof. Dolbear, became very sick of the bargain they had entered into. Their contract, however, prevented them from changing their views regarding the priority of Bell and his right to the broad methods or art of telephony alleged to be described and claimed in his 1876 patent; they were forever obliged to hold their peace on this point. In view of this condition of affairs Prof. Dolbear set about to discover a method, art, or process of accomplishing this same thing—the transmission of articulate speech to distant points by means of electricity—which should not be open to the charge of infringement of the method claimed by Bell. In other words, it was Dolbear's intention to avoid infringing Bell's method by the use of a method which would, in his opinion, be generally considered as radically different from that alleged to be described and claimed in Bell's 1876 patent. In this way Dolbear was to avoid breaking faith with his former associates, and in this way only could such a charge be avoided.

Accordingly, after a long series of experiments, Dolbear succeeded in evolving what he thought was clearly a method of sending spoken words to distant points by means of electricity, clearly distinct and different from Bell's alleged method. After the work was completed Dolbear looked at it and, we may imagine, said:

"Now I have the skunk up the tree, surely it cannot be claimed that this system infringes that method which is alleged to be Bell's."

On this assumption capital was invested, and telephones were manufactured and introduced upon the market, and it was thought by many that finally Bell's ingenious scheme had been circumvented. The Bell Telephone Company, however, was too sharp to allow themselves to be so easily vanquished. The flaw was discovered, and accordingly suit was entered against Dolbear for infringement. The present case must not, therefore, be confounded with Dolbear's *original* case and claims. The Dolbear case, which we are now to consider, was substantially a controversy between inventors. Mr. Dolbear had discovered and invented a method of transmitting articulate speech, or rather of receiving speech, by means of a condenser receiver, which it was claimed was different from Bell's method. It was not his interest any more than it was the interest of the Bell Company to show that any man invented the telephone prior to Bell, because that would have been fatal to both. Dolbear simply wanted to have the telephone business divided between himself and Bell, and for this

reason it was necessary to proceed upon the assumption that Bell was the first and original inventor of what was, up to that time, the *only* method of transmitting articulate speech to distant points by means of electricity; and that he had discovered another method which accomplished the same thing as efficiently, but which did not infringe Bell's method. Since methods, which could be covered by broad claims and still not infringe each other were not very common, were not flying around loose within the easy grasp of everybody, it is easy to be seen that, proceeding on this theory, Dolbear might secure a very good thing. Here, therefore, was a contest between two inventors, each seeking to maintain his own position—the one, that he possessed the only *possible* method; the other, not denying the fact that the former possessed the only method extant, but asserting that he had discovered another method which did not in any way infringe the existing method alleged to belong to Bell—and not seeking to destroy the foundation upon which they both stood, in order to restrict and confine the telephone business to themselves.

That was the real nature of the fight in that case, and in support of this assertion we have only to refer to a single passage printed in the Dolbear case. To begin with, however, bear in mind that Dolbear, through the Western Union Telegraph Company, had already acknowledged that Bell was the first inventor of the telephone, and was an advocate of Bell's claims to this. He, however, now appeared in a new role, claiming that he, by his skill and scientific knowledge, had now succeeded in procuring a means of transmitting speech which in no way conflicted with, and was entirely outside of, the Bell patent. Dolbear, in his affidavit filed in this case, started out by admitting Bell to be the first and original inventor of any system of transmitting speech to distant points by means of electricity, and then continued as follows:

"I have done something more; it does not attack the validity of the Bell patent, and is outside of the operations of that patent, and, therefore, I can stand on my own ground."

In his answer he made the same admission above referred to.

Our position is quite the reverse of that assumed by Dolbear since we stoutly deny all that he there admitted. Everybody engaged in that case acknowledges that such an admission was not a subject of consideration at all, but the answer contains this peculiar passage; it is in the Dolbear case, but it is not in the record; it is generally considered enough to admit a thing in an answer, but this answer went further, it not only admitted, but averred, in order to make it more forcible—

"That each and every one of the electric speaking telephones put into use by Bell for or by any of the numerous infringers against whom, from time to time, suits have been brought, as alleged in the bill of complaint, or by any one else, excepting only the telephones invented by Reis, and modifications and improvements by Reis and others (these latter, however, were stigmatized as musical telephones, which operated by making and breaking the circuit, and which were, therefore, not operative as articulating telephones), and telephones manufactured by these defendants contained each and all the elements first combined by Bell, and that Bell is the original and first inventor of his method of an apparatus for transmitting vocal and other sounds, and entitled to a patent for the same."

It will appear plain, to any observing mind, from this assertion and the position which was assumed throughout the whole of that case, that Dolbear, from his former association with the Bell strategists, had become thoroughly endowed with the ideas and schemes which had been there discussed. Mr. Dolbear with his wide scientific knowledge and the comprehensive views imbibed from his former associates—the Bell strategists—was attempting to embrace the world, Reis included. It was in view of this fact that the Dolbear case was decided in the way that it was. It set up certain publications in other cases which alluded to Dolbear's inventions. No mention was made in the proofs, on the motion for preliminary injunction, of any of the inventions of Gray or McDonough. The case was confined wholly, then, to the discussion of the Dolbear and Bell methods, with reference to each other, and turned wholly upon the question whether the Dolbear method infringed the Bell method, and to the inventions of Reis, as set forth in the publications submitted, so that when the case came to be decided, Mr. Justice Gray said:

"It was decided by this court in the *American Bell Telephone Company vs. Spencer*, 8 Fed. Rep., p. 509, and is not denied by the present defendant, that Bell is the first inventor of the speaking telephone. The only controversy is on the extent of his patent."

Which would seem to put an end to that case as a judicial recognition governing our case.

That was on the motion for the preliminary injunction. Mr. Justice Gray accordingly decided to grant the motion. The decision was limited to the extent of the Bell patent, and the relation of the Bell and the Dolbear patents, and on that it was decided by the judge. It was not only admitted but it was averred that Bell was the first and original inventor. Then, after that motion for a preliminary injunction was decided and the case went on, the following agreement was made:

"It is agreed that the affidavits and evidence heretofore filed in this case upon the

motion for preliminary injunction, shall stand as final proofs in the cause. Neither party desires that witnesses shall be called for cross-examination."

There was a case in which there was that express agreement entered into between the parties to the suit. Both sides agreeing that all the *ex parte* affidavits on both sides should be admitted as proof on the motion for final hearing, and they expressly put down the stipulation that neither party desired to cross-examine witnesses.

The opinion of Judge Lowell in that case begins by saying:

"The final hearing in the case was hardly more than a form, because the two questions which are raised by the record have been decided in favor of plaintiff on motion for preliminary injunction, which were prepared and argued with unusual thoroughness. These questions are: Whether the telephone described by Reis anticipates the Bell telephone (bear in mind that it was, at the start, admitted by the defendants that it did not), and whether Dolbear's apparatus infringes Bell's patent."

That is to say, everything turned on the question as to whether Reis's telephone anticipated the Bell telephone (and this was expressly denied by the defendants), and again as to whether Dolbear's apparatus is an infringement of the Bell patent. The judge then went on to state his views on these two questions, and referred to the case of the *United Telephone Company vs. Harrison*, in England, reported in 21 Chancery Division, p. 720, as also to the case of *Cox vs. Walker*, as an adjudication. It must be observed, with regard to that English case, that with respect to the Reis case nothing was offered in evidence but the Von Legat article concerning Reis, which we shall see gives a very imperfect account of the Reis instrument. The case there in controversy is purely as to whether that publication amounted to a "prior publication" in anticipation of Bell's, and as to whether the description and exhibition of Bell's instruments by Sir William Thompson, of which we have already learned, constituted a prior publication.

None of the mass of the Reis publications which have since been resurrected were offered in evidence in that English suit. In the Dolbear case, Mr. Justice Lowell then went on to say, and it will be observed that the judges have all, thus far, in making a decision upon this case, taken care to guard themselves by making this statement:

"It is admitted in the present case that the Reis instruments, if used as the inventor intended to use them, can never serve as a speaking telephone, because the current of electricity is constantly broken, and it is essential for the transmission of speech that the current should not be broken."

It will be observed, therefore, that, in that case, it was admitted by the defendant that Bell was the first and original inventor, and that, as Judge Lowell says distinctly in his opinion the Reis instruments, if used as the inventor intended them to be used, could never serve as a speaking telephone, because the current of electricity was constantly broken, when it was essential for the transmission of speech that the current should not be broken; a position which scientists now place themselves squarely against. Now, it will hereafter appear that our position in regard to this matter is materially different from that.

Dolbear had already admitted that Bell was the inventor, and, when he made that admission, the court had nothing to do but decide in Bell's favor; the decision was based upon the significant admission of the defendant, which tended to produce the result which was arrived at.

This is the foundation upon which the American Bell Telephone Company has built up and to-day seeks to maintain its great monopoly.

THE PEOPLE'S TELEPHONE CASE.

This case embraces the Drawbaugh matters. The bill in that case was filed in 1880, and in it the complainants alleged that Daniel Drawbaugh, of Pennsylvania, claimed to have invented the telephone prior to Bell. It contained extracts from Harrisburg newspapers, which showed that he pretended to have made this great invention; that he claimed to have invented a talking machine, and when the defendant came to reply to the moving papers for a preliminary injunction, Daniel Drawbaugh and his counsel, and manifestly the People's Telephone Company, were aware of Drawbaugh's claims to the invention of the telephone, what they were, and what they meant, and how far the claims extended, and yet they said not one single word about them in their affidavits in reply. There were filed five affidavits, merely tending to show that nothing had been done as yet. And there were filed affidavits to show that telephones had not as yet been made. It was, however, manifest that it was the intention of the company to do so. They had, in fact, so published it. It was a fact as palpable as that the sun shines, and hence the court was bound to exercise its powers and to grant an injunction. The purpose of an injunction is to restrain that which is to be done, and not that which has been done. A man cannot be restrained from doing that which has already been performed. This is a self-evident proposition. In that case the defendants, instead of asserting that they did not mean to infringe, ad-

mitted their intention to do so, but asserted that they had not as yet done it. Not one word was said about Daniel Drawbaugh's inventions, which were not brought to the knowledge of the court. The reason for this course is not altogether clear.

The case went on to final hearing; several years were consumed in the prosecution of that case. When the subject came up for final hearing the alleged inventions of Daniel Drawbaugh, which were asserted to have been made prior to Bell, were set up as a defense. Nothing was said or introduced regarding Reis's invention or regarding the inventions of Wright, Yeates, Vanderweyde, Dolbear, Gray, or McDonough. The validity of the Bell patent, as a proposition of patent law, was not questioned; neither was it asserted that Bell's patent was invalid from prior knowledge, publication, or invention. It was the purpose of the defendants to endeavor to place themselves in the position occupied by the American Bell Telephone Company. A grand project had been formulated for wresting from the American Bell Telephone Company its grand monopoly and exclusive right, and vesting the ownership thereof in their own hands. In other words, the People's Telephone Company sought to make the American Bell Telephone Company pay tribute to itself by securing the same rights and privileges which were then held by the American Bell Telephone Company; which would result in compelling the American Bell Telephone Company to pay damages to the People's Telephone Company for all past infringements. This was to be accomplished by proclaiming and proving that Daniel Drawbaugh had invented and perfected the very method claimed by Bell, long prior to the granting of Bell's 1876 patent, and even prior to the recorded date of Bell's alleged first conception. It will be seen, therefore, that the intention of the People's Telephone Company was to shuffle aside the Bell Telephone Company and step themselves into the shoes left by the Bell Company. The whole case was undoubtedly a trumped-up affair, and it was so finally decided by Judge Wallace, before whom the case was tried. The only issue was, whether the telephone was invented by Bell or Drawbaugh. The true issue, which it is our purpose to raise, was in no way involved. Hence it would be absurd to consider this case as a prior adjudication which could in the least affect a motion for a preliminary injunction against us.

THE OVERLAND CASE.

The motion for a preliminary injunction in this case was heard before Judges McKennan, Nixon, and Butler, in Philadelphia, January 21st, 25th, 1884. The complainant was the American Bell Telephone Company and the defendant the Overland Telephone Company, of New York. The complaint was founded upon the same two letters patent granted to A. G. Bell, March 7th, 1876, and January 30th, 1877, respectively. The bill alleged that the defendants were operating under patents issued to Myron C. Baxter, which, although somewhat modified in form, were substantially like those described in the Bell patents, owned by the complainants. In answer the defendants set up that the principal issues relied upon as their defense were being tried before Judge Wallace, of the same State, in the People's Telephone case; that said case was still *sub judice*, but would soon be passed upon.

In view of that condition of affairs a preliminary injunction was refused pending the decision of Judge Wallace.

Subsequently Judge Wallace decided against the People's Telephone Company and in favor of the Bell Company, and this, of course, resulted in the granting of a temporary injunction against the Overland Company, whose principal reliance had been the possible success of the People's Telephone Company.

[From Prof. ADAMS' book, pp. 275 to 278.]

REIS'S PROSPECTUS.

(The following "prospectus" of instructions was drawn up by Reis to accompany the telephones which were sold under his instructions by Herr Wilhelm Albert, of Frankfort. Prof. Sylvanus Thompson is in the possession of a number of original copies of this prospectus; it is also reprinted at page 241 of Prof. Pisko's book entitled "Die neueren Apparate der Akustik," published at Vienna in 1865:)

Telephon.

Each apparatus consists, as is seen from the accompanying illustration, of two parts, the telephone proper A, and the reproduction apparatus (receiver) C. These two parts are placed at such a distance from each other that singing or the tones of a musical instrument can be heard from one station to the other in no way except through the apparatus itself. Both parts are connected with each other and with the battery D, like ordinary telegraphs. The battery must be capable of effecting the attraction

of the armature of the electro-magnet placed at the side of station A (3 to 4 6-inch Bunson's elements suffice for several hundred feet distance).

The galvanic current goes, then, from B to the screw *d*; thence through the copper strip to the little platinum plate at the middle of the membrane; then through the foot *c* of the angular piece to the screw *b*, *in whose little concavity a drop of quicksilver is put*. From here the current then goes through the little telegraph apparatus *e-f*, then to the key of station C, and through the spiral past *i* back to B.

If, now, sufficiently strong tines are produced before the sound-aperture S, the membrane and the angle-shaped little hammer lying upon it are set in motion by the vibrations (of the membrane); the circuit will be once opened and again closed for each *full* vibration, and thereby there will be produced, in the iron wire of the spiral at station C, the same number of vibrations which there are perceived as a tone or combination of tones (chord).

By imposing the little upper case (Oberkastchen) firmly upon the axis of the spiral the tones at C are greatly strengthened.

Besides the human voice (according to my experience), there also can be reproduced the tones of good organ pipes from F-c, and those of a piano. For the latter purposes A is placed upon the sounding-board of the piano. Of thirteen triads (Dreiklänge) a skilled experimenter could, with all exactness, recognize ten.

As regards the telegraph apparatus placed at the side, it is clearly unnecessary for the reproduction of tones, but it forms a very agreeable addition for convenient experimenting. By means of the same it is possible to make one's self understood right well and certainly by the other party. This takes place somewhat in the following manner: After the apparatus has been completely arranged one convinces one's self of the completeness of the connection and the strength of the battery by opening and closing the circuit, whereby at A the stroke of the armature is heard, and at C a very distinct ticking.

By rapid alternate opening and closing at A, it is asked at C whether one is ready for experimenting, whereupon C answers in the same manner.

Simple signals can, by agreement, be given from both stations by opening and closing the circuit 1, 2, 3, or 4 times; for example:

1 beat, sing.

2 beats, speak, etc.

I telegraph the words thus—that I number the letters of the alphabet and then transmit their numbers:

1 beat, *a*.

2 beats, *b*.

3 beats, *c*.

4 beats, *d*.

5 beats, *e*, etc.

z would accordingly be designated by 26 beats.

This number of beats would, however, appear wasteful of time, and would be uncertain in counting; wherefore I employ for every five beats a dactyl-beat, and there results — *u u* for *e*, etc., which is more quickly and easily executed and easier to understand.

It is still better if the letters are represented by numbers which are in inverse proportion to the frequency of their occurrence.

PHILIPP REIS,

Teacher at L. F. Garnier's Institute for Boys.

FRIEDRICHSDORF (NEAR HOMBURG-BY-THE-HEIGHT),

August, 1863.

P. S.—Since two years ago (when) I succeeded in effecting the possibility of the reproduction of tones by the galvanic current, and in setting up a convenient apparatus therefor, the circumstance has found such a recognition from the most celebrated men of science, and so many calls to action have come to me, that I have since striven to improve my originally very incomplete apparatus, so that the experiments might thereby become accessible to others.

I am now in the position to offer an apparatus which *fulfills my expectations*, and with which each physicist may succeed in repeating the interesting experiments concerning the reproduction of tones (sounds) at distant stations.

I believe I shall fulfill the wish of many if I undertake to bring these improved instruments into the possession of the (physical) cabinets. *Since the preparation of the same requires a complete acquaintance with the leading principles and a tolerable experience in this matter*, I have decided myself to prepare the most important parts of the same, and to leave the fashioning of the accessory parts, as also of the external adornments to the mechanician.

The distribution of the same I have made over to Herr Wilhelm Albert, mechanician, in Frankfort-on-the-Main, and have placed him in the position to deliver these instruments in two qualities, differing only in external adornment, at the prices (re-

pectively) of 21 florins and 14 florins (12 thalers and 8 thalers current) inclusive of packing. Moreover, the instruments can also be obtained direct from me at the same prices upon a cash remittance of the amount.

Each apparatus will be tested by me before sending off, and will then be furnished with *my name and order-number and with the year of manufacture.*

PHILIPP REIS,

Teacher at L. F. Garnier's Institute for Boys.

FRIEDRICHSDORF (near HOMBURG-BY-THE-HEIGHT) August, 1863.

[From Prof. Adams' book, pp. 369 to 372.]

ELISHA GRAY'S CAVEAT.

DEPARTMENT OF THE INTERIOR,
United States Patent Office.

To all persons whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the files of this office of the caveat of Elisha Gray, filed February 14, 1876, for "Art of transmitting vocal sounds telegraphically."

In testimony whereof I, W. H. Doolittle, acting Commissioner of Patents, have caused this seal of the Patent Office to be hereunto affixed this twenty-eighth day of March, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and second.

[SEAL.]

W. H. DOOLITTLE,
Acting Commissioner.

UNITED STATES PATENT OFFICE.

Specification.

To all whom it may concern:

Be it known that I, Elisha Gray, of Chicago, in the county of Cook and State of Illinois, have invented a new art of transmitting vocal sounds telegraphically, of which the following is a specification:

It is the object of my invention to transmit the tones of the human voice through a telegraphic circuit and reproduce them at the receiving end of the line, so that actual conversations can be carried on by persons at long distances apart.

I have invented and patented methods of transmitting musical impressions or sounds telegraphically, and my present invention is based upon a modification of the principle of said invention, which is set forth and described in letters-patent of the United States granted to me July 27, 1875, respectively numbered 166,095 and 166,096, and also in an application for letters-patent of the United States filed by me February 23, 1875.

To attain the object of my invention I devised an instrument capable of vibrating responsively to all the tones of the human voice, and by which they are rendered audible.

In the accompanying drawings I have shown an apparatus embodying my improvements in the best way known to me; but I contemplate various other applications and also changes in the details of the construction of the apparatus, some of which would obviously suggest themselves to a skillful electrician or a person versed in the science of acoustics on seeing this application.

Figure 1 represents a vertical central section through the transmitting instrument;

Figure 2 is a similar section through the receiver; and

Figure 3 a diagram representing the whole apparatus.

My present belief is that the most effective method of providing an apparatus capable of responding to the various tones of the human voice is a tympanum, drum, or diaphragm, stretched across one end of the chamber, carrying an apparatus for producing fluctuation in the potential of the electric current, and consequently varying its power.

In the drawings, the person transmitting sounds is shown as talking into a box or chamber, A, across the outer end of which is stretched a diaphragm, *a*, of some thin substance, such as parchment or gold-beater's skin, capable of responding to all the vibrations of the human voice, whether simple or complex. Attached to this diaphragm is a light metal rod, A', or other suitable conductor of electricity, which extends into a vessel, B, made of glass or other insulating material, having its lower end closed by a plug, which may be of metal, through which passes a conductor, *b*, forming part of the circuit.

This vessel is filled with some liquid possessing high resistance, such, for instance, as water, so that the vibrations of the plunger or rod A, which does not quite touch

the conductor *d*, will cause variations in resistance, and consequently in the potential of the current passing through the rod *A'*.

Owing to this construction, the resistance varies constantly in response to the vibration of the diaphragm, which, although irregular not only in their amplitude but in rapidity, are nevertheless transmitted and can consequently be transmitted through a single rod, which could not be done with a positive make-and-break of the circuit employed, or where contact points are used.

I contemplate, however, the use of a series of diaphragms in a common vocalizing chamber, each diaphragm carrying an independent rod and responding to a vibration of different rapidity and intensity, in which case contact points mounted on other diaphragms may be employed.

The vibrations thus imparted are transmitted through an electric circuit to the receiving station, in which circuit is included an electro magnet of ordinary construction, acting upon a diaphragm to which is attached a piece of soft iron, and which diaphragm is stretched across a receiving vocalizing chamber, *c*, somewhat similar to the corresponding vocalizing chamber *A*.

The diaphragm at the receiving end of the line is thus thrown into vibration corresponding with those at the transmitting end, an audible sound or words are produced,

The obvious practical application of my improvement will be to enable persons at a distance to converse with each other through a telegraphic circuit, just as they now do in each other's presence, or through a speaking tube.

I claim as my invention the art of transmitting vocal sounds or conversations telegraphically through an electric circuit.

ELISHA GRAY.

Witnesses:

WILLIAM J. PEYTON.

WM. D. BALDWIN.

DISTRICT OF COLUMBIA, ss:

Elisha Gray, the within named petitioner, being duly sworn, deposes and says: That he believed himself to be the original and first inventor of the art of transmitting vocal sounds described in the foregoing specification; that he does not know or believe that the same was ever before known or used, and that he is a citizen of the United States.

ELISHA GRAY.

Subscribed and sworn to before me this 14th day of February, A. D. 1879.

[SEAL.]

JOHN T. ARMS,
Notary Public.

PETITION.

To the Commissioner of Patents:

The petition of Elisha Gray, of Chicago, in the county of Cook, in the State of Illinois, respectfully represents that he has made certain improvements in the art of transmitting vocal sounds telegraphically, and that he is now engaged in making experiments for the purpose of perfecting the same, preparatory to applying for letters patent therefor.

He therefore prays that the subjoined description of his invention may be filed as a caveat in the confidential archives of the Patent Office.

ELISHA GRAY.

Opinion of Hon. G. A. Jenks, Assistant Secretary, Interior Department.

WASHINGTON, December 22, 1885.

To the Hon. the SECRETARY OF THE INTERIOR:

SIR: In compliance with your request, I have the honor to submit my views upon the matter of the application to bring suit in the name of the United States to cancel the Bell telephone patent of the 7th of March, 1876.

There are two questions to be considered:

(1) Is there power vested in the proper courts to cancel a patent for an invention at the instance of the United States?

(2) If such power exists, do the facts and circumstances presented by this application warrant the exercise of the power?

The law authorizes the granting of a patent only to the inventor or discoverer.

The power of the officers who cause the patent to be issued is limited by law. If they issue a patent to one, who, under the definition fixed by law, is not the inventor or discoverer, they act without authority, and the patent is voidable.

But, though voidable, the patent would be still existing. The grant, authenticated by the seal of the sovereign as against any one but the grantor, was conclusive, until, by statutory provision, the citizen, when attacked by the patentee, might, in his own defense, deny the validity of the grant. If successful in the defense, it only freed him from the claim of the complainant, but still left the patent, as against every other, as complete proof of a *prima facie* case as though the defense had never been successfully made.

Every citizen of the United States using the alleged subject of patent might be compelled, at the instance of the patentee, to make defense in a suit, in which the complainant would, without other evidence of right than his alleged patent have a clear case, which would have to be overcome by extraneous evidence on the part of the defense, which time, accident, distance, or want of means might render unattainable.

If suit cannot be brought by the United States to cancel her unauthorized patents this wrong would be without a remedy.

It is said, "A patent is a contract made by the Government, in behalf of her people, with the patentee, that if he will place on file in the proper office of the Government such a full, written or printed, description of his invention or discovery as that, in future, his art shall be perpetuated and preserved for the benefit of mankind, the Government on her part contracts that, for a limited time, he shall have the exclusive use of his invention or discovery." The consideration in this contract, on the part of the patentee, is his invention or discovery. The right granted by the Government for this consideration is a monopoly to the inventor for a limited time.

If the consideration on which a contract is founded fails, the contract is at the instance of the party wronged, voidable for want of consideration.

If, then, the patentee has not given any invention or discovery to the Government for the monopoly granted him, the grant is voidable for want of consideration, and the Government, being the party to the contract, wronged by the failure of consideration, is entitled to relief.

The statute which empowers the officers for the Government to issue the patent prescribes * * * "every such patent shall * * * in its terms *grant* to the applicant or applicants, his or their heirs, executors, or assigns," &c. The term "*grant*" implies an interest or right in the grantor to be conveyed to the grantee. In the statute the term is not used unadvisedly, for it gives to the patentee that to which, without the grant, he could have had no legal title.

The right to a hitherto unknown realm, discovered by a citizen, enures to the sovereign under whose flag he sailed. What reward he shall have for his discovery is dependent on the generosity or justice of the sovereign. The right to this island or continent discovered in the world of art is in the sovereign. Under the Constitution and the law the reward to the discoverer is fixed that the inventor shall have exclusive use of the discovery for seventeen years.

Although during the currency of that time every other citizen of the nation, each for himself, without knowledge of the prior discovery, should find the same novelty, he is forbidden to enter upon it, and the patentee, by virtue of his grant, restrains the whole inventive genius of the nation.

If, then, the right of the patentee is only an estate for years carved out of the paramount title of the sovereign, and to the exclusive use of which the patentee derives his only legal right by virtue of the grant, then, if that grant of the property of the nation—which was held for the common benefit and subject to the right of occupancy of all her people—was made without authority by her officers or through inadvertence, mistake, or fraud, it would only comport with clear principles of right that the patent so issued should be canceled.

Yet, that it cannot be canceled at the instance of any one but the Government is clearly ruled in the case of *Mowry v. Whitney* (14th Wallace, 439). If it cannot be canceled by the Government there is no remedy for a great wrong.

The citizens of the great Republic, for seventeen years after the granting of any fraudulent patent, may be subjected to the humiliating necessity of daily hearing their Government called to testify under the great seal of the nation to a falsehood in favor of a wrong-doer. I am convinced on principle such is not the law.

But precedents and authority are not wanting which recognize and assert the power, and define in part its limitations. The question had repeatedly been submitted to the Department of Justice, and its exercise invoked. Whenever the question was presented with a proper case the power was claimed, and in some instances actually exercised. Curtis on Patents, section 503, derives from a careful consideration of the subject the following principle:

"Undoubtedly the proper course is to institute the suit in the name of the Attorney-General or of the United States on relation of some one who is interested adversely in the patent."

In the case of the *United States v. Stone* (2 Wallace, 525), which was a bill filed to cancel a patent for land, Justice Grier, delivering the opinion, rules:

"A patent is the highest evidence of a title, and is conclusive as against the Gov-

ernment, and all claiming under junior patents or titles, until it is set aside or annulled by some judicial tribunal. In England this was originally done by *scire [f*]acias*, but a bill in chancery is found a more convenient remedy.

"Nor is fraud in the patentee the only ground upon which a bill will be sustained. Patents are sometimes issued *unadvisedly* or by *mistake*, where the *officer has no authority* in law to grant them, or where another party has a higher equity and should have received the patent. In such cases courts of law will pronounce them void."

The bill in the case quoted was filed at the instance of the United States, was sustained, and the patent canceled.

In *Rubber Company v. Goodyear* (9 Wallace, 797), Justice Swayne, delivering the opinion and discussing the subject of attacking a patent for an invention collaterally, says:

"This review furnishes a strong implication that it was the intention of Congress not to allow a patent to be abrogated in any collateral proceeding, except in the particular instance mentioned, *but to leave the remedy, in all other cases, to be regulated by the principles of general jurisprudence.*"

Then, after citing with approval the case of *Jackson v. Lowton* (10 Johnston, 2[3*]), he further declares:

"*The patent in that case was for land, but as regards the point here under consideration, there is no distinction between such a patent and one for an invention or discovery.*

"*If there be, the case is stronger as to the latter.*"

In the case of *Mowry v. Whitney* (14 Wallace, 439), Justice Miller, in ruling that a patent could not at the instance of any private party be declared void, uses the following language:

"For we are of opinion that no one but the Government, either in its own name or the name of its appropriate officer, or by some form of proceeding which gives official assurance of the sanction of the proper authority, can institute judicial proceedings for the purpose of vacating or rescinding a patent.

"The reasons for requiring official authority for such a proceeding are obvious:

"1st. The fraud, if any exists, has been practiced on the Government, and as the party injured, it is the appropriate party to assert the remedy or seek relief.

"2d. A suit by an individual could only be conclusive in result as between the patentee and the party suing, and it would remain a valid instrument as to all others.

"3d. The patentee would or might be subjected to innumerable vexatious suits to set aside his patent, since a decree in his favor in one suit would be no bar to a suit by another party."

The last two instances, it may be alleged, are rulings on questions not necessarily involved in the cases. For the present inquiry it is only necessary to say that dicta (if they be dicta) so distinctly to the point, and from such sources, would be sufficient to warrant acceptance in this preliminary inquiry.

But the very question in the case of *United States vs. Gunning* (18 Federal Reporter, 511) was distinctly decided in the affirmative by Wallace, J., and in the same case on final hearing (in 22d Federal Reporter) the same question was decided in the same way by Wheeler, J.

The power of the Government to reclaim that of which it has been wrongfully deprived, or to annul what has been done without authority, is no less than that of an individual.

By proceedings in equity an individual can have a deed obtained by fraud or mistake, or executed by an attorney in excess of his power, annulled. A patent is in substance a deed from the Government to the patentee.

The courts of the United States are possessed of chancery powers. The United States may enter these courts, and upon presentation of such a case as would warrant cancellation or annulment, invoke such action as under like circumstances should be accorded an individual. The proof necessary to annul a deed or executed contract should be "clear and satisfactory." *Geddes Appeal*, 80 Penna. State Reports, 461.

Hence it is concluded that upon clear and satisfactory proof the power is vested in the proper courts, at the instance of the United States, to cancel a patent for an invention obtained by fraud or issued by mistake, inadvertence, or without authority by the officers of the Government.

The remaining inquiry is, do the facts and circumstances exhibited in this case warrant the institution of an action by the Government to exert the power? In this preliminary hearing judicial precision in result or a strict application of judicial principles of evidence cannot properly be required.

The Government, as a trustee for the people, is inquiring whether there is substantial reason to believe that a fraud has been perpetrated upon its agents, or they have exceeded their power in making a grant to the detriment of the rights of the people.

Whatever degree of probability would warrant an intelligent, honest, judicious trustee, in the faithful discharge of his trust, to bring suit for an alleged injury, will justify the Government in instituting an action.

* See note of chief clerk appended hereto.

In this proceeding the Department of the Interior represents the client; the Department of Justice, the attorney.

Before embarking in litigation, an intelligent client should investigate with care the accessible facts embraced in the contemplated case. Over one thousand pages of printed evidence has been submitted and considered. About seven days were spent in hearing testimony and oral arguments, and many carefully prepared briefs by attorneys of the highest character in favor of and against the application have been scanned. Reflections upon these facts reduce[s*] the material questions to be decided to two propositions:

1st. Is there sufficient evidence of wrong to justify a well-grounded belief that the patent should and can be canceled by judicial proceedings?

2d. If there is such evidence, is the cancellation of sufficient national importance to justify action by the United States?

If a trustee were to apply to a chancellor for instructions as to whether he should bring suit to redress a wrong to the trust estate, and submit evidence of such facts as would show by a clear preponderance of evidence that the wrong was done, the order would certainly be made to bring suit, and a failure to obey would be good ground to surcharge the trustee.

Bell's first application for patent was filed on the 14th day of February, 1876, and there is no parol evidence to show at what hour in the day it was filed. He describes his invention in general terms, as "new and useful improvements in telegraphy." In it he nowhere claims as an invention that it will transmit articulate vocal sounds or words. But he does claim that the undulatory current of electricity (which is a sufficiently important element in the alleged discovery) takes the place of an intermittent one, and is the source of its advantages.

On the same day that Bell filed his application, the 14th day of February, 1876, Elisha Gray filed a caveat which certainly did interfere with Bell's application, if Bell's embraced the transmission of words. There is no oral evidence at what hour in the day the caveat was filed. As a general rule, in the Patent Office a day is regarded as a unit indivisible. Section 4902 of the Revised Statutes would have required the officers of the Patent Office to declare an interference, give notice to Gray, retain his caveat in the secret archives of the office, and suspend all action for three months to allow Gray to file his application. This provision of law was clearly violated, in that notice was given on the 19th day of February to Bell, as well as Gray, of the filing of the caveat, to which Bell was not entitled under the statute.

The letter of the 19th of February, 1876, to Bell's attorney, informed him that the caveat of Gray interfered with the 1st, 4th, and 5th claims of Bell's application. This Bell had no right to know. He (Bell) then went to the officers of the Patent Office, and from the officers, upon inquiry, extracted information of the particular clause in his application with which the caveat conflicted, which was another violation of official duty.

In accordance with the prior practice of the office, the application of Bell was, on the 24th of February, 1876, suspended. Bell's attorneys appeared before the Commissioner of Patents, and, on the 25th, Commissioner Speer ruled: "Ordinarily the day of filing is not computed, and is considered *punctum temporis*. Yet, when justice requires it, the exact time in the day when an act was done may be shown by proof. (Kent's Commentaries, 95, note.) The examiner will be guided by the rule in this case, and if the record shows that the application was filed earlier in the day, then the caveat should be disregarded, and otherwise not." Upon this instruction, the same day Examiner Z. F. Wilber indorsed upon the caveat: "Feb. 25th, 1876. The cash blotter in the chief clerk's room shows conclusively that the application was filed some time earlier on the 14th than the caveat. The application was received also in 118 by noon of the 14th, the caveat not until the 15th."

In this part of the proceedings the action of the Commissioner was exceptional. It was contrary to the former practice of the office.

It was in distinct contradiction of his own ruling on the same subject, made on the 3d of January, 1876, in the Essex case (Decisions of the Commissioner of Patents, 1876, page 52), in which the application and caveat both were filed on the 3d of January, and in which he uses the following language:

"In order to free the application from suspicion and possibly from interference with the application filed by the caveator, it must appear that the application was filed prior to the caveat. That does not appear. The bounds of the lifetime of both application and caveat are, in this respect, the same.

"I cannot take into consideration any representation of special hardship in this case, because it would be manifestly improper to consider any *ex parte* statement whatever. There would seem to be nothing in the attitude of either a caveator or applicant to entitle one more than the other to invoke any special equity in the case. I do not see why the law should not be strictly applied, and the caveator notified, and direct that it be done."

* See note of chief clerk appended hereto.

The facts in the case quoted and in the case under consideration, so far as they appear on the records of the Patent Office, including the cash blotter, are entirely identical, yet the ruling of the same Commissioner is distinctly contradictory within an interval of less than two months.

The application of Bell found its way to the examiner's room on the 14th, the same day it was filed; six others, also in the same room, filed on the 14th, did not reach the examiner's room till the 15th. The latter would seem in due course.

Examiner Wilber, by whom the question of priority between the Bell application and the Gray caveat was decided, made entry on the back of the caveat that the cash blotter in the chief clerk's room shows conclusively the priority of the application. On the 10th of October, 1885, his affidavit is made that the book he referred to, to fix time in his entry, would give no reliable information on the subject. Upon examination of the book, his oath seems to be entitled to greater credence than his written entry, as, if the book gave any reliable information, it would seem to prove that Gray's caveat was first filed. The book is a registry of applications filed, with fees paid. There are two classes of entries on the same day—those received by mail, and those received by hand. All those received by mail are first entered. This would indicate that the entries of those received by hand were not made till after the last mail that came to the office that day had been received and opened.

Immediately after the mail delivery was entered, on the 14th of February, the hand delivery was carried on in regular succession continuously. Inquiry as to the general practice seems to show that, as applications and caveats delivered by hand were thrown into the same basket as they came in, the one that came first in the morning would be found in the bottom of the basket; that which came last would be on the top. When the registry was made they were taken from the basket as they came to hand, which gave the last application its place at the head of the entries of hand delivery, and the first delivered during the day would naturally be the last entered, and so all through, the first delivered would be the last entered. As the Bell application is near the top of the registry of hand delivery, and Gray's is near the bottom, the inference from the book would be strongly in favor of the fact that Gray's caveat preceded Bell's application.

But the decision of a fact so important and vital to the rights of these two men, at the instance of one in the absence of the other, against the absentee, without notice or opportunity to be heard, savors strongly of injustice, and is suggestive of willful wrong.

The Omniscient Himself, although all was known to Him, and His judgment must be infallible justice, did not assume to judge Adam, the first transgressor, until after, in response to the summons, "Adam, where are thou?" the alleged culprit had a full hearing. Since this first authority it has been an undisputed maxim in the administration of justice, impressed upon the conscience of every man, that no final decree depriving another of a substantial right can justly be made until the party to be affected shall have had opportunity to be heard.

Bell, by his attorneys, on the 29th of February, amended his application. But still no speaking telephone was suggested. It was suspended by the caveat until the 25th of February, and seven days thereafter, on the 3d of March, was certified for patent, and patent issued on the 7th of March—an unusually short time to investigate so important and delicate a novelty, the average time by same examiner about the same date being fifteen days, whereas this was certified in seven. It will be observed that all irregular and exceptional action in the case was favorable to Mr. Bell, and tended to great haste in the result. Had these irregularities been accidental, they would reasonably have been expected to have been found almost equally distributed in their consequences between the applicant and the caveator, with the probability of a preponderance in favor of delay rather than haste. If, in passing through a forest, the woodsman should come upon the course of a tornado, and find the tops of the trees all pointing in one direction, he would be as firmly convinced of the direction the wind had blown as though he had been an eye-witness to the storm. In this one-sided contest between the Bell application and the Gray caveat, the tree tops all point one way. But other facts exist which might well make it a matter of interest to Bell, after the application was filed, to have the examination of the novelty made as hastily and perfunctorily as possible. That evidence tends to show he was not the inventor. If ordinary delay had occurred that question might have come to the knowledge of the examiner, and its consideration have lead to an adverse conclusion. Affidavits, letters, and printed publications have been submitted to establish that the invention, by prior discovery and publication, is, of right, that of another. If this be true, the patent should be canceled. If there is a substantial preponderance of evidence in favor of the probability that it is true, it should be tested by suit.

Mr. Bell, on the 22nd day of October, 1885, made affidavit that when he filed his application he knew of the Reis apparatus. Philip Reis, a German scientist, began investigations on the subject as early as 1859, which investigations he continued from time to time till his death in 1874. There is before us much contemporaneous testi-

mony, which shows that as early as 1862 Reis's instrument is spoken of (in the Journal of the German-Austrian Telegraph Association) with great admiration, stating, while describing its transmission of choruses and melodies—

"While single words in reading, speaking, &c., were less distinctly recognizable, although even in these the inflection of the voice, as interrogation, exclamation, surprise, calling, &c., were clearly reproduced."

Another German paper, printed the same year, says—

"The consonants are for the most part reproduced pretty distinctly, but the vowels as yet not equal in degree."

Dr. Hoffman, of the consulate of Paris, states that from a lecture by Professor Reis, in Geisen, concerning an instrument he named the "Telephone"—

"There cannot be the slightest doubt that words were transmitted and successfully reproduced by the apparatus, and this aroused great enthusiasm."

Ten German professors are named who heard the lecture.

In 1863 another journal says—

"The experimenters could even reproduce words."

Another journal in 1863 states—

"It is agreed that the possibility is before us of making oneself understood verbally at any distance in the way shown by Mr. Reis."

Another, in 1865, after a brief description of the instrument with its transmitter and receiver—

"By speaking or singing in the practical experiments made thus far it was possible to transmit with astonishing faithfulness chords, airs, &c.; while reading, speaking, &c., single words were less distinctly heard."

Philip Schmidt, a paymaster in the German navy, says—

"He [Reis] succeeded finally in reproducing at a distance words and whole sentences."

In volume 2, p. 404, of *Das Neue Buch der Entdeckungen*, speaking of the Reis discovery, is found—

"It sounds more than fantastic if it is stated that it is possible to converse through the electric telegraph wire to hundreds of miles with a distant person * * * yet this possibility has already become an actuality."

This, with much other contemporaneous testimony, given at a time when the facts were yet fresh and perpetuated with unerring certainty, is very cogent evidence that Reis invented a speaking telephone, and also illustrates its gradual development towards perfection.

The affidavits and letters of like scientific men, many of whom are devoting their lives to the study and teaching of the science of electricity, who are entirely disinterested here, after examination and study of the description of the instrument, as shown by the publications of Professor Reis, have borne witness that in all its substantial features the Reis instrument anticipates the alleged discovery by Bell. Many others testify that instruments constructed carefully in strict accordance with the description given by Reis have in their own personal presence actually transmitted words and sentences in conversation long distances. It is scarcely credible that all this testimony from disinterested sources is untrue.

There is also evidence that as early as 1849 Antonio Meucci began experiments with electricity, with reference to the invention of a speaking telephone, he being then a resident of the island of Cuba. In 1851 he came to New York, where, from time to time, he continued his experiments. Between that and 1854 considerable progress had been made. Between 1858 and 1860, it seems, he published in an Italian paper in New York the statement that he had invented a speaking telegraph. Being an Italian, he made, in 1861, arrangements to patent it in Italy—but they miscarried. Up to 1871 his experiments were continued, during which interval, although much of the time very poor, he constructed several different instruments, with which, in his own house, he conversed with his wife and others in different parts of the house. Models of several of these instruments made during this interval were exhibited, and seem in principle to combine most, if not all, of the elements that enter into the Bell instruments. His testimony is corroborated by his wife, and by affidavits of a very large number of witnesses. He claims that in 1872 he went to Mr. Grant, vice-president of the New York District Telegraph Company, explained his invention, and tried repeatedly to have it tried on the wires of the company. This, it is claimed, was used by the telegraph company, and was the basis of the contract between the Western Union Telegraph Company and the Bell Telephone Company, dated November 10th, 1879. There is evidence that Prof. A. K. Eaton, an electrician, began prior to 1875, experiments upon the Reis telephone with reference to its improvement. He had frequently referred to the Reis invention in lectures, and claims it was well known to scientists, from different publications, since 1861 and 1862; that, from the description of the instrument in the summer of 1875, he constructed a speaking telephone, which (including the Blake transmitter now used in the Bell telephone) is substantially the same in all its essential principles as the Bell instrument; that dur-

ing that year he used it successfully. He is corroborated in this statement as to the use of the instrument and its transmission of words by S. S. Pratt, of the New York World. It was Professor Eaton who sold to Spencer the telephones with which Spencer alleged he wished to establish a line between Boston and Providence.

Action was brought by the Bell Telephone Company against Mr. Spencer in Boston for the use of the instruments procured by him of Professor Eaton, and on the 27th of June, 1881, Lowell, justice, sustained the Bell patent; but in this case Professor Eaton was not called as a witness, and this is made the ground for the charge by the petitioners that Spencer was in the interest of the Bell Company and the suit collusive. There is no reason to believe that the attorneys or counsel for defendant in the Spencer case conducted the defense therein otherwise than with diligence, ability, and integrity; but all the evidence now presented before us was not then presented to that court. It is said by Professor Eaton that he began to make speaking telephones from the Reis description in the summer of 1875, and much other testimony is now before us. That testimony, if believed, would most likely have changed the result of the Spencer case. This was the first suit brought and test made upon the Bell patent. After this five other suits were brought in different courts by the Bell Company, and the defendants in the different cases were enjoined.

These suits are a principal feature in the evidence of the respondents in the applications. It is not claimed they are a bar to the action asked, but that they are a high degree of persuasive evidence that the claim of the applicants is not well founded. Their weight as persuasive evidence would largely depend upon the evidence which was offered by the defendants in each case, and the skill and integrity with which that evidence was presented.

If the evidence was identical with that before us, they might be sufficient to warrant a refusal of the application. But this is disputed. It is certain that in the Spencer case the same evidence was not before the court that has been here submitted. This last difference occurs in all of the other cases. It is alleged that after the Spencer case was decided, being the first, it was largely accepted as a precedent by the other courts to which the question was submitted, and, in result, was the substantial basis of each decision. The well-known official courtesy between the courts of the United States of equal grade lends much force to this suggestion.

Taking into consideration all the circumstances surrounding the cases, they are not sufficiently convincing to rebut the testimony on the part of the applicants.

An ocular exhibition was made on the hearing of the case on the part of the respondent to establish that the instruments described by Reis differed from those of Bell in that the Reis instrument being, as was alleged by the counsel for Bell, an instrument which acted by the actual breaking of the current at every vibration, and that in consequence of this it was incapable of transmitting undulatory waves of electricity, which they claim is the very vital principle underlying the invention of Bell and indispensable to the transmission of words. Both branches of this proposition are denied by the applicants, and substantial testimony offered to sustain the denial. If the latter part of the proposition be true, that undulating waves are indispensable to the transmission of words, the sequence is inevitable that the Reis instrument, properly constructed, did produce such waves, for it is certainly proven that the Reis instrument did transmit words.

On the argument respondents' counsel urged that out of fifteen words transmitted on one of the trials as an experiment in court, seven or eight only were intelligibly heard. The legitimate inference from this would more properly be that the instrument was imperfectly constructed than that the principle on which it was constructed was incapable of producing more perfect results, especially in view of the facts, sworn to by many creditable witnesses, that it did, in their presence, transmit fully and correctly on other occasions.

Other testimony was introduced, on the part of the respondents, of witnesses to show that on trial of the Reis instruments they did not transmit words. To reconcile this with testimony that like instruments did transmit words, it is only necessary to consider, what is quite probable, that in an instrument so delicate some part or parts in the one case were imperfect in their construction, while in the other they were not. For if one instrument did do the work, and another, apparently of the same kind, did not, it is conclusive that some defect existed in the latter instrument.

A full review of all the testimony cannot be attempted; but fairly and candidly considered, and reconciling the testimony as far as it is reasonably possible, we conclude that there is a clear preponderance of evidence in favor of the applicants.

The remaining division of this branch of the subject is, is the case presented of sufficient national import to justify action on the part of the United States?

It has already been shown that if remedy can be had, it can only be had by action in the name of the grantor, the United States.

The evidence developed the fact that already very large amounts of stock had been sold by the Bell Company, and its future sales would probably be larger. If the basis of this stock is groundless, and based upon the false testimony of the United

States, in the form of a patent, for the protection of her citizens in the future, it is undoubtedly the duty of the Government to speedily recall that alleged falsehood.

It appeared in evidence, or by clear implication from it, that the Bell Company received as the fruit of its alleged right to this monopoly very large amounts of money, amounting annually to millions of dollars, from the people of the United States. If the patent is wrongful, and the right to the use of the telephone belongs equally to all the people in common, this large amount is an unjust tribute from which the people should be relieved.

The honor due to the man who, by years of thought and investigation, had discovered so important a step in human progress; who had arrested the flashing lightning, and, as a servant, had bound to it the freight of human language to be carried and rehearsed at his will, is fame of which a nation may well be proud.

If the fame belongs to another nation, it is dishonorable that it should be claimed by our country. If it rightfully belongs to Mr. Bell, it is due to him, as well as to our national character, that by a full, fair, equal, and national trial his right should be established, the voice of detraction be forever silenced, and the truth vindicated.

I am, sir, respectfully,

G. A. JENKS,
Assistant Secretary.

DECEMBER 22, 1885.

DEPARTMENT OF JUSTICE, *May 27, '86.*

This printed copy agrees with the original type-writer copy on file in this Department except that the letter f and figure 3 (marked herein in pencil) are omitted on p. 3, and the letter "s" added on p. 5 (as marked in pencil).

The original has the first two and omits the last.

CECIL CLAY,
Chief Clerk.

Opinion of Hon. H. L. Muldrow, First Assistant Secretary, Interior Department.

DEPARTMENT OF THE INTERIOR,
Washington, December 22, 1885.

The honorable the SECRETARY OF THE INTERIOR:

SIR: In compliance with your request, I have considered the question submitted by the Acting Attorney-General of the United States in relation to the Bell Telephone patents, and now submit my views thereon:

The question of the right of the Attorney-General to institute proceedings in all proper cases for the vacation of a patent granted by the Government conveying to the grantee any property, right, or franchise has been exercised so often that it is scarcely now an open question. The right is inherent in the sovereignty possessed by the Government to remedy every wrong perpetrated by its authority. It has been recognized by the Attorneys-General of the United States in more than a dozen cases since 1874, and may now be considered a settled doctrine.

In the case of *Mowry v. Whitney* (14 Wall., p. 434) the question was raised directly by demurrer to the bill, whether the Government not only had the power, but was a necessary party to a suit to vacate and annul a patent, and in that case the court said:

"We are of opinion that no one but the Government, either in its own name or the name of its appropriate officer, or by some form of proceeding which gives official assurance of the sanction of the proper authority, can institute judicial proceedings for the purposes of vacating or rescinding the patent which the Government has issued to an individual except in the cases provided for in section 16 of the act of July 4, 1836."

So the question was directly raised, not only as to the power of the Government to institute proceedings to vacate and annul a patent granted, but the further question as to whether it did not possess the sole power for this purpose, and the effect of that decision was, that this power resided in the Government alone. Among other reasons assigned was that a suit by an individual could only be conclusive in its results as between the patentee and the party suing, and the patent would remain a valid instrument as to all others. The court also held, that the patentee would, or might, be subjected to numerous vexatious suits to set aside his patent, such a decree in his favor being no barrier to the suit of another party.

Any other interpretation of law would necessarily work a great hardship upon the people in any case where rights had been granted tending to establish monopolies at their expense, by the wrongful act of the Government.

The question is, when shall this right be exercised? The authorities, both of England and America, on the subject, show that where patents have been granted through fraud practiced upon the officer of the Government which induced its grant or issue, or where a patent is granted by mistake, instead of being refused as it ought to be, or

where the grounds of refusal do not constitute grounds of defense to a suit for infringement, the Government will lend its aid to rectify the wrong which has thus been practiced on the people. It has been held, that except for fraud, a patent could not be successfully assailed in any proceeding between individuals to judicially determine its validity. In the case of *Doughty v. West and others* (6th Blatchford, p. 429), the court say:

"The point taken that it was issued unintentionally, through a blunder of a subordinate in the Patent Office, is one which cannot be availed of in a suit brought on the patent. The seal of the United States, and the signatures of the proper officers to the grant, must be respected, in the absence of fraud, so long as the United States themselves do not question the grant."

In *United States v. Gunning and others* (18 Federal Reporter, p. 511) it was distinctly announced that a bill in equity will lie to set aside letters patent obtained by fraud, but only between the sovereign making the grant and the grantee. No inference can therefore be drawn from these provisions that Congress deemed it requisite to place authority in the United States to maintain such suit, nor from the absence in existing law that Congress intended to withhold such authority.

After a full review of the authorities on this subject, Mr. Curtis, in his work on patents, reaches the conclusion that undoubtedly the proper course is to institute suit in the name of the Government by the Attorney-General on relation of some one who is interested adversely to the patent, and Mr. Walker, after an examination of all the English and American authorities, concluded that where those practicing fraud are ingenious enough to keep clear of all known defense to infringements of suits or wrongs which they cause, the people are without remedy, unless the United States can repeal a patent which its officers have been induced to grant or issue.

There are two considerations which enter into the determination of the question as to when a suit should be brought by the Government to vacate patent. One is that it must be in a case brought to redress a public instead of a private wrong. The other is where the patent has been granted, either by fraud practiced upon the officers of the Government, or where it has been issued unadvisedly, or by mistake. Where these two considerations concur, and the interest of the public is of such magnitude as to justify the exercise of power, it becomes the duty of the Attorney-General to order the suit brought in the name of the Government.

In applying these principles to the case in hand, the question is presented: Do the facts offered by the petitioners present such a case as would authorize the use of the name of the Government to bring a suit to vacate the patents granted to Alexander Graham Bell?

The petitioners in this case have presented evidence strongly tending to prove that Bell was not the first inventor of the speaking telephone. They claim that at least three or more inventors have preceded him in the discovery of this art. It is claimed that Antonio Meucci, as early as 1860, had perfected an instrument which could then be used as a speaking telephone, and that its description was published in the *Echo d'Italia*, a newspaper printed in the city of New York, about that time. That he then named it a speaking telegraph, and before that he had experimented with various instruments which he had constructed for the same purpose, but had not brought them to that degree of perfection to perform the work intended. About the year 1860 he succeeded in making the perfected instrument, and as early as 1871 Meucci had filed in the Patent Office of the United States his caveat to cover and protect his invention. In 1872 he made two telephones, and these instruments he showed to many persons and talked through them. He caused a drawing to be made by an artist, representing two persons using his speaking telephone, one in the act of speaking, the other in the act of hearing. This was about the time he filed his caveat. This was claimed by Meucci himself, and his statement is corroborated by the affidavits of a number of witnesses. One of these, Dominico Mariana, as early as 1862, talked with General Garibaldi about Meucci's speaking telegraph, and saw the wires extended from the basement outside of the house into a room on the third floor; that he read a description of Meucci's instrument in the paper referred to, and that some time after the war he went to Meucci's house, had the instrument put up, and talked through it with Mrs. Meucci.

The Italian consul for Canada, in 1860, after visiting Meucci and getting a description of his instrument, attempted to get assistance to bring it into use.

In 1864 another witness saw the wires running from the basement to the third story of Meucci's house, noticed their connection with the batteries, placed the instrument to his ear, and heard the conversation with Meucci.

Vanni, another witness, says he visited Meucci in 1869, and Meucci then showed him his device, and informed him that it was a machine invented by him to talk over a wire by electricity. Vanni testifies that in 1872 Meucci described to him his speaking telegraph, and about the same time Dr. Beneditti examined Meucci's invention, and while he did not talk through it, others did in his presence.

Another witness, Cunningham, also saw the instrument and talked through it in Meucci's house from the third story to the basement.

Conti, secretary of the Italian consul, visited Meucci in 1873 and 1875, saw his telephone, and conversed with Meucci through it.

A number of other witnesses corroborate substantially the statements of those already named. It is also in evidence that after the filing of Meucci's caveat he talked freely about his inventions and described them to persons with whom he came in contact.

The evidence presented by the petitioners also tends to show that Professor Phillip Reis, as early as 1858, constructed a speaking telephone and talked through it in the presence of witnesses. This is shown by the affidavit of G. F. Wachtershauser.

A large number of witnesses testify sustaining the claim that Reis invented a telephone, and that his invention antedated the claim of Bell many years. This testimony comes from the highest sources, some of the witnesses sustaining the priority of the Reis invention being eminent professors and scientists.

Francis E. Nipher, professor of physics in the Washington University, Saint Louis, and president of the Academy of Science, says that from such examination as he is competent to give the Reis telephone, he clearly conceives the principle of the transmission of speech by electricity.

W. J. Green, electrician at the Smithsonian Institution and National Museum at Washington, says that he has seen and experimented with the apparatus in the Smithsonian Institution known as the Reis telephone, consisting of a telephonic transmitter and receiver, and that with the Reis transmitter and receiver he heard several sentences of articulate speech. This instrument was received in the Institution as early as 1874.

James A. Lyon, professor of physics and chemistry in the Washington and Jefferson College of Pennsylvania, who has made a special study of the science of electricity, testifies that it is admitted that the Reis telephone can transmit a musical tone, and this he believes has not been denied. It follows necessarily that there is no impossibility of its transmitting other complex sounds, such as the sounds of articulate speech, and that the only difficulty in the way of complete success is a mechanical one, and not a matter of principle, and that the principles now used for the transmission of sound by electricity were discovered and applied more than twenty years ago by Philip Reis.

A. K. Eaton, of Brooklyn, N. Y., analytical chemist and electrician, testifies that since the first publication of Reis he has been familiar with the Reis telephone, and frequently in his lectures referred to it. In 1875 he constructed a purely Reis instrument, both receiver and transmitter, through which he was able to receive and transmit articulate speech. He always considered Reis the inventor of the telephone, and the rest, including himself, Bell, and Gray, as improvers only on Reis.

A. E. Dolbear, professor of physics, Tufts College, Massachusetts, testifies that Reis did invent a speaking telephone in 1861.

J. B. DeMott, professor of physics, De Pauw University, Indiana, testifies that surely no one who has seen the Reis telephone could claim thereafter to have invented the system or art of transmission of speech by electric pulsations or undulations.

W. O. Semans, professor of chemistry and physics, Tufts College, Massachusetts, testifies that he is forced to the conclusion, from all the knowledge that he can gain on the subject, that Reis did invent a speaking telephone, and that as he invented and constructed it it is capable of transmitting articulate speech, and that it did so in Reis's hands.

Charles S. Hastings, commissioner of the scientific school of Yale College, testifies that it is certainly his impression that Reis's telephone embodies all the essential features of the system now used.

Prof. C. A. Young, of Princeton College, testifies that the Reis instrument, just as it came from his hands, if manipulated carefully, and if improved by merely inserting a bit of carbon at the loose contact of the transmitter, would to-day answer satisfactorily for telephonic business. His receivers will, any of them, operate fairly well with our modern microphone transmitters, and his transmitters, fitted with carbon electrodes, are excellent, even judged by the latest standard.

Professor Wiley, of Washington, D. C., testifies that it seems to him that the only difference between the Reis telephone and that of the modern telephone is in efficiency, and not in principle.

These, and a number of others, testify to their confidence in the fact that Professor Reis was the inventor of the art of the transmission of articulate sound by electricity, and it was substantially admitted by Bell, in the McDonough suit, that the invention claimed by McDonough had been known and used by Reis, and this fact was made by Bell a part of his defense. In that suit Bell further defended upon the allegation of the priority of invention of Pickering, Cross, and Van der Weyde, whose inventions all antedated those of Bell. Bell further defended in that case upon the allegation that McDonough was not the original and first inventor of the inventions and devices

described in that suit, but that the same had been described in many printed publications, and a reference to these show that at least eighteen had been made prior to 1876.

These facts or circumstances, proved or admitted by Bell, established a very strong case, showing that Bell was not the original inventor of the speaking telephone. The courts of the country have rarely sanctioned a claim so broad as that contended for in this case, and have watched with great jealousy the efforts to monopolize such forces of nature as are claimed by Bell.

Chief-Justice Taney, in the celebrated case of *O'Reilly et al. v. Morse et al.* (15 Howard, p. 62), denounced the policy of granting patents covering so broad a claim. In that decision he says:

"It is impossible to misunderstand the extent of this claim. He claims the exclusive right to every improvement where the motive power is the electric or galvanic current, and the result is the marking or printing intelligible characters, signs, or letters at a distance.

"If this claim can be maintained, it matters not by what process or machinery the result is accomplished, for aught that we now know some future inventor, in the onward march of science, may discover a mode of writing or printing at a distance by means of the electric or galvanic current without using any part of the process or combination set forth in the plaintiff's specification. His invention may be less complicated; less liable to get out of order; less expensive in construction and in its operation; but yet if it is covered by this patent, the inventor could not use it, nor the public have the benefit of it, without the permission of this patentee.

"Nor is this all. While he shuts the door against the inventions of other persons, the patentee would be able to avail himself of new discoveries in the properties and powers of electro-magnetism which scientific men might bring to light. * * * New discoveries in physical science may enable him to combine it with new agents and new elements, and by that means attain the object in a manner superior to the present process and altogether different from it, and if he can secure the exclusive use by his present patent, he may vary it with every new discovery and development of the science, and need place no description of the new manner, process, or machinery upon the records of the Patent Office. * * * In fine, he claims an exclusive right to use a manner and process which he has not described, and, indeed, had not invented, and therefore could not describe when he obtained his patent. The court is of opinion that the claim is too broad, and not warranted by law."

In applying this principle to the patent of Bell it is questionable whether the court can sustain the broad claim which he has made in any event.

So many witnesses having sworn that the inventions of Meucci, Reis, and others antedated those of Bell in the speaking telephone, I have not considered, except as incident to this conclusion, the question of fraud which has been raised by the petitioners, nor have I thought it necessary to discuss the simultaneous filing of Gray's caveat with Bell's application for patent in February, 1876, for, if a speaking telephone had been invented before either Bell's or Gray's application had been filed in the Patent Office of the United States, then neither of these could rightfully claim to have been the inventor. Bell admits that up to the time of the granting and issuing of his patent in 1876 he had been unable to speak articulate words through his instrument. It was not until after his patent had been granted that he did succeed in doing this. Whether he derived advantage or not from Gray's caveat in regard to a liquid transmitter or receiver I think it not important, so long as so much testimony exists showing that both Gray and Bell had been anticipated, and that the world knew it not only through the testimony from the mouths of witnesses, but also from various publications made both in Europe and in this country.

I therefore believe it to be the duty of the Government to judicially inquire whether these facts do not warrant the institution of a suit to cancel the patent of March 7, 1876, which bears the seal of the Government, and which confers upon him a monopoly of the use of one of the forces of nature at the expense of whole communities.

Very respectfully,

H. L. MULDROW,
First Assistant Secretary.

Opinion of Hon. M. V. Montgomery, Commissioner of Patents.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE.

I, Martin V. Montgomery, Commissioner of Patents, do hereby certify that the annexed is a true, correct, and compared transcript and copy of the report made by me to the Secretary of the Interior upon the reference referred to in such report. And I do further certify that the said report was originally made, signed, and forwarded to the Secretary of the Interior in all respects as it now is, and that since it was so made, signed, and filed, it has not been changed in any particular whatever, but that the

same as it now exists, and of which the annexed is such copy, is the original report so made and signed by me without the change or alteration of a letter, syllable, or word.

In testimony whereof I have hereunto set my hand and affixed my official seal, at Washington, District of Columbia, this 26th day of May, A. D. 1886.

[SEAL.]

M. V. MONTGOMERY,
Commissioner of Patents.

DEPARTMENT OF THE INTERIOR, UNITED STATES PATENT OFFICE,
Washington, December 12, 1885.

The SECRETARY OF THE INTERIOR:

SIR: On the 7th of March, 1876, patent No. 174,465 was issued by this office to Alexander Graham Bell. This patent is alleged to cover an important invention relating to the transmission of vocal sounds by electricity.

It is alleged that the American Bell Telephone Company is now the owner of such patent.

Some time ago several petitions, accompanied by voluminous affidavits and other papers, were filed with the Department of Justice, praying such Department to cause suit to be brought in the name and on behalf the Government against Mr. Bell and against such telephone company for the vacation of such patent. These petitions and accompanying papers having been referred by the Department of Justice to the Department of the Interior, were in turn referred by the Secretary of the Interior to the undersigned, Commissioner of Patents, for his report and opinion.

You will remember that for reasons which seemed sufficient and upon consultation it was thought best by you to depart radically from the usual practice in cases of reference of this character. Instead, therefore, of, as is usual, requesting from the Commissioner of Patents a simple report in relation to the facts which particularly pertained to his office, and without according to the patentee or those claiming under him a hearing, it was thought best in this case to permit a thorough investigation, and to make a careful examination of the questions submitted, and that such investigation and examination should be conducted and made by the Secretary of the Interior, aided by his two Assistant Secretaries and the Commissioner of Patents.

Due notice of this determination having been given to Mr. Bell and to the American Bell Telephone Company, the investigation proceeded, and an exhaustive hearing was accorded, not only to petitioners but to the respondents. The law and the facts involved in the controversy were carefully presented and elaborately argued.

The *first* question to be considered relates to the power of the Government in *any* case, under *any* circumstances, to institute and maintain a suit in equity for the vacation of a patent which has been heretofore granted.

The *second* question for consideration will be whether or not the Department of the Interior, in the event that such power actually does exist, should recommend to the Department of Justice that such a suit be brought in the present case.

As to the *first* question, which relates solely to the power of the Government to maintain suits of this character, it seems to me that it is no longer an open question. It is alleged, and not disputed, as I understand, that "the Attorney-General has many times authorized suits to repeal patents for inventions."

In the case of *Mowry v. Whitney* (14 Wallace, 434) suit in equity was brought by Mowry, praying that certain letters patent which had theretofore been granted to Whitney might be declared to be void and of no effect. To this bill the defendant demurred, upon the ground that the United States was an interested party, but was not made a complainant, nor was the suit brought at its instance nor by its authority or consent. The question raised by this demurrer came to the Supreme Court of the United States, where it was held that the demurrer was well taken, and must be sustained for the reason "that no one but the Government, either in its own name or the name of its appropriate officer, * * * can institute judicial proceedings for the purpose of vacating or rescinding a patent which the Government has issued to an individual."

It is said by counsel for respondents that this doctrine pronounced by the Supreme Court was not necessary to the determination of the case, and was consequently, therefore, mere dictum. But the court held that a suit could not be maintained by a private individual, but that such a suit *must be brought* by or on behalf of the Government. This doctrine was not, therefore, simply dictum, but the base and foundation upon which the determination rested.

It must be remembered in the outset that no private individual can maintain such a suit as is contemplated here, for the purpose of securing the annulment of letters patent, and therefore if such power does not reside in the Government, it *nowhere* exists.

Is it possible that a patent improvidently, carelessly, or fraudulently granted cannot under *any* circumstances be recalled, but must run its whole term of seventeen years? Suppose, for instance, that A applies to the Patent Office for letters patent which shall

grant to him the sole and exclusive right to manufacture and sell an important invention for seventeen years next following: Examination of his case is had, the grant is made, and the patent issues. In his oath accompanying the application he swears, as the law requires, that the invention has not been in public use or on sale more than two years prior to the filing of his application. The patent hardly leaves the office before it is discovered that such invention had been in active public use for at least five years before the filing of such application, and that during all of such time the patentee himself publicly and notoriously used it. Is it possible that the power does not reside *somewhere* to recall this weapon which permits this man, at least *prima facie*, to assert this monopoly? If it be true that such power do not exist, then this man may, as is sometimes done, travel about the entire country, armed with his patent, instituting suits by the hundreds—each time when a trial is had, it is true, sustaining defeat, but nevertheless going on and bringing new suits and forcing new trials; and in hundreds of cases compelling settlements because defendants prefer to pay fifty or one hundred dollars rather than incur the expense of a contest. And this curious condition of affairs would be possible. This patentee might bring simultaneously an indefinite number of suits against an indefinite number of individuals respectively. To-morrow he tries his *first* case and is defeated, the court declaring the patent invalid and void. The next day he could insist upon and take up the *next* case, and again make his *prima facie* showing by simply exhibiting his patent, proving infringement by the defendant and the damage; again, the patentee is defeated. And again, the next day the *third* suit comes on, when the same ceremony is proceeded with; and so on indefinitely. Is it possible, I repeat, that the power does not *somewhere* exist to recall such a grant?

Suppose, again, that A applies for patent for a certain invention. By mistake or inadvertence a patent is granted to him for a *totally different* invention, one for which he *never* applied, and for which B *has* an application pending, but which in nowise and in no manner resembles that of A. The whole thing is a mistake, and still the patent is granted. A can take his patent, go out in the country, bring suit in the courts for infringement as often as he pleases, make a *prima facie* case against each one of ten thousand defendants, respectively, in as many different suits, by simply exhibiting his patent, proving infringement and the damages. Is it possible that no power exists in the Government to recall this kind of a grant?

Again, A makes an application for an invention. The thing which he describes is patentable, but almost insignificant. By mistake and inadvertence the office includes in the patent to him an invention for which he never asked, which he never conceived, but which is of great magnitude and importance to another inventor who is in the office asking for a patent upon this very invention. Is it possible that there is no power lodged anywhere to recall, cancel, reform, or invalidate this instrument?

I have no doubt that such power does exist, and that it is not only the *right* but the *duty* of the Government in many cases to protect the people from the imposition which may be occasioned by a monopoly, or seeming monopoly, so created, or fraudulently obtained, and to institute its suit for the absolute vacation and voiding of such a patent.

As to the *second* question, if it were true, as suggested upon the argument, that this is simply a controversy between two or more individuals or corporations, and that in fact certain individuals or corporations are attempting to induce the Government in its name and by its authority to institute a suit for the purpose of invalidating the patent of a rival, or if it were true that petitioners, or any other individual or corporation, could maintain such a suit, and if in fact it were not true that the power to maintain such suits for the vacation, annulment, or destruction of such a patent resides nowhere else than in the Government, there could be but one answer to these petitions; they must be denied. It is not true, however, that any individual or corporation can maintain such a suit, and the right exists nowhere unless with the Government. No matter how many suits might be brought and conducted to a termination by private litigants, there is but one way to actually invalidate, annul, and destroy a patent, and that is by suit such as is proposed in these petitions. If such suit should be brought and should proceed to a conclusion, the result will not be a simple determination as to which one of several claimants shall be entitled to this monopoly, but if the result shall be reached which is claimed by petitioners to be probable, it would forever be destroyed.

Starting, then, with these assumptions, what degree of assurance should be furnished by the petitioners as to their ability to successfully maintain the facts which they present, and in what degree should they satisfy the Department of the Interior as to the existence of the facts which they aver? On the part of petitioners it is said that all they need do is to establish a *prima facie* case, pure and simple; that respondents are here and have been heard, not because it was the custom or practice to permit them to be so heard, but by the simple grace of the Department.

To a certain extent this is true. Respondents had no right to insist upon being heard. It was only in view of the unusual circumstances, with which every one is

familiar, that surround the history of this controversy, which induced so radical a departure from the usual practice.

On the part of respondents it is urged that having been accorded a hearing it is the duty of the Interior Department to take up the case as it finds it presented, upon the law and the facts, and determine it as it would be determined by any other tribunal; and that if in the judgment of the Secretary of the Interior no case has been established which can be successfully maintained, which does not, in fact, "exclude every reasonable doubt," the Department of Justice ought not to be recommended to direct or permit the institution of a suit.

For myself I do not agree with either of these positions. If no hearing had been accorded to respondents it probably would have been sufficient for petitioners to have presented a plain, strong, unimpeached, *prima facie* showing, which seemed to render an investigation necessary. No one will dispute that the *prima facie* case submitted by petitioners was a very strong one. In the absence of any defense, and in the absence of any explanation, a strong presumptive case was made out against respondents, which would make it the clear duty of the Government to institute suit to vacate the patents. On the other hand, an able, earnest, and exhaustive defense has been asserted and urged. There are radical and very substantial contradictions both upon the law and the facts. It is asserted on the part of the petitioners that Mr. Bell in this invention was anticipated by at least two inventors, Antonio Menci and Philip Reis, respectively. It seems to me that it would be hardly profitable for me to go at length into the testimony. It, perhaps, is not possible to express an opinion as to where the preponderance is found. It is sufficient, in my judgment, to say that the question is by no means free from difficulty, and by no means a clear one. A formidable array of facts is presented on each side. These facts cannot be calmly, judiciously, and judicially ascertained and determined anywhere except in the courts.

In many of the States, justices of the supreme court, judges of the courts of record, justices of the peace, mayors of cities, and other officers, can act in the capacity of examining magistrates. The grand jury is rarely or never called, and there is no investigation between the examination and the trial. A person charged with crime is brought before one of these officers for such examination. The examination proceeds; a strong and clear *prima facie* case is established. When the defense is reached, which may be made as exhaustive as the defendant chooses and has the power to make it, evidence is given which fairly explains away the seeming case of the prosecution. In such an instance, very clearly, the case should *not* be sent to a jury for investigation. On the other hand, however, suppose the arrest, arraignment, and establishment of such strong *prima facie* showing. The defendant offers a large amount of testimony. When all is concluded, instead of having *explained* the case made by the people, a confused, important, and serious question of fact remains. It requires careful investigation and careful discrimination to determine where the truth is. Very clearly, in such a case, the defendant would be committed for trial, and the cause sent to a jury, where such investigation could be had and a proper result reached.

If Mr. Bell were the original and first inventor of the improved invention, which was secured to him by such letters patent, then the institution of a suit by the Government, an exhaustive showing of the facts, and a decree in his favor, would substantially settle for all time his right to such invention.

Again, if counsel for Mr. Bell are satisfied with their position, that the power to maintain such suit does not exist, then a simple demurrer to the bill would raise the question, and forever set it at rest.

In conclusion, I submit that, in my opinion—

First. The United States Government, through its Department of Justice, has the power to institute and maintain such a suit for such a purpose as is invited by these petitions.

Second. That in the present case facts have been exhibited which should not be ignored or dismissed, but which ought to undergo a careful and thorough investigation.

I therefore report that, in my opinion, the Department of the Interior should recommend to the Department of Justice that such a suit be brought.

The petitions, affidavits, and accompanying papers, received by your reference, are herewith returned.

Very respectfully, your obedient servant,

M. V. MONTGOMERY,
Commissioner.

Comp'd and examined.—M. H.

[Circuit court of the United States of America, southern district of Ohio, eastern division.]

THE UNITED STATES OF AMERICA, COMPLAINANT, <i>vs.</i> THE AMERICAN BELL TELEPHONE COMPANY, A CORPORATION UNDER the laws of Massachusetts; The Central Union Telephone Company, a corporation under the laws of Illinois; The Erie Telephone and Telegraph Company, incorporated under the laws of the State of Massachusetts; The Central District and Printing Telegraph Company, incorporated under the laws of Pennsylvania; the Cleveland Telephone Company, The City and Suburban Telegraph Company, The Miami Telephone Company, The Buckeye Telephone Company, the latter four companies incorporated under the laws of Ohio; and Alexander Graham Bell, respondents.	}	In equity.
---	---	-------------------

To the judges of the circuit court of the United States in and for the southern district of Ohio, eastern division :

Your orator, the United States of America, by Philip H. Kumler, its district attorney in and for the district aforesaid, who brings this suit by direction of John Goode, Solicitor-General of the United States, and its Acting Attorney-General in this case (the Attorney-General of the United States being under disability to prosecute this case), brings this, its bill of complaint, against the American Bell Telephone Company, a corporation organized under the laws of the State of Massachusetts, and Alexander Graham Bell, a resident of the District of Columbia, and said other defendants. And thereupon your orator complains and says :

I. The United States, by section 8, article I, of the Constitution, and acts of Congress passed thereunder, is authorized and empowered to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

The conditions of such security are that the art or thing in question shall be new and useful, and that the original and first inventor or discoverer thereof, or his assigns, shall have duly applied for and received letters patent, authorizing such patentee to make, vend, or use such art or thing, in the place and to the exclusion, as aforesaid, of all other persons within the jurisdiction of the United States.

It is the duty of the applicant for any such patented monopoly to make known, fully, fairly, and in good faith, to the proper officers of the United States, all matters within his knowledge relating to such invention or discovery, or in its connection with the history or state of the art to which such alleged invention or discovery belongs, to the end that such officers may discharge their duty of examining fairly and fully into the history of such art, and into the state and condition of such alleged invention as to novelty and utility, and be able to determine intelligently whether such applicant is indeed the original and first inventor, and thereby entitled to have a patent conferring upon him a grant of monopoly excluding all others, citizens of the United States, from the like privilege.

This obligation attaches to the applicant and to his assigns in such way, and the effect of the due and proper performance thereof upon the rights of the people of the United States is of such a nature, that the obligation for such due and honest performance attaches to such patent as a continuing condition of its validity.

The power and authority of such officers to issue a patent having effect so as aforesaid to deprive the people of the United States of their natural rights extends only to the case of inventions actually new and useful, and to the granting of patents thereon to the true, original, and first inventor thereof.

Whenever a patent is, by accident, inadvertence, mistake, or fraud, issued to any person who is not such original and first inventor, or for any invention, or part of an invention, which is not both new and useful, it is within the power and, in a proper case, within the duty of the United States, acting through the proper Executive Department thereof, to take such action or proceedings as may be convenient and necessary to cause the facts to be brought to a fair and judicial investigation and determination to the end, that, in case such patent be found valid, it may be sustained by proper judicial judgment; or, in case the same be found in whole or in part invalid, it may be canceled or annulled in whole or in any such part that the court may deem to be void; and that the whole patent be treated as a contract to be annulled, reformed, or modified as in law and equity and good conscience it ought to be.

In performance of this duty your orator charges that certain letters patent issued to Alexander Graham Bell, dated March 7, 1876, numbered 174465, were illegally and improperly procured to be issued, by reason of certain facts hereinafter more fully set forth, and brings this its bill in equity as a means of causing justice to be done to the said Alexander Graham Bell, to the said American Bell Telephone Company, his assignee, and the other said defendants, as well as to all others, citizens of the United

States or persons commorant within its jurisdiction, in whose interests, and for the restoration and protection of whose rights, this suit is instituted.

II. And your orator further shows unto your honors that the application for said patent No. 174465, dated March 7, 1876, together with a full record of all writings filed and proceedings had thereon leading to the issue and delivery to the said Bell of said patent, and also the said patent, are all of record in the Patent Office of the United States, and to which, as to all matters therein found and contained, your orator further refers for certainty, and prays that a copy of the same herewith filed, marked Exhibits A and C, may be taken and considered a part of this bill of complaint, and the same in all respects as if set forth herein *in extenso*.

III. And your orator further shows that in order lawfully to obtain the patent aforesaid it was necessary for the said Bell, under the provisions of section 4888 of the Revised Statutes of the United States, to file in the Patent Office a written description of his alleged invention, and the manner and process of using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertained, or with which it is most nearly connected, to make and use the same; and in respect to any machine or apparatus connected therewith, to explain the principle thereof, and the best mode of applying that principle, so as to distinguish it from other inventions, and to particularly point out and distinctly claim the part, improvements, or combination which he claimed as his invention or discovery.

And your orator charges that any intentional omission or failure so to do, and any evasion of the said requirements, calculated, by wide generalizations and ambiguous language, to discourage further invention in the same field, or to cover antecedent or future inventions, or to deceive and mislead the public, rendered such patent void.

And your orator further shows that although up to the time of issuing of the said patent the said Bell had never in fact been able to transmit articulate speech by the method or with the apparatus described in his said application, he purposely framed his said application and claim in ambiguous and general terms, in order to cover both antecedent and future inventions, and to deceive and mislead the examiners of the Patent Office and the public, and did not set forth or declare that his alleged invention had any relation to the art of transmitting articulate speech by means of electricity, but entitled it an application for an "improvement in telegraphy," and made special reference to a then recent application made by himself for a patent for a method of "multiple telegraphy," and treated his alleged new invention as another method thereof, and set forth advantages which it had over the other, but did not include or mention its capacity, or claim for it any capacity to transmit speech.

And your orator further shows and charges that by the means aforesaid the said Bell not only failed to meet the requirements of the statutes as to the form of his application, but did, in fact, mislead and deceive the examining officers of the Patent Office, by causing them to regard the said alleged invention as a mere improvement in telegraphy, and not as an invention of the telephone, and by leading them to suppose that it had no relation to the art of transmitting articulate speech by electricity, and thus caused them not to make an inquiry as to the state of that art, or the patents or the printed publications concerning it; wherefore your orator avers that the said patent No. 174465, issued upon said delusive and ambiguous application, was and is void and of no effect.

Your orator further avers and charges, upon information and belief, that at the time of filing the said application the said Bell was not the original and first inventor of all the improvements in telegraphy described and claimed in the said specification; that certain of the so-called improvements had been previously known to and used by others, as is hereinafter more fully and at large set forth; that the said Bell, on the 20th day of January, 1876, and at the time of filing the said application, did not verily believe himself to be the original and first inventor of all the so-called improvements in telegraphy described and claimed in the specification; and that on the said 20th day of January, 1876, and at the time of filing of the said application, the said Bell did know and did believe that certain of the so-called improvements in telegraphy described and claimed in the specification last aforesaid had been previously known to and used by others, as is hereinafter more fully set forth.

And your orator avers and charges that the said untrue statements made by said Bell as aforesaid constituted deception and fraud upon your orator by the said Bell, and did deceive and defraud your orator, and did cause your orator to issue and deliver said patent No. 174465 to said Bell upon your orator's faith that the statements were true, and that but for the said false and fraudulent statements of the said Bell made by him as aforesaid the said patent would not have been issued or granted by your orator, so as to create any exclusive monopoly of the method or process described in the said fifth claim thereof.

Your orator, on information and belief, alleges and charges further that it was, at the time of filing the said application for the said patent, well known that one Phillip Reis, of Germany, did, about the year 1861, devise, and did subsequently improve, an

apparatus for the transmission of speech by means of the galvanic current, and did publish to the world in various scientific publications an explanation of the theory, and principle, and method, and process upon which the transmission of speech by means of electricity could be and was successfully accomplished, so that prior to the year 1874 it became known to the scientific world, and many persons devised and were seeking to devise apparatus and means by which such method and process could be successfully operated and made to transmit articulate speech and other composite sounds.

Such method, as a scientific problem, was substantially stated to be the causing, in a conductor of electricity and an apparatus for receivers, electric vibrations or undulation corresponding or similar to the air vibration accompanying the sound to be transmitted. And not only did the said Phillip Reis make and operate an apparatus upon such method or process, but divers other persons in this country did, prior to the alleged date of said Bell's invention, to wit, prior to the year 1876, well understanding the conditions on which alone speech and other composite sounds could be transmitted by electricity, experiment upon said problem and devise more or less perfect means therefor.

And your orator, on information and belief, further alleges and charges that on the 14th day of February, 1876, being the same day on which the said Alexander Graham Bell filed his application in the Patent Office as aforesaid, one Elisha Gray, of Chicago, did, prior to the filing of the said application, file at the same place a caveat, under the provisions of section 4902 of the Revised Statutes, concerning an invention, the object of which was expressly declared in said caveat to be "to transmit the tones of the human voice through a telegraphic circuit and reproduce them at the receiving end of the line, so that actual conversation can be carried on by persons at a long distance apart," in which the single claim was for "the art of transmitting vocal sounds or conversation telegraphically through an electric circuit."

That under the provisions of section 4902 aforesaid the said Gray became lawfully entitled to have his said caveat preserved in secrecy in the confidential archives of the office, and to file his description, specification, drawings, and model within three months after notice of any other application, filed within one year, with which such caveat would in any manner interfere.

That said Gray also became entitled to have the said application of the said Bell, with its description, specification, drawings, and model, also deposited in said confidential archives until three months had expired, in case the same was construed by the Patent Office to interfere in any manner with his own, in which case it would become the duty of the Patent Office to give such notice to Gray; that the examining officers did so construe the said application, and accordingly, in the discharge of such statutory duty, the examining officer did give such notice to said Gray, by a letter dated February 19, 1876, in which the said application was not described as for a telephone, or as relating to the art of transmitting articulate speech, but as for a "telephonic telegraph," which signifies, and did then signify, a far-sounding method of transmitting audible telegraphic signals, but not a far-speaking instrument for the transmission of human speech, claimed by said Gray in his caveat.

That in the true intent and meaning of said section 4902 it was the duty of the Patent Office to give the notice thereby required even if the said application of Bell had been filed before the filing of said caveat, provided it had not been considered and acted upon by granting a patent thereon, to the end that said caveator might have an opportunity to file his application and exhibit the date and precise nature of his invention, and to enjoy the advantage of the interference proceedings provided for by law; and that, having received the said notice dated as aforesaid, and obtained such advantage by the regular action of the office, the status of said Gray with reference to said application of Bell became fixed, and the subsequent proceedings by which he was deprived thereof, as hereinafter stated, were irregular and void.

That notwithstanding the requirements of the said statute to preserve said caveat in secrecy, the examining officer of the Patent Office communicated to the said Bell, very soon after the filing of the said caveat, the fact of the filing thereof, as well as the general nature of the claim contained therein, and some information as to the particular method employed; that the said Bell, by his attorneys, followed up this knowledge unlawfully obtained, and induced some of the officers of the Patent Office to violate still further the requirement of secrecy concerning said caveat, by setting on foot an inquiry, for the benefit of the said Bell, as to the precise time of the day when the same was filed; and thereupon, without any certain proof, and contrary to law and the custom of the office, it was determined, contrary to the fact, that said caveat was filed after said application, although on the same day, and the said caveator was not entitled to the notice which had already been given, or to any of the benefits of the said section, with respect to the application of the said Bell.

That thereupon the examiner of the Patent Office who had the matter in special charge, without communicating to the said Gray the question that had been so raised as to the time of the filing of the respective papers, nor the determination thereof,

or giving him any opportunity to establish by proof the actual time of filing his own, announced to him, by letter dated February 25, 1876, that the said notice had been given under a misapprehension of the rights of the parties, and was withdrawn.

That the said Bell, having unlawfully obtained important information as to essential features of the invention of Gray as disclosed by his caveat, proceeded without delay to make substantial amendments of his specification and claims, which amendments were made on the 29th day of February, only four days after said withdrawal of notice was communicated to said Gray; that such amendments related to those parts of said Bell's alleged invention which he and his assigns have since claimed as the cardinal element or feature of his patent, to wit, the transmission of sounds by gradual or undulatory changes in the electrical current, as distinguished from alternate or pulsatory changes; that in the notice of the 19th of February, 1876, the said examiner had distinctly advised the said Gray that the application of Bell seemed to conflict with his caveat in respect to "the method of producing the undulations by varying the resistance of the circuit, and the method of transmitting vocal sounds telegraphically by causing these undulatory currents"; that this same examiner, without the knowledge of the said Gray, communicated to Bell the fact that Gray's invention varied the resistance and produced undulations by means of a liquid transmitter; that upon and in consequence of this surreptitious information, and of the unlawful communications respecting the said caveats made to the said Bell, as herein above alleged, the said Bell made the said amendments, more clearly defining the distinction between pulsatory and undulatory currents, and substituting the word "gradually" for "alternately" wherever it occurred in one of his claims; and your orator charges that these amendments were substantial, as well in themselves, as in their bearing upon the rights then secured by Gray under the statute, and were not verified by oath, and that the said patent was issued thereon, and during the pendency of said caveat, and with undue and unusual haste, and without proper consideration of the rights secured by said Gray, or of the interest of the citizens of the United States with respect to the art of telephony sought to be monopolized by said Bell.

And your orator further shows that the said Bell ingratiated himself into the favor and confidence of the attorney of said Gray, and in order to induce the said Gray to abandon his caveat did, as early as March 3, 1876, and before his said patent was issued, falsely and fraudulently cause said attorney to believe that he, Bell, had invented a speaking telephone prior to the said January 20, 1876, and also that such invention was really described therein, and induced said attorney so to represent to said Gray; and that accordingly the said attorney, by letter of March 3, 1876, caused the said Gray to be informed that the said Bell had the older and better claim, and gave it as his "judgment" that it would not be advisable for the said Gray to press his claim for the invention.

Your orator shows, on information and belief, that said Gray believed these false suggestions, and was thereby induced to take, and did take, no action in pressing his said caveat for a patent for many months, and until long after said Bell had secured his said patent upon his said application, and that by these wrongs and frauds aforesaid, and others to be presently stated, said Bell succeeded in securing the aforesaid patent for an invention of great value which he did not discover, and to which, as between him and said Gray, the said Gray was entitled to priority.

Your orator is informed and believes that the examiner did not understand the application of the said Bell to be for an articulating speech telephone, but for an improvement in multiple telegraphy.

That the examiner was of the opinion that the said application and caveat were in interference on principles employed on harmonic or multiple telegraphy, but not in the art of transmitting speech, and did not understand the application to lay claim to the art of transmitting speech; nor did the language of the specification, or drawing attached thereto, give due, fair, and intelligible notice that notwithstanding the entitling of the invention as an improvement in the art of telegraphy, one portion thereof might be construed to have reference to telephony, which had been, since that art had been invented by Reis, the term adopted by lexicographers, and had come into general use as a recognized term of art, denoting a peculiar operation for transmitting speech by means of electricity.

Your orator further shows that on March 10, 1876, three days after the said patent issued to said Bell, he obtained for the first time articulate speech by an electric speaking telephone. This success was not obtained by any device or apparatus described in the said Bell specification and patent, but on March 10, 1876, was obtained with the liquid transmitter, or water telephone, described in Gray's caveat, and a knowledge of which said Bell derived from the wrongful communication to him, as before shown, of the contents of the Gray caveat.

Your orator is informed and believes that the said Bell was not able to get the said devices shown in his patent, or any of them, to transmit and deliver articulate speech

up to the time of filing his application, on the 14th of February, 1876, and he did not intend to so operate them, nor was he aware that they would do so.

Your orator is informed and believes that there is not now and never was in use an electric speaking telephone made in accordance with the alleged invention or discovery of said Bell, as shown in his specifications and claims of February 14, 1876, or in his patent issued upon the said specifications and claims of March 7, 1876; that the telephone instruments now in use by the defendant, the American Bell Telephone Company, were not invented or discovered by said Bell, nor did he invent or discover any essential part or principle of the same. On the contrary, as your orator is informed and believes, they are combinations of the inventions of other persons, some of which were made before and some since the alleged discovery. Your orator is informed and believes that these facts showing fraud, collusion, and overreaching in the obtaining of the said Bell patent long remained artfully concealed from your orator, and have only recently been brought to your orator's knowledge and attention.

IV. And your orator further shows that even if the said caveat had not been filed as aforesaid, and the said patent had been properly issued as for the improvement in telegraphy described therein, it nevertheless was and is void and ineffective to secure any exclusive claim for the broad art of transmitting articulate speech by the process as set forth in said fifth claim or otherwise, which alone gives it any significance or importance, because each and every claim of said patent No. 174465, dated March 7, 1876, is bad in form and substance and is void as matter of law.

And your orator also says that the fifth of said claims, which is, in substance, for the method of and apparatus for transmitting vocal and other sounds telegraphically by causing electrical undulations similar in form to the vibrations of the air accompanying the sounds, is also void, for that the words "method of" merely describe the function and mode of operation of the machine. The claim for an "apparatus" is void, because no mechanical device is specified therein. The claim of causing undulations in a particular supposed form is a mere matter of speculation, and is not the subject of a patent. The transmission or reproduction of vocal sounds by electricity was notoriously old, and there is no attempt to claim a more perfect transmission or reproduction of human speech electrically.

Your orator further shows and charges that the said patent bearing date March 7, 1876, is void, because it does not point out and distinctly claim either a new and useful art or a new and useful machine, a new and useful manufacture or a new and useful composition of matter, but is an attempt to include in one and the same patent and in one and the same claim the alleged invention of an art and the alleged invention of a machine or apparatus, and to combine two statutory classes of inventions in a single patent and a single claim.

The said patent is for the function which it is alleged is performed by an apparatus described in the specification of the said patent, and is an unlawful attempt to cover by letters patent of the United States the function performed by an apparatus, and one of several steps and stages of a process, all of which are necessary to effect the result aimed at. (The said patent is also the result of an attempt to cover and protect by letters patent of the United States an abstract principle and law of nature.)

And your orator further says that the said patent, and each and every one of said claims, is also void, because the same constitutes a fraudulent attempt on the part of the said Bell to so frame his descriptions and claims as to extend them over the whole field of invention to which the same relate, and to enable him and his assigns, under the color of subtle and adroit phrase and vague and general descriptions, to avail themselves of subsequent discoveries and inventions that might be made by other persons, and to prevent other meritorious inventors and discoverers from having and enjoying the just fruits of their inventions and discoveries.

Said Bell nowhere in his patent or claims describes or sets forth any apparatus for or art of transmitting human speech electrically; but as many efforts were then notoriously being made in the inventive world to devise an apparatus for that purpose, as aforesaid, said Bell, in pursuance of his said fraudulent design and intent, artfully introduced into said patent such phrases as would afterwards enable him to claim, as in fact he has since done, to be the first and original inventor of every means of transmitting human speech by electricity, contrary to the facts and the justice of the same, and this under a covert claim of an improvement in ordinary telegraphy.

That if it be true that articulate speech can only be electrically transmitted through and by the agency of the electrical undulations described or sought to be described in said patent, then the method of causing, producing, regulating, and using such currents or action of electricity so as to intelligibly transmit articulate speech is not obvious or plain either to the ordinary mechanic or to persons of very considerable knowledge of electricity or applied electricity; yet the said Bell, in his specification and claims, did not and does not point out or describe any device, apparatus, mechanism, or means of carrying his pretended invention or process into effect in such form and with such clearness that the same can be constructed and operated by others,

without the intervention of further actual invention on the part of the persons seeking to practice the art of electric transmission of speech or sound by the method as claimed by the said Bell in his said patent.

KNOWLEDGE AND PUBLICATION.

V. Your orator, upon information and belief, further shows that the said Bell was anticipated in the discovery of the electric speaking telephone by Phillip Reis, Cromwell Fleetwood Varley, Antonio Meucci, Elisha Gray, Thomas A. Edison, Asahel K. Eaton, and many others, as will appear by reference to the schedules made a part of this bill, and to be more particularly mentioned hereafter.

That this valuable discovery is either the property of some one of these prior discoverers, or, having been abandoned by the first and original inventor or discoverer to the public, is now free to be used by all the people of the United States.

That telephone instruments of many prior inventors, which were made before the alleged discovery of the said Bell, are now in existence, and are electric speaking telephones, and can be made to demonstrate, and do demonstrate, by the transmission and delivery of articulate speech, that they are such telephones.

That all of the alleged inventions and discoveries in said patent of the said Bell mentioned, described, and claimed, and all substantial and material parts thereof therein claimed as new and original, had been, long prior to said invention and discovery thereof by said Bell, made known and described in various printed publications both in this and foreign countries, *i. e.*, in the printed works and publications named, set forth, and described in schedule 2 annexed to and filed with this bill of complaint, and made part thereof to the same extent and effect as if the same had been written herein *in extenso*.

That the said alleged invention or discovery in said letters patent mentioned, described, or claimed, as well as each and every substantial and material part thereof by the said Bell claimed as new and original with him, had been, long prior to the alleged invention or discovery thereof by the said Bell, mentioned, described, or claimed in various and divers patents granted and issued to divers persons, and, among others, to the persons named in the patents respectively dated and numbered, set forth, and contained in schedule 3 annexed to and filed with this bill of complaint, and made part thereof to the same effect and extent as if the said schedule had been written herein *in extenso*.

And your orator therefore alleges, on behalf of the people of the United States, and for the restoration of their common rights, that the said patent No. 174465 was irregularly, fraudulently, and unlawfully issued from the Patent Office by the means above set forth, and ought, by a decree to be made in this cause, to be canceled and made void.

VI. Your orator further shows, on information and belief, that said Bell, well knowing that he was not the inventor of the art of transmitting speech by an electric speaking telephone, and also that the patent of March 7, 1876, neither in the drawings, specifications, nor claims in said patent, described any apparatus or device by which articulate speech could be transmitted through the instrumentality of electricity as perfectly or as well as articulate speech had been transmitted prior to the alleged said invention, through the instrumentality of electricity, by the use of well-known pre-existing methods and apparatus, sought to fortify himself in his wrongful claim and more completely to secure to himself the monopoly sought to be described in said patent, and further imposed upon your orator and the Patent Office, and to that end, on or about January 15, 1877, made another application for a patent to be issued to him, upon which application a patent was issued, No. 186787, dated January 30, 1877, which said patent purports to be granted to him for specific devices and apparatus for the transmission of articulate speech through the instrumentality of electricity. That the application for the said patent, together with a full record of all writings filed and proceedings had thereon leading to the issue and delivery to the said Bell of the said patent, and also the said patent, are all of record in the Patent Office of the United States, and to which, as to all matters therein contained and found, your orator refers for certainty, and prays that a copy of the same herewith filed marked Exhibit D may be taken and considered a part of this bill the same in all respects as if the same were set forth herein *in extenso*.

Your orator further shows, on information and belief, that at the time said Bell applied for said last-mentioned patent he well knew that every material part, portion, and device and apparatus set forth and described in his said patent and specifications were not his invention, but the several elements, considered either separately or combined, were taken bodily by him from well-known and existing apparatus, devices, and plans invented and contrived by others for the purpose of transmitting articulate speech by means of electricity.

Your orator is further informed and believes that, not content with the wrongful claiming for himself the apparatus, combinations, and devices of others, he, and those

claiming under him, used his said last-named patent to fortify and protect them in their monopoly of the transmission of articulate speech claimed to have been granted to said Bell in said former patent, and he so framed the several claims in said patent No. 186787 as on the face thereof to give him and his associates the practical monopoly of well-known and essential devices used and combined in all instruments for the transmission of articulate speech by electricity; and now those claiming under him hold forth both of said patents as not only giving them a monopoly of the broad art of transmitting speech by electricity, but of all the essential parts of any apparatus by which the transmission of speech by electricity can be effected and is at the present time accomplished, basing the claim to a close and complete monopoly upon the said two patents. A certified copy of said patent No. 186787 is hereto annexed, marked Exhibit B, and made part hereof.

VII. Your orator further shows, on information and belief, in addition to the above-stated grounds for the invalidity of said patent No. 186787, that said Bell procured his last-named patent by fraud upon one Amos E. Dolbear, professor of physics at Tufts College, in Massachusetts, in the manner and under the circumstances following, to wit:

The said Dolbear did discover and invent the magneto-telephone now used as a receiver by the American Bell Telephone Company, being the same as that embraced in the said patent issued to said Bell on said January 30, 1877, and made and exhibited a complete, perfect, articulate speaking telephone on September 20, 1876, combining all the appliances now used in the modern magneto telephone used by the American Bell Telephone Company, professedly under the said last-named patent, and began to take steps to secure to himself, his heirs and assigns, a patent for the said invention from the Government of the United States, and to that end communicated his invention to a friend, one Percival V. Richards, who was assisting him to secure a patent for his said invention.

That said Richards was also a friend and associate of said A. G. Bell, and, while proceeding to procure a patent for said Dolbear for said invention, he inadvisedly communicated the fact of said invention of the said Dolbear to the said Bell, and also communicated to him a description of said invention of Dolbear; whereupon and soon after he was informed by one Gardner G. Hubbard, who was a near connection of and associate with the said Bell, that said Bell had invented and secured a patent on said devices and invention of said Dolbear over two years previously, which untrue statement was communicated to said Dolbear, who believed the same, and thereafter ceased for a long time all further efforts to secure a patent for his said invention.

That said Bell and Hubbard, as soon as they had gathered and secured the details of said Dolbear's invention, proceeded forthwith to the city of Washington, and then and there applied for and secured said patent No. 186787, for the invention of said Dolbear.

Your orator further says that at the time said Bell made oath to his application for said invention he well knew that his oath was not true, and that not only he was not the inventor thereof, but that he had appropriated the invention of the said Dolbear.

VIII. Your orator further says that said Amos E. Dolbear, soon after making said invention embraced in said patent No. 186787, entered into a contract and bargain with the Gold and Stock Telegraph Company, a corporation existing under the laws of the State of New York, controlled by the Western Union Telegraph Company, to manufacture, use, and sell his said invention, which said corporation had exclusive control of said invention, and made, used, and sold said telephones of Dolbear for the space of nearly three years, when the said American Telephone Company and the said Western Union Telegraph Company, in a litigation then pending between them in what is known as the Dowd case, agreed to compromise their differences, and appropriate to themselves the entire profits arising from telephony in the United States, and suppressed the fact as to the said invention of said Dolbear of said devices, and that said Bell had appropriated and patented the same.

Your orator further says that said American Bell Telephone Company and said Western Union Telegraph Company, in order further to suppress the fact and deceive the public, caused a collusive interference case to be begun and prosecuted in the United States Patent Office between said Bell and said Dolbear, wherein said Dolbear was not represented except in name, and wherein his assigns, the said Western Union Telegraph Company, the American Bell Telephone Company, and A. G. Bell, were the real parties and were all in one interest; which said interference case was prosecuted so as to suppress the fact that as against Bell said Dolbear was the inventor, the attorney for said Dolbear's assignee being in fact one of the counsel for and in the pay of said American Bell Telephone Company; the testimony also being taken by apparently opposing counsel for opposing interests, but in fact for the same parties and for the same interests; and that accordingly, in the said case, it was decided that the defendant Bell was the discoverer and inventor of said device.

And your orator charges that for the fraud aforesaid the said last-named patent, No. 186787, was invalid, and ought to be canceled and made void by the decree of this honorable court.

IX. And your orator further says that the said patent issued to said Bell on January 30, 1877, purports to be for improvements in electric telegraphy, and that each and every claim of the said patent is bad in form and substance and is void as matter of law.

Your orator further says that said Bell was not the first inventor of said device patented by him by said patent No. 186787, that the same had been used by the persons and at the places stated in the schedule No. 1, hereto attached, and that the same had been published in the newspapers and periodicals and issued to the world in printed form, also set forth in the schedule hereto attached marked 2.

And that the said invention patented to said Bell by said patent had been patented by the patents numbered and set forth in schedule 3, which three schedules are made a part hereof as much as if herein copied *in extenso*.

Your orator further says that this is true especially of a patent of the United States issued to David Hughes, January 25, 1859, No. 2277; also a patent of Great Britain, No. 32287, to A. G. Holcombe, June 4, 1861; patent of the United States granted to Royal E. House, No. , 1868.

And especially is it true that said invention was known, used, and published by James W. McDonough, of Chicago, Ill., before January, 1871, and by one Antonio Meucci, of Staten Island, New York, from 1856 to 1870, and by him published in the "Eco d'Italia," published in New York about September, 1860, and August, 1865, and in "Il Diritto," a newspaper published in Italy in 1865; and that said Meucci, in order to secure his invention to himself, his heirs and assigns, on the 26th day of December, 1871, filed a caveat for the same in the Patent Office of the United States, and renewed the same on the 28th day of December, 1875, which said caveat of said Meucci on his said invention is still of record in the Patent Office of the United States, to which your orator refers as a part of this bill.

X. And your orator shows to your honors that by mesne assignments in writing, in due form made and executed by the said Bell, and duly recorded in the Patent Office of the United States, the said Alexander Graham Bell transferred the said letters patent to the American Bell Telephone Company, No. 174465, dated March 7, 1876, and also the said letters patent No. 176787, dated January 30, 1877, and each of them, and has become divested of all right, title, or interest therein, and has transferred his title in and to said letters patent, and in and to the matters and grants therein contained, to the American Bell Telephone Company.

That your orator has made the said Alexander Graham Bell defendant in this bill not by reason of any interest, right, or title in said patents, as he has become divested of all right, title, or interest therein, but that he may, if he so choose, appear herein and assert any pretended claim, right, or interest which he may believe himself possessed of, and be heard herein.

Your orator further shows that the said defendants, the American Bell Telephone Company, duly incorporated under the laws of Massachusetts, and the Central Union Telephone Company, a corporation duly chartered under the laws of Illinois, and the Erie Telephone and Telegraph Company, incorporated under the laws of the State of Massachusetts, and the Central District and Printing Telegraph Company, incorporate under the laws of the State of Pennsylvania, and the Cleveland Telephone Company, the City and Suburban Telegraph Company, the Miami Telephone Company, and the Buckeye Telephone Company, the latter four incorporated under the laws of Ohio, and the defendant, Alexander Graham Bell, all of whom are made defendants to this bill, are present and are found and have property and do business in the State of Ohio, within the jurisdiction of this court, and are now engaged in carrying on the business of telephony and maintaining a close monopoly thereof in the said districts, that is to say, in said eastern and western divisions of said southern district and in said northern district of Ohio, under and by virtue of said patents to said Bell and by the means and in the manner hereinafter set forth.

Your orator further shows that the defendant, the American Bell Telephone Company, owns all the telephone instruments used in the business of telephony in the United States conducted under the authority of its patents, and especially all those used by said defendants, or any or either of them, in the State of Ohio; the said instruments that are used by them in said State being in number over 20,000. Its local associates and copartners, the said companies, respectively, own their wires and poles and contribute the same as their shares, respectively, of the capital of the business, whilst the American Bell Telephone Company furnishes the franchise and exclusive right of said patents, and the telephone instruments, together with a contract stipulation with each of said local companies that the American Bell Telephone Company will also supply counsel and maintain all suits and do all things to make the business an exclusive and close monopoly, without charge or burden to the local company or copartner.

That the local association, copartnership, or joint-stock company thus formed divides the profits of the business between the American Bell Telephone Company and the said local association, on terms agreed upon between the parties, and the share of the American Bell Telephone Company, as your orator is informed and believes, is set apart weekly and accounted for by said local company, and is collected by agents of the American Bell Telephone Company who visit said local company for that purpose, or otherwise paid to said American Bell Telephone Company.

That the telephone being a necessary agent in conducting commercial and business affairs, the said business is carried on, in the manner hereinbefore stated, in every city and town of any importance in the United States, and between cities, towns, and places in different States, and is so carried on by said defendants in the eastern division of the southern district aforesaid, and in the western division thereof, and the northern district of said State.

And that the said other defendants or sub-companies are part owners and copartners, agents, and representatives of the said American Bell Telephone Company within each of the divisions and districts aforesaid of the State of Ohio, and that the said American Bell Telephone Company is entitled to and has an interest in all and singular the property, rights, and business of the other said defendants.

That the said American Bell Telephone Company does business in each of said divisions and districts by the sale and grant of licenses to use said patents; by the renting or lease of said telephone instruments, by sharing in the earnings and the profits of each of said local companies, by holding stock in the same; by having an interest in the rights, property, and business thereof; by supporting and maintaining each of said companies in litigation; by the employment of officers, agents, and servants in each of said divisions and districts; and by divers other means and devices.

Your orator further alleges, on information and belief, that said alleged invention of the telephone is of great public interest and importance; that the telephone has become a commercial and practical necessity to the people of the United States; that the said defendant, the American Bell Telephone Company, by virtue of its said patents, No. 174465 and No. 186787, have received and demanded, and are still receiving and demanding, and threatens to so continue to receive and demand, large sums of money for the use of the telephones alleged to be covered by the said patents, so as to establish a monopoly and grievously to oppress the people of the United States upon what are, as your orator is informed and believes, invalid grants, and have brought and are carrying on a multiplicity of suits against divers citizens of the United States as alleged infringers of said patents.

And that the amount involved in this action exceeds \$10,000.

XI. Your orator is advised that no suit or action can be instituted or prosecuted by any private citizen to determine whether the said patents, or either of them, were fraudulently or unjustly obtained as against your orator, or whether the same, or either of them, should be vacated and declared null and void as against the people of the United States, or should be reformed so as to grant such exclusive rights only as the said Alexander Graham Bell was lawfully entitled to receive from your orator at the times when he applied for the patents aforesaid, respectively; and your orator is advised that it is the right and the duty of your orator to submit its case in the premises to the judicial department of the Government of the people of the United States, to the end that, after due hearing of the parties in interest, and in the lawful and orderly course of the administration of judicial remedies by courts of the United States having jurisdiction in equity, it may be adjudicated by judicial decree, binding as well your orator as the said Alexander Graham Bell and his assigns, whether or not the said patents have been issued by fraud, accident, or mistake, or are for any other reasons void and voidable, and should be wholly or in part canceled, reformed or limited.

In consideration whereof, and inasmuch as your orator inadvertently, and by mistake induced, caused, effected, and brought about by the frauds, concealments, imposition, and false suggestions aforesaid, signed, sealed, and delivered said letters patent in error as aforesaid; and inasmuch as said letters patent now still remain of record in your orator's Patent Office, appearing on the face thereof to be valid in form; and inasmuch as the original thereof is out of the hands of your orator, and was wrongfully and in error and mistake delivered to the said defendant, Alexander Graham Bell, and has by him been transferred to the possession of the said defendants, the American Bell Telephone Company, your orator is remediless in the premises under the rules of the common law, and can only have relief in this form of proceeding.

XII. To the end, therefore, that the said defendant, the American Bell Telephone Company, and the said other defendant companies, and the said defendant, Alexander Graham Bell, if he elect to appear herein, may, if they can, show why your orator should not have the relief herein and hereby prayed for, your orator prays that the said defendants may be required to full and perfect answer to the premises, in writing, make, the oath of said defendants to said answer being hereby expressly waived.

And your orator further prays, the premises considered, and due and regular proceedings had as prescribed in the rules and regulations governing this honorable court in proceedings in equity in like causes, your honors will adjudge and decree that the said two supposed patents described and set forth in this bill of complaint, being patents of the United States, the one, No. 174465, bearing date March 7, 1876, granted to Alexander Graham Bell, for alleged new and useful improvements in telegraphy (as stated and set forth on the face thereof), and the other, numbered 186787, bearing date January 30, 1877, granted to Alexander Graham Bell, for alleged new and useful improvements in electric telegraphy, are now, and they, and each of them, at all times since the date of the sealing and delivery thereof, has, and have been, null and void, and of no effect.

That said patents were, and each of them was, wrongfully procured to be issued by means of fraud, false suggestion, concealment, and wrong on the part of the said Alexander Bell, the grantee named in said patents, respectively, and that there is nothing in said patents, or either of them, named, described, contained, or disclosed, or in any manner set forth, either in said specifications or in said claims, for or by reason of which the said letters patent, or either of them, could have been lawfully granted, sealed, and delivered to the said defendant Bell, as relating to or securing to him in any manner any monopoly of any patentable invention or discovery whatever, and that the said Bell, and all other persons or corporations who at any time had, or pretended to have, any right, title, or interest in and to said patents, or either of them, or any grant or feature thereof or therein, have at all times known and had full knowledge of the premises and of the defects and nullities hereinbefore set forth and alleged in this bill of complaint, and at all times ought to have known, and did know, that said patents, and each of them, is and are, and at all times has and have been, null and void and of no effect.

And that your honors further decree that the said patents, and each of them, be in all things recalled, repealed, and decreed absolutely null, and that the record thereof, and of each of them, as the same remains and exists in the Patent Office of the United States, or in any of the archives of the United States, be in all things expunged, erased, and obliterated, and that your orator and all the people of the United States be in all things restored and reinstated, as near as may be, to the actual condition and state existing prior to the inception and execution of the said scheme of the said Bell to unjustly obtain the issue and delivery to him of said wrongfully obtained letters patent.

That your honors make such further and other order and decree, and take all such just and proper proceedings, as shall compel the said defendant, the American Bell Telephone Company, and the said other defendants, to surrender and deliver to this honorable court, to be canceled, the said original letters patent delivered to the said Bell, and each of them, in order that the seal of the Patent Office thereon may be removed or destroyed, or said letters patent, and each of them, otherwise rendered void and of no value as evidence of any supposed grant or right whatever.

And your orator prays that if this honorable court shall determine that the said patents are not wholly void, and not deserving to be wholly repealed, but that they are, or either of them is, void and repealable in part, that then a decree be made repealing only such part or parts of the same as the court shall deem to be void and repealable, and that the said patents, and each of them, be treated as contracts, and be reformed, limited, and modified as in equity and good conscience they ought to be.

And that your honors further grant and allow to your orator the most gracious writ of injunction, directed to the said defendants, each, every, and all of them, perpetually prohibiting, restraining, and enjoining them, and each and every one of them, their several agents, solicitors, attorneys, workmen, and servants, from in any manner setting up any pretense of right or claim under and by virtue of said supposed letters patent, or either of them, or of any matter or of any thing therein contained, and from alleging the same in any court within the United States as evidence or pretended evidence of any grant, right, or privilege conferred upon the said Alexander Graham Bell, or any of his assignees, or the American Bell Telephone Company, or any of the said defendants, in any judicial proceedings, bill, answer, plea, or issue made or pleaded in any court in the land.

And may it please your honors to also grant unto your orator such other and further relief in the premises as the nature of the case may require and as to your honors may seem meet and just, and to the end that your orator in all things may be relieved in the premises according to equity and good conscience.

And may it please your honors also to grant unto your orator the most gracious writ of subpoena of the United States of America, to be directed to the said American Bell Telephone Company, the said Alexander Graham Bell, and the other defendants hereinbefore named, and to any confederate or confederates when discovered, therein and thereby commanding them, and each of them, at a certain day, under a certain penalty therein specified, personally to be and appear before your honors in this honorable court, and then and there to answer all and singular the premises, and stand to and

abide such order and decree herein as to your honors shall seem meet and just and agreeable to equity and good conscience, and to grant to your orator any other lawful and appropriate process or orders of publication to effect the appearance of said defendants, or any or either of them.

And your orator will ever pray, &c.

Letter from Gardiner G. Hubbard.

Hon. C. E. BOYLE,

Chairman of the Telephone Investigating Committee, Washington, D. C.:

DEAR SIR: I can best answer your letter and questions by giving you a history of the matters you inquire about.

In 1874 Mr. Bell was working at a system of harmonic multiple telegraphy, in which he had made some progress. He had no means, and Thomas Sanders and myself (being his intimate friends) agreed that we would advance the money needed for experimenting, taking out patents, and developing the invention, and that we three should own in common all the patents that he might take out relating to said inventions. We did not know whether or not he would ever succeed in inventing anything practically useful, though we believed he would. Our arrangement did not contemplate a speaking telephone, though I believe Mr. Bell had then some ideas on the subject. In the course of these experiments a speaking telephone was made, and it was concluded that it fairly belonged to the three. It was patented March 7, 1876. About a year was spent in improving the apparatus and determining the best form for commercial use. Mr. Bell made many public exhibitions in Salem, Boston, Cambridge, Providence, New York, and at the Centennial Exhibition in July, 1876. In the spring of 1877 we began to put out telephones for commercial use. The first was on a line from the office of Stone & Downer, State St., Boston, to the house of one of the members of the firm in Somerville.

In the summer of 1877 a conveyance of the titles of the patents was made to me as trustee, and I executed papers stating that I held the patents and all the other property in the business in trust for the holders of the shares; that there were 5,000 such shares, and that A. B. was the holder of a specified number of them.

The shareholders of this association, called the Bell Telephone Company, were myself, my brother, Mrs. Alexander Graham Bell (who was my daughter), Mr. Bell, Mr. Sanders, and Mr. Thomas Watson.

Mr. Watson was the machinist who had assisted Mr. Bell in his work, to whom we had given a one-tenth interest, in partial compensation for his services. No capital was named, as it was not an incorporated company. The money which was paid in was not paid in as a stock subscription, but Mr. Sanders and I furnished all the money that was needed, both for original experiments that I have spoken of and to start the business, except that my brother received a few shares in payment for professional services. I do not know exactly how much we furnished, but it was upwards of \$50,000.

I cannot tell the amount we paid for a call bell. We made a great many experiments to get one that would meet the necessities of the case, and found unexpected difficulty in getting one that satisfied us. I was mistaken in saying \$50,000, as we did not spend so much upon the bell alone. All the money we expended was paid out to strangers, and none of it was paid to ourselves, excepting a salary to Mr. Watson, and to the best of my recollection there was no royalty or other payment of money, or none of great importance. Up to this time no money had been paid in except by Mr. Sanders and myself.

I think this answers your first, second, third, eighteenth, and nineteenth questions.

After the business had grown, we determined that it should be transferred to a corporation.

There was first formed the New England Telephone Company in the beginning of 1878, to carry on the business in New England. The New England company was a corporation formed under the laws of Massachusetts, and had a share capital of \$200,000.

In the summer and fall of '78 the Bell Telephone Company was formed under the laws of Massachusetts, with a share capital of \$450,000, for the rest of the United States.

These companies bought from the old association the two Bell patents, the right to all Mr. Bell's future inventions in the same line, some other patents, and all the telephones, property, business, good-will, and other assets of the association. The capital of these two companies added together was \$650,000. Of this, the original holders of the patents (that is, Mr. and Mrs. Bell, Mr. Sanders, Mr. Watson, my brother, and myself, and our families) received \$400,000, in shares, and I conveyed the patents held

by me in trust. The other \$250,000 of stock became the property of some gentlemen who had arranged to put in, and did actually put in, \$100,000 in cash. By midsummer of 1878 the patent was over two years old, and there were in use, bearing royalties, about 10,000 telephones.

This represents the actual transaction between the parties.

As a matter of form in organizing the company, the property of the association was put into the two companies at \$550,000, and the other \$100,000 of stock sold for cash; but in order to induce the purchasers to make this arrangement the old associates gave them also \$150,000 in stock. This valuation (\$550,000) was believed to be the actual fair value of the property turned over. Under the laws of Massachusetts the capital of a corporation must be paid in either in actual cash or in property at its actual value. This law was complied with, and in each case the valuation of the property was fixed by the commissioner of corporations of the State of Massachusetts, as required by law.

The new stockholders were Hon. Chas. S. Bradley, of Providence (formerly chief justice of Rhode Island, and then a practicing lawyer), and his family and friends, about thirty persons in all.

I think this answers the fourth, fifth, sixth, seventh, and eighth questions.

In the beginning of 1879 the business had increased so rapidly that more cash was needed. In order to obtain it the National Bell Telephone Company was organized with a capital of \$850,000. It purchased all the property of the Bell Telephone Company and the New England Telephone Company, and the owners and stockholders of these companies received for these properties \$650,000 in shares. The remaining \$200,000 of stock was sold from time to time for cash and actually realized more than \$400,000. By which I mean that those who bought this stock paid into the treasury of the company upwards of \$400,000 in cash, to remain in the treasury and be used for the general purposes of the corporation.

When the properties (which at that time included the Bell patents, the Blake transmitter patents, and a considerable number of other patents relating to telephones, bells, switches, &c., and which also included all the assets of the company, such as telephones, lines, franchises, cash, &c.) were turned over to the National company, they were considered to be intrinsically worth the sum I have named, viz., \$650,000, and the price at which they were put in was examined by the Massachusetts commissioner of corporations, under the law I have referred to, and decided by him to represent that value. At this time the business was well established, extensive, and earning money. There were about 30,000 telephones owned by the company and in actual commercial use, earning royalties.

The gentlemen who bought new shares were chiefly Mr. William H. Forbes (who became president) Messrs. Lee and Higginson (bankers, of Boston), and their friends.

Of the stock in this company, Mr. Sanders, Mrs. Bell, and myself and our families had, in the way I have mentioned, received for our original ownership of the Bell patents, and the money we had ourselves put in, 4,000 shares. All the rest, to wit, 4,500 shares of stock, was held by gentlemen who had paid in cash for it, and the amount of cash actually paid in by all was over \$575,000.

By the spring of 1880 the business had become firmly established, was growing fast, and needed a great deal more capital. A contest against Elisha Gray and the Western Union Company, known as the "Dowd" suit, had come to an end, and the stockholders in the company, and those who knew of it, felt that the examination of the patent made by these opponents and their submission to it authorized us to believe that the patent was valid for all that we claimed for it.

We then determined that the property should be sold to another corporation in such a way that a large amount of cash could be added. The legislature of Massachusetts passed a special act (March 19, 1880) authorizing us to organize under the general laws with a capital of \$10,000,000.

Before this organization was effected, and before the sale to this new company was made, the property of the previous company (the National Bell) had greatly increased in value (the stock had sold as high as \$1,000, on the stock exchange), at such a rate and in such a way that the stockholders of the old company actually received six shares of the new stock for one of the old. The property was on the face of the papers put in at a somewhat higher valuation, but that valuation was less than the market value of the property as shown by the sales of stock in the stock exchange and was approved by the commissioner of corporations as not exceeding its actual value. At the date of that valuation and sale the company owned about 90,000 telephones in actual use earning royalties.

In this new company (the American Bell) the 4,000 shares originally held by Mr. Sanders, Mrs. Bell, and myself, as representing the original partners and owners of the Bell patents, were increased six times, that is to \$2,400,000 of stock, or in other words, that was the amount which we received for our original ownership and all the money which we put into the first association. On the \$10,000,000 capital stock of the American Bell there has been actually paid into that company in cash, \$4,900,000, and about 3,000 shares remain to be sold. The property which it purchased from the

previous companies also contained the results of about \$575,000 of cash actually paid into the various early organizations. Besides this there were all the earnings and interest of the money from the beginning, no dividends (except one small one by the New England company, of an insignificant amount) having been paid.

This stock has been very widely distributed, and is held by nearly 2,000 shareholders. The stock which produced this \$4,900,000 was sold to and paid for in part by old stockholders and in part by strangers, none of it was sold at less than par, and part of it has been sold at above par. You will perceive from this that the actual issued capital of the American Bell Telephone Company, \$9,700,000, represents upwards of \$5,475,000, say about five and a-half millions of cash paid in, the Bell patents for which \$2,400,000 has been received in shares by the original partners, which the remainder represents, five years' earnings before dividends were paid, and the general rise in value of all the property of the company.

The amount representing the original partners, in which Mrs. Bell owns the share formerly belonging to her husband, Mr. Bell, is \$2,400,000, and her interest would be, if she had never disposed of any, \$800,000.

I think this answers questions ten, eleven, thirteen, fourteen, fifteen, and sixteen.

In my testimony before the committee I stated that the Bell company was not incorporated, but was a joint stock company. By reference to these answers it will appear that there were two Bell companies, the first a joint stock company, the second an incorporated company. When I gave my evidence I had forgotten the existence of the second company.

The questions sent to me by the chairman were forwarded by me to Mr. Forbes, the president of the American Bell Telephone Company, and he caused these answers to be prepared from the original papers and books.

These answers, to the best of my knowledge and belief, are correct.

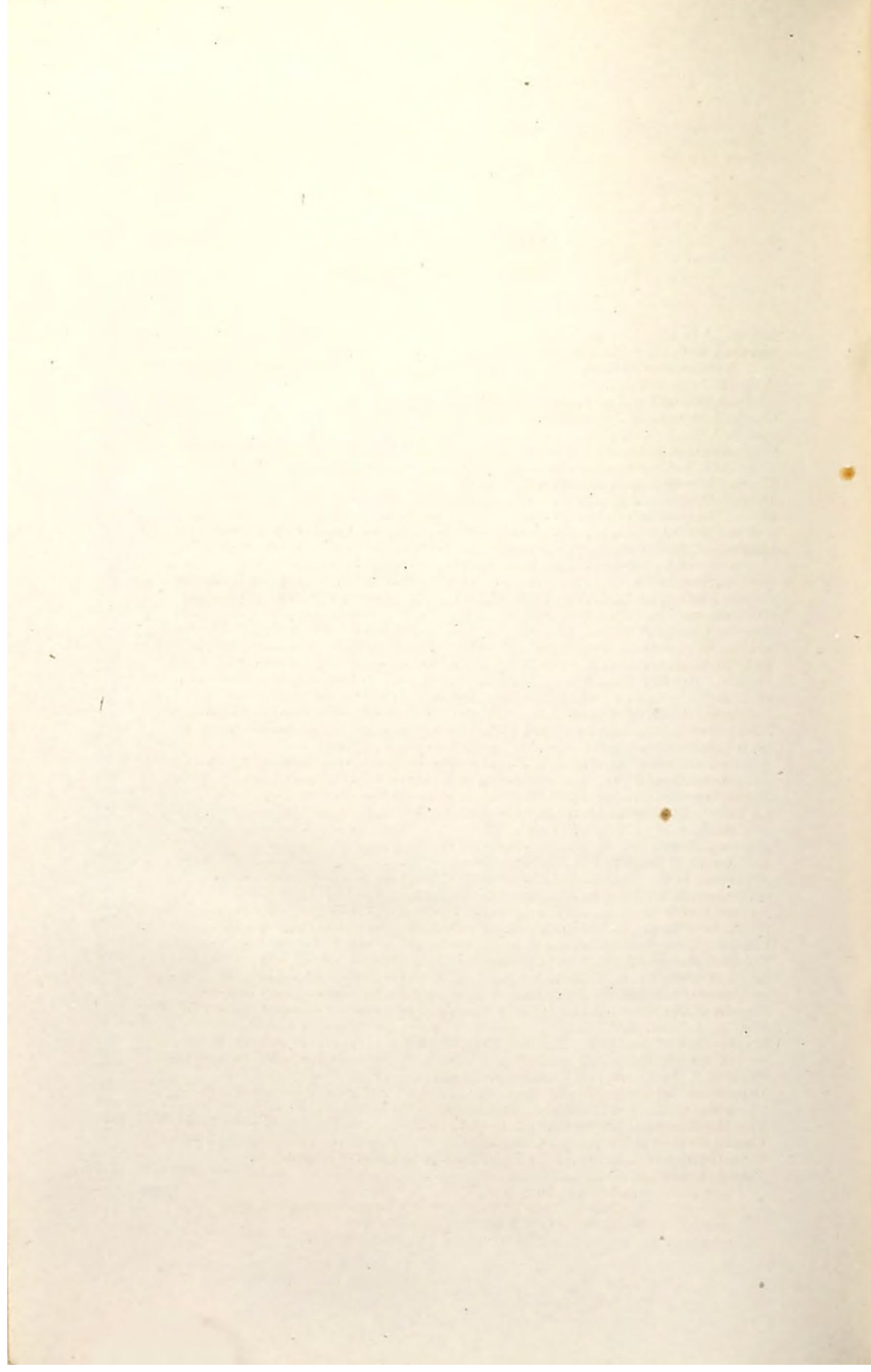
GARDINER G. HUBBARD.

WASHINGTON, *May* 20, 1886.

The committee then adjourned to meet again upon the call of the chairman, to prepare their report to the House of Representatives.

INDEX TO WITNESSES.

	Page.
Atkins, J. D. C	388
Beach, Lewis	838, 860
Bell, Alexander Graham	757, 777
Briesen, Arthur V	930
Carlisle, John G	836
Clark, Edward	709, 719
Clark, S. N	898, 1121
Clay, Cecil	720, 836, 858, 945, 988, 1095
Crawford, T. C	814
Dana, Charles A	874
Driver, William R	747, 765
Dunn, Poindexter	713
Forbes, William H	723, 728
Gardner, Thomas H	516, 707
Garland, Augustus H	649, 1104
Gibbs, Charles E	1092
Goode, John	421, 539
Graham, L. S	1114
Gustin, George A	927
Harris, Isham G	332, 556
Henkle, E. J	648
Hewitt, Abram S	842
Hill, E. N	948
Hubbard, Gardiner G	766
Humphreys, D	681
Hutchins, Stillson	545
Johnson, Bradley T	625, 1015
Johnston, Joseph E	488
Jones, George	884
Le Fevre, Benjamin	872
McComas, L. E	707
Marean, Morell	1002
Montgomery, Martin V	867
Muldrow, H. L	861
O'Connor, John D	787
Payne, Sereno E	848
Platt, Orville H	993
Pulitzer, Joseph	3
Randall, Samuel J	840
Reid, Whitelaw	808
Robinson, William E	623
Rogers, J. Harris	109, 1099, 1120
Rogers, J. W	37, 1117
Seixas, H. O	408
Smith, Henry H	550
Sypher, J. Hale	790
Talcott, A. B	996
Upshaw, A. B	821
Van Benthuyzen, Watson	563, 1005, 1011, 1031, 1096
Vance, Robert B	694
Vest, George G	303
Young, Casey	111, 552, 984, 1126, 1152



INDEX TO TESTIMONY.

Adams, Professor Wellington :

- publication of book called "The Telephone Case," by (Young), 153, 558 ; (Van B.), 589.
- agreement of Pan company with (Harris), 372, 373.
- agreement of Pan company (text of), 373, 374.
- affidavit of, 374.
- minutes of meeting of January 15, 1885, relating to contract with, 373.
- Solicitor-General Goode does not recollect seeing publication of, 544.
- title page of compilation by, 1198.
- "alleged adjudications," extract from compilation, 1241.
- "Reis's prospectus," extract from compilation, 1255.
- adjudications, alleged, extract from Wellington Adams' book, 1241.

American Bell Telephone Company :

- control by, of courts and bar (Johnston), 502.
- organization of (Bell), 762 ; (Hubbard), 766, 774, 775, 1282 ; (Forbes), 723, 728.
- stockholders in (Bell), 762 ; (Driver), 748, 749, 750, 751, 765 ; (Hubbard), 1283.
- stockholders in, list of, 849.
- capital of (Driver), 747, 750, 752, 755 ; (Hubbard), 768, 769, 776.
- publication of newspaper articles by (Driver), 751 ; (Forbes), 732, 733, 734.
- publication of articles in New York Times paid for by (Driver), 753 ; (Forbes), 733, 734, 738.
- attorneys employed by (Driver), 754.
- market value of stock (Driver), 755, 756 ; (Hubbard), 1284 ; (Forbes), 735.
- never incorporated ; was a joint-stock company (Hubbard), 766, 1284.
- names of original associates in (Hubbard), 767, 1284.
- none of original members Government officials (Hubbard), 767.
- issuance of stock by (Hubbard), 769, 776, 1284 ; (Forbes), 738.
- no stock given to members of Congress (Hubbard), 774.
- licenses to local companies (Hubbard), 776 ; (Forbes), 734.
- dividends paid by (Forbes), 736.
- royalties paid by (Forbes), 736.
- value of property of (Forbes), 736.
- successful litigation of (Forbes), 737, 738, 746.
- cases carried by, to Supreme Court (Forbes), 738.
- connection of A. A. Ranney with (Forbes), 731, 732, 737 ; (Driver), 753, 754, 756.
- relations of, to Western Union Telegraph Company (Forbes), 745.
- inventions offered for sale to (Forbes), 746.
- the patent of, "rushed through" Patent Office (Jones), 884.
- attempts by, to influence course of New York Times (Jones), 885.
- advertisements in New York Times paid for by (Jones), 885, 892.
- Attorney-General has never given opinion as to validity of patent of (Garland), 651, 656.
- the broad claim of (Garland), 656, 665, 666.
- effect of annulling patent of (Upshaw), 834 ; (Harris), 387, 388 ; (Atkins), 401 ; (Goode), 457 ; (Johnson), 642.
- capital of companies licensed by, (Driver), 897.
- pleas of, before Interior Department, 1133.
- bill filed against, in Columbus suit, 1272.

American Postal Telegraph Company :

- sale of instruments to, by Pan-Electric company (Rogers), 53.
- organization of (Rogers), 61.
- pamphlet relating to (Rogers), 107.
- pamphlet relating to, sent to members of Congress (Rogers), 107.
- consolidation of, with Pan-Electric (Rogers), 108.
- no combination of Pan-Electric with (Harris), 337, 357.

- American Postal Telegraph Company—Continued.
 legislation in regard to (Carlisle), 837.
 Mr. Money's bill in relation to (Carlisle), 838.
- Armstrong, General Frank, of Texas:
 a promoter of telephone company in Pennsylvania (Rogers), 13.
 stock sold to (Rogers), 104.
- Arrington, Dr., contract with, for Missouri (Young), 143.
- Articles of agreement of 13th of March, 1883, between J. H. Rogers and Messrs. J. F. Johnston, A. H. Garland, J. D. C. Atkins, J. G. Harris, and Casey Young, 9.
- Articles of Incorporation of Pan-Electric Telephone Company, dated Memphis, Tenn., October 27, 1883, 127, 236.
 prepared by Mr. Garland (Garland), 655.
- Atkins, J. D. C.:
 articles of agreement between J. H. Rogers and (Rogers), 9.
 in favor of issuing stock (Rogers), 26.
 interview with, regarding formation of company (Rogers), 38.
 goes to New York to conclude contract (Rogers), 39.
 not a member of Congress when contract was drawn (Young), 170.
 dividends paid to, 293.
 is indorsed for position by Senator Harris (Harris), 369.
 testimony of, 388.
 connection of, with Pan-Electric Company described, 388.
 suggests Mr. Garland as an associate, 389.
 the New York contract, 389.
 Mr. Hewitt's relation to company, 389; (Hewitt), 843.
 opinion of Garland and Marble obtained, 389.
 distribution of shares, 390.
 pays in \$400 to develop inventions, 391.
 attends a meeting of stockholders at Young's room, 391.
 no stock to be sold without consent of executive committee, 391.
 first heard of Government suit in the newspapers, 391, 395.
 information from Senator Harris regarding agreement between Pan and National Improved Telephone Companies, 392, 397.
 has no knowledge of attempt to obtain Government suit, 392.
 agrees to pay assessments by directors, 392.
 denies that stock was a gift, 393.
 details conversation with Mr. Garland about his interest in Pan-Electric Company, 395, 396; (Garland) 649.
 conversation with Mr. Lamar, 396.
 conversation with Casey Young, 396.
 extent of his interest in Pan-Electric Company, 398.
 would not have joined in application for Government suit because he is an officer of the Government, 399.
 is introduced to Mr. Van Benthuyzen, 399.
 calls on Colonel Gantt at Ebbitt House, 400.
 effect of annulling Bell patent, 401.
 capitalization of the property, 402.
 never heard of any design to influence officials, 402.
 never heard of agreement with National Improved Company until investigation began, 403.
 denounces as a slander the World article of February 10, 1886, 406.
 has not preserved his letters, 407.
- Attorney-General. (*See* Garland, A. H.)
- Bailey, Marcellus, affidavit of (Int. Dep. Rec.), 1173.
- Bakewell & Kerr, attorneys in Pittsburgh suit (Young), 153.
- Baldwin, William D., affidavits of (Int. Dep. Rec.), 1185.
- Barbed wire case, papers relating to, put in evidence by Casey Young, 1140.
- Beach, Hon. Lewis, M. C.:
 stock sent to (Rogers), 52, 54.
 testimony of, 838, 860.
 receives letter from J. H. Rogers inclosing stock, 838, 860.
 consults Messrs. Holman and Spriggs, and returns stock, 839, 861.
 looks upon the offer of stock as an attempt to bribe, 861.
- Beckwith, J. R. (attorney, N. O.):
 disposition of, 1115.
 the drafting of the bill in Memphis suit, 1115.
 answers to written interrogatories by committee, 1115.
- Bell, Alexander Graham:
 testimony of, 757, 777.
 applications of 1875 and 1876 for telephone patent described, 758.

Bell, Alexander Graham—Continued.

assigns interest in inventions to an association, 758, 759, 761.
 development of telephone by, details of, 760.
 organization of Bell Telephone Company, 762.
 stockholders in Bell Company, 762.
 is not an officer of Bell Company, and has nothing to do with its management, 762.
 was formerly professor of vocal physiology in Boston University, 763.
 other devices besides those invented by, used by Bell Company, 764.
 connection of, with World publication regarding Pan Company, 777, 778, 785, 786.
 connection of E. N. Hill and General Sypher with World article, 777, 778, 785.
 receives copy of Mr. Garland's opinion from General Sypher, 786.
 affidavit of (Int. Dep. Rec.), 1176.
 second affidavit of (Int. Dep. Rec.), 1172.
 extract of testimony of, in Dowd case, 1197.
 application of (Int. Dep. Rec.), 1213.
 application of (Int. Dep. Rec.), indorsements on, 1217.
 patent to (Int. Dep. Rec.), 1217.

Boyle, General:

Pan-Electric Company.
 rights in Saint Louis sold to (Rogers), 13.
 stock sold to (Rogers), 74.
 contract with, for Missouri (Young), 143.

Briesen, Arthur V. (See von Briesen.)

Briggs, William W., stock sold to (Rogers), 104.

Brown, Governor John C.:

Pan-Electric stock transferred to (Rogers), 12.
 a Wall street man (Rogers), 57.
 chosen director of Pan-Electric Telephone Company, 137.
 dividends paid to, 293.
 name suggested by Senator Harris (Harris), 340.

Cahoon, W. J.:

identified with National Improved Telephone Company (Rogers), 71.
 information relating to Pan Company furnished by, to Sypher (Sypher), 791, 795, 802, 803, 806.

Carlisle, Hon. J. G. (Speaker H. R.):

stock offered to (Rogers), 55.
 testimony of, 836.
 receives letter from J. H. Rogers, of April 28, 1884, and replies thereto, 836, 837.
 action of, regarding appointment of J. H. Rogers as electrician to House, 837;
 (Clark) 709, 720.
 legislation in regard to Government Postal Telegraph Company, 837.
 Mr. Money's bill respecting postal telegraph, 838.

Clark, Edward (architect of Capitol):

application to, for appointment of J. Harris Rogers as electrician to House of Representatives, (Rogers), 30.
 declines stock (Rogers), 41.
 interview of Senator Harris with, about Rogers's appointment (Harris), 346.
 testimony of, 709, 719.
 is consulted by Speaker Carlisle, Senator Harris, and subcommittee of Committee on Public Buildings and Grounds regarding appointment of J. Harris Rogers as electrician of the House, 709, 720.
 interview with Senator Garland in relation to placing telephones in Senate Chamber, 709, 710, 720.
 statement by, to Committee on Public Buildings and Grounds, respecting Mr. Robinson's resolution to reappoint Rogers electrician, 710.
 offer of stock to, by Dr. Rogers, declined, 711.

Clark, S. N. (correspondent New York Tribune):

testimony of, 898, 1121.
 statement of articles furnished by, to New York Tribune, 898, 1121.
 sources of information for article regarding Pan company, 898, 899, 901, 908, 921.
 Mr. Garland's share of stock in Pan company, 899.
 Hill and Sypher's connection with Tribune article, 898, 899, 907, 908, 909, 915.
 the Baltimore suit, source of information regarding, 900, 906.
 information regarding the Government suit, how obtained, 900.
 newspaper "guessing," 901.
 the proceedings in the Pittsburgh suit, 902.
 District Attorney McCorry's application, 903.
 dispatch of, to Tribune of September 24, 1885 (text of), 904.
 interviews of, with Messrs. Dickerson and Storrow, 906, 912, 913, 917, 920, 924, 925.

- Clark, S. N. (correspondent New York Tribune)—Continued.
 first information about Pan Company not obtained from Bell people, 907.
 interview of, with Attorney-General, 909, 911, 917, 919, 921.
 interview of, with Solicitor-General Goode, 910, 911, 917, 919, 921.
 purpose of, in publishing dispatches, 914, 921, 923, 926.
 instructions to, from managers of Tribune, 914.
 course of New York Tribune towards the Attorney-General, 915.
 information by, furnished to committee, 918, 920, 922, 923.
 obtains letters from Dr. Rogers & Son, 920, 1122.
 article of, relating to Attorney-General's testimony before committee, 1122.
- Clay, Cecil (Chief Clerk Department of Justice):
 testimony of, 720, 836, 858, 945, 988, 1095.
 produces certified copies of letters from Department of Justice, 721.
 produces copies of applications to Department of Justice for annulment of patents, 836, 858, 1095.
 produces papers in Roberts torpedo case, 945.
 produces original Van Benthuyzen application of July 12, 1885, 988.
 the receipt of the McCorry application at Department of Justice described, 989, 991.
 interview with Attorney-General regarding leaves of absence, 989.
 reference of Van Benthuyzen letter to Interior Department, 990.
 consultation between Mr. Garland and Mr. Goode before departure of Attorney-General, 991.
 practice of Department in regard to filing and referring letters, 993.
- Collins, Hon. P. A. (M. C.), connection with Bell Company as attorney (Forbes) 732, 737.
- Collusive cases, references to (Young), 145.
- Cook, Henry N., affidavit of, Interior Department Rec., 1133.
- Counsel employed by the Government:
 names of, in Columbus suit (Goode), 434.
 selection of, by Solicitor-General (Goode), 435, 480.
 fees to be paid to (Goode), 435, 459, 460, 468, 471, 478, 486.
 practice of Government in regard to (Goode), 436, 447, 448, 449, 479.
- Counsel employed by Bell Company (Driver), 754.
- Cox, Mr., a promoter of telephone company in Pennsylvania (Rogers), 13.
- Cox, S. S., Hon.—
 American postal stock sent to (Rogers), 54.
 letter of, to J. W. Rogers returning stock (O'Connor), 787.
 circumstances connected with the returning of the stock by, (O'Connor), 788, 789, 790.
- Crawford, T. C. (correspondent of New York World):
 interview of Casey Young with (Young), 285.
 testimony of, 814.
 received facts upon which World article of January 6 was based from a United States Senator, 814.
 the bill to annul patents, 815.
 Senator Platt's interview with Senator Garland concerning bill, 815.
 is called upon by Mr. Hill with World article, 815, 816.
 information obtained from Mr. Talcott, electrician of House, 816.
 Hill's relations to Casey Young, 817.
 General Sypher's connection with World article, 817.
 publication of the Rogers letters, 818, 819, 820.
 never requested by Bell people to publish anything, 819.
 is visited by Casey Young, General Johnston, and Senator Harris, 819.
 conversations of, with Attorney-General Garland and Solicitor-General Goode, 820.
- Crittenden, General Thomas, stock sold to (Rogers), 105.
- Dana, Charles A. (editor New York Sun):
 testimony of, 874.
 produces letter from E. N. Hill, of November 9, 1885, offering history of Pan company for publication, 874.
 was not willing to take the lead in attacking Administration, 874.
 Hill's letter an attack upon Administration, 874.
 has opposed the making of the Executive a party to patent suit, 875.
 has found it necessary to criticise Administration, 875.
 originators of Pan-Electric scheme "a lot of deadbeats," 875.
 course of Sun controlled mainly by political question, 876.
 without special statute the Government not able to bring suit, 876.
 at whose instance articles have been published, 876.
 conferences of, with Mr. Dickerson, of Bell company, 876, 878.
 interest of Sun stockholders in Bell and Western Union companies, 877.

- Dana, Charles A. (editor New York Sun)—Continued.
 a description of E. N. Hill, 877.
 acquaintance of, with officers of Bell company, 877.
 article in Sun of March 22 characterized, 877.
 states his view of Pan-Electric enterprise, 878.
 describes his attitude toward Administration, 878.
 action of Attorney-General Garland criticised, 878, 879, 881, 882.
 similarity to Credit-Mobilier case, 879.
 the distribution of Pan stock, 880.
 officers of Pan company who were Government officials, 880.
 acquaintance of, with Pan-Electric associates, 880.
 the annulling of patents by the Government discussed, 880, 881.
 what the Attorney-General should have done, 883.
- Davidson, E. C., affidavit of, Interior Department record, 1180.
- Dean, Doctor, stock transferred to (Rogers), 74.
- Denver, General J. W. :
 a promoter of telephone company in Pennsylvania (Rogers), 13.
 stock sold to (Rogers), 105.
 Senator Harris writes to (Harris), 353.
- Dividends :
 paid by Pan-Electric company (Rogers), 13.
 to Messrs. Johnston, Harris, Atkins, Garland, Young, Looney, Brown, and J. H. Rogers, 293.
 paid by American Bell Telephone Company (Forbes), 736.
- Dolbear case :
 reference to the (Young), 145.
 history of, from Adams's compilation, 1,252.
 discussed by Attorney-General (Garland), 666.
 carried to Supreme Court (Forbes), 738.
 affidavit of A. E. (Int. Dep. Rec.), 1,212.
- Dowd case :
 reference to the (Young), 144.
 history of, in Adams's compilation, 1,242.
 extract from A. G. Bell's testimony in, 1,197.
- Drawbaugh case :
 reference to the (Young), 146.
 history of, from Adams's compilation, 1,254.
 discussed by Attorney-General (Garland), 666.
 Mr. Edmunds's brief in the (Dunn), 714, 715.
 carried to Supreme Court (Forbes), 738.
- Driver, William R. (treasurer Bell Telephone company).
 testimony of, 747, 765.
 capital of the Bell company, 747, 750, 752, 755.
 stockholders of Bell company identified by and described, 748, 749, 750, 751, 765.
 publication of newspaper articles by Bell company, 751.
 publication of article in New York Times, paid for by Bell company, 753.
 interest of Hon. A. A. Ranney in Bell Telephone company, 753, 754, 756.
 attorneys employed by Bell company, 754.
 publication of articles in New York World and Sun attacking Pan company, 754.
 market value of Bell stock, 755, 756.
- Duke, General Basil, suggested originally as director in Pan-Electric company (Rogers), 39.
- Dunn, Poindexter, Hon. :
 mentioned as desiring to become interested in Pan-Electric company (Rogers), 28, 78.
 trade for stock (Rogers), 77.
 testimony of, 713.
 converses with Messrs. Young, Garland, and Harris regarding the business and policy of the Pan-Electric company with a view to investment, 714, 718.
 obtains Mr. Garland's written opinion concerning, 714, 716.
 company decides not to sell stock, 714.
 Dr. Rogers and Mr. Looney offer to sell stock, 714.
 advised by Young and Garland not to purchase, 714, 716.
 the Drawbaugh case ; Mr. Edmunds's brief in, 714, 715.
- Eaton, Ashael K., affidavit of (Int. Dep. Rec.), 1211.
- Eaton, Senator, to get charter in Connecticut (Rogers), 40.
- Edison, Thomas A., affidavit of (Int. Dep. Rec.), 1211.
- Electrician of House of Representatives :
 Efforts to get J. Harris Rogers appointed as (Rogers), 29, 35, 86.
 World article concerning (Rogers), 69, 68.

Electrician of House of Representatives—Continued.

- discussed at meeting of board (Rogers), 60.
- statement of Casey Young respecting Rogers's application, 112, 213, 216, 217, 217, 219.
- resolution to appoint Rogers as, by Robinson (Young), 214; (Robinson), 623, 624.
- Senator Harris's statement concerning, 346, 347.
- conversation of Garland, Clark, and Edmunds concerning appointment of J. H. Rogers as (Garland) 654, 656.
- action of J. G. Carlisle respecting appointment of Rogers to position of (Carlisle), 837; (Clark), 709, 720.
- Mr. Hewitt's connection with Rogers's appointment as (Hewitt), 844.
- Exhibits submitted in evidence, list of:
 - New York World article of January 27, 1886, 779.
 - list of stockholders in American Bell Telephone Company, May 1, 1880, 849.
 - list of stockholders in American Bell Telephone Company, April 23, 1886, 850.
 - statement of Van Benthuyzen in New York World of January 28, 1886, 888.
 - statement of capital of compaines licensed by Bell company, 897.
 - New York Tribune article of September 24, 1885, regarding Pan company, 904.
 - New York Tribune article of October 1, 1885, regarding Pan company, 911.
 - New York World article of January 27, 1886, regarding Pan company, 978.
 - rule of Western Union Telegraph Company regarding production of telegrams called for by subpoena, 1006.
 - Chicago Inter-Ocean dispatch September 10, 1885, relating to Memphis suit, 1032.
 - New York Times article of September 29, 1885, containing Van Benthuyzen's dispatch to President Cleveland, 1032.
 - report of House Judiciary Committee in regard to the cancellation of patents, 1040.
 - bill recommended by House Judiciary Committee to provide for cancellation of patents, 1051.
 - extract from minute book, November, 1885, United States court at New Orleans, Bell Company v. National Improved Telephone Company, 1057.
 - subpœna of M. Marean, May 14, 1886, to produce telegrams before the committee, 1060.
 - New York Times article September 28, 1885, interview with Van Benthuyzen, 1098.
 - Interior Department Record. "Facts admitted during hearing," 1132.
 - pleas of American Bell company before Department Interior, 1133.
 - Memphis suit, affidavit of Henry N. Cook, 1133.
 - Memphis suit, affidavit of W. H. Forbes, 1134.
 - Interior Department Record. Statement of General Duncan S. Walker in reference to "Roberts torpedo" and "barbed-wire" cases, 1140.
 - New York Times article, October 19, 1885, letter of Von Briesen concerning validity of Bell patent, 1165.
 - Interior Department Record. Second affidavit of A. G. Bell, 1172.
 - affidavit of Marcellus Bailey, 1173.
 - affidavit of Anthony Pollok, 1174.
 - affidavit of A. G. Bell, 1176.
 - affidavit of Zenos F. Wilber, 1176.
 - second affidavit of E. C. Davidson, 1180.
 - affidavit of John F. Guy, 1182.
 - affidavit of William C. Tompkins, 1184.
 - affidavit of Wm. D. Baldwin, 1185.
 - affidavit of Wm. D. Baldwin, 1185.
 - "Railroading," 1191.
 - affidavit of "Nelson's case, February, 1885," 1191.
 - affidavit of F. E. Nipher, 1193.
 - affidavit of Z. F. Wilber, 1195.
 - extract from A. G. Bell's testimony in Dowd case, 1197.
 - title-page of Wellington Adams's compilation entitled "The Telephone Case," 1198.
 - affidavit of W. J. Green, 1209.
 - affidavit of Thomas A. Edison, 1211.
 - affidavit of Ashael K. Eaton, 1211.
 - affidavit of A. E. Dolbear, 1212.
 - application of Alexander Graham Bell, 1213.
 - indorsements on same, 1217.
 - the Bell patent, 1217.
 - caveat of Elisha Gray, 1219.
 - statement of Elisha Gray, 1220.
 - statement of Elisha Gray, 1223.
 - affidavit of Z. F. Wilbur, 1226.
 - affidavit of Z. F. Wilbur, 1228.

Exhibits submitted in evidence, list of—Continued.

- record of applications to Department of Justice for the institution of suits in the name of the Government for the revocation of patents for inventions, which were granted, 1229.
- record of applications to Department of Justice for the institution of suits in the name of the Government, for the revocation of patents for inventions, which were not granted, 1234.
- alleged adjudications. Extract from Prof. Wellington Adams's compilation, entitled "The Telephone Case" [pp. 230 to 265], 1241.
- opinion of Assistant Secretary G. A. Jenks, of December 22, 1885, 1258.
- opinion of Assistant Secretary H. L. Muldrow, of December 22, 1885, 1265.
- opinion of Commissioner of Patents M. V. Montgomery, of December 12, 1885, 1268.
- bill filed in United States circuit court for the southern district of Ohio, in the case of the United States *v.* The American Bell Telephone Company, 1272.
- Reis's Prospectus. Extract from Adams's Compilation [pp. 275 to 278], 1255.
- letter from Gardiner G. Hubbard to Hon. C. E. Boyle, 1282.
- memorial of Van Benthuyzen *et al.* to McCorry, of August 26, 1885, 241.
- Finley, Samuel T., of Gainesville, Fla., stock sold to (Rogers), 105.
- Forbes, William H. (president Bell Telephone company):
 - testimony of, 723, 728.
 - describes organization of Bell company, 723, 728.
 - names of directors in Bell company, 728.
 - no Government official connected with the company, 728, 731.
 - stockholders and capital stock, 729, 730, 735.
 - increase of stock and capital, 730.
 - Hon. P. A. Collins, connected with company as attorney, 732, 737.
 - Senator Frye consulted by Mr. Storrow in relation to company, 732.
 - publication of newspaper articles by the company, 732, 733, 734.
 - industrial article published in New York Times, 733, 737, 738.
 - article in New York Commercial World, 733.
 - companies licensed by Bell company, 734.
 - Secretary Manning a stockholder in Troy and Albany company, 735.
 - present market value of Bell company Stock, 735.
 - dividends paid by Bell company, 736.
 - royalties paid by Bell company, 736.
 - value of the property of Bell company, 736.
 - stock owned in Bell company by newspapers, 737.
 - connection of Hon. A. A. Ranney with Bell company, 731, 732, 737.
 - successful litigation of Bell company, 737, 738, 746.
 - cases carried to Supreme Court—People's Telephone Company; Drawbaugh, Molecular, Overland, Dolbear, 738.
 - issuance of stock by Bell company, 738.
 - no acquaintance with the Rogerses, 739.
 - material published in New York World and Sun, about Pan Company, offered to, and declined, 739.
 - interview with the President in relation to Pan company, 740, 741, 742, 743, 744.
 - is introduced to President by Secretary of War, 742, 743.
 - U. S. Judges, before whom telephone cases have been heard, 744.
 - the Pittsburg, suit, 745.
 - relations of Bell company to Western Union Telephone Company, 745.
 - inventions offered for sale to Bell company, 746.
 - affidavit of (Int. Dep. Rec.), 1134.
- Frye, William P. (U. S. S.) consulted by Mr. Storrow, of Bell company, in relation to matters of the company (Forbes), 732.
- Gantt, Col. George:
 - employed as counsel by Pan-Electric company, (Rogers) 33, (Young) 237.
 - prepared bill in Memphis suit (Rogers), 62.
 - visits Washington (Rogers), 93.
 - is visited by Senator Harris (Harris), 364.
 - is visited by Mr. Atkins (Atkins), 400.
 - visit to Attorney-General (Garland), 650, 1104.
 - conference at Ebbitt House (see Young).
- Gardes, H., correspondence with Attorney-General about Pan-Electric inventions (Garland), 663.
- Gardner, Thomas H. (secretary Washington Telephone Company):
 - testimony of, 516, 707.
 - explains contract between Pan-Electric Telephone Company, and Washington Telephone Company, 517.
 - capital of Washington company, 518.
 - names of incorporator of Washington company, 518.

Gardner, Thomas H. (secretary Washington Telephone Company)—Continued.

disposition made of capital stock, 519.
 the Washington Telephone Company of Maryland, 519.
 purchasers of stock in local companies, 520.
 could not put up poles in District Columbia, 521.
 had no conversation with J. H. Rogers about Government suit, 523.
 the Baltimore suit, 525.
 expenses of litigation in prosecuting Baltimore suit, 527.
 report of Bradley T. Johnson, of September 10, 1885, as to expenses of litigation in Baltimore suit, 528.
 copies contract for Casey Young, between Pan and National Improved Telephone Company, 529, 535, 537.
 no stockholder in Washington company connected with Government, 534.
 Bradley T. Johnson asks to have testimony of, relating to affairs of Washington Telephone Company expunged (Johnson), 624.

Garland, Hon. Augustus H. (Attorney-General):

holds stock in Pan-Electric Company (Pulitzer), 5.
 articles of agreement between J. H. Rogers, and (Rogers), 9.
 promises to bring suit (Rogers), 14.
 opinion given by (Rogers), 17.
 requested to defend Pennsylvania suit (Rogers), 21.
 examines telephone instruments (Rogers), 40.
 not present at any meetings of company (Rogers), 41.
 conference with, at Judiciary Committee room (Rogers), 45, 90.
 Rogers dedicates book to (Rogers), 58.
 Rogers writes letter to, requesting instructions of suit (Rogers), 63.
 reported promise of to Casey Young (Rogers), 64, 69.
 visits Dr. J. W. Rogers (Rogers), 90.
 conference with at Metropolitan Hotel (Rogers), 108.
 conference with (Young), 112.
 elected attorney and director of Pan-Electric Telephone Company November 23, 1883, 137.
 opinion of, on broad, generic claim (Young), 143, 279.
 unable to attend to Saint Louis suit (Young), 149.
 conference with Young about Government suit (Young), 178, 232, 256, 257, 271.
 dividends paid to, 293.
 interview of Senator Harris with (Harris), 338.
 Senator Harris obtains opinion of (Harris), 349, 381; (Atkins), 389.
 is suggested by Mr. Atkins as an associate in Pan-Electric company (Atkins), 389.
 interview of Mr. Atkins with, 395, 396.
 relations of Goode to, prior to appointment (Goode), 421.
 attention of, called to newspaper article by Goode (Goode), 430, 477.
 declines to confer with Solicitor-General about Government suit (Goode), 432.
 disability of, to take action in regard to Government suit (Goode), 450.
 Van Benthuyzen writes to, about Government suit (Van Benthuyzen), 568.
 interview of Van Benthuyzen with (Van Benthuyzen), 570, 572, 614, 615, 622.
 testimony of, 649, 1104.
 reaffirms statement made to the President, October, 8, 1885, as published in the newspapers, regarding his connection with the Pan-Electric company, 649.
 has interview with Senator Harris and Mr. Atkins regarding Pan company, 649.
 is introduced to Dr. J. W. Rogers and son, 650.
 describes interviews with Van Benthuyzen, Young, Gantt, and Van Briesen in reference to Government suit, 650, 658, 660, 667, 668, 672, 1104, 1105, 1106, 1107, 1108, 1109, 1110.
 treats Dr. Rogers's application for Government suit as a personal letter, and does not answer, 650, 657.
 receives Van Benthuyzen's letter of July 12 requesting Government suit, 650.
 refers Van Benthuyzen's letter to Interior Department, 650.
 upon examination of authorities decides that he cannot order suit, or refer the matter, 651, 669, 1110, 1111.
 conversation with Senator Platt regarding bill to vacate patents, 651, 671.
 applied to by Humphreys of Globe Telephone Company to order suit, 651.
 has never given an opinion as to validity of Bell patent, 651.
 opinion given to Myers that Rogers's invention did not infringe, 652, 656, 657, 665.
 attendance at meetings of company, 652.
 explains how Judiciary Committee room of Senate was used by him, 652.

Garland, Hon. Augustus H. (Attorney-General)—Continued.

the Memphis suit, 652.

had no conference with Solicitor-General Goode about applications for suit, 652, 1112.

interview with the President, 653.

the relation of Solicitor-General to the Department of Justice explained, 653, 662, 672.

has received no stock as a gift, 653, 664.

legislation in behalf of company not sought, 653.

converses with Mr. Clark and Senator Edmunds regarding appointment of J. H. Rogers as electrician, 654, 656.

advantage to company of official positions of promoters not considered, 654, 663.

articles of association Pan-Electric company prepared by, 655.

company decide not to put stock on market, 655.

company desires to put telephones in Capitol, 654, 655.

the broad claim of the Bell patent, 656, 665, 666.

has never examined the question of the validity of Bell patent, 656.

had no intimate acquaintance with Dr. Rogers, 657.

paid assessments when called upon, 658, 664.

Dr. Rogers makes application to, for appointment as assistant attorney, 658.

papers of Dr. Rogers withdrawn October 19, 658.

practice of Department in referring applications to annul patents, 659, 669, 674.

the withdrawal of the Van Benthuyzen letter, 661, 1112.

conversation of, with officers of Department about proposed absence, 661, 673, 679, 1112.

manner in which vacation of, was spent, 662, 672.

is requested as counsel of company to attend to Saint Louis suit, 662.

correspondence between Gardes and, about Pan-Electric inventions explained, 663, 665.

has never attempted to legislate in respect to telephone companies, 663.

practice of courts in cases where judges are interested, 663.

the sale of territorial rights, 665.

the Dolbear and Drawbaugh cases discussed, 666.

Pan-Electric not a scheme to break down Bell company, 679.

relations to Pan-Electric since his appointment as Attorney-General, 679, 680.

the reason for bringing Government suit, 679.

petition to annul patent in the Sergeant-Warren case, 674; discussed, 680.

custom of district attorneys in regard to institution of suits to annul patents, 681.

never made promise to Young that suit would be brought, 681.

meeting at Young's, 1327 G street, 1105.

consultation with Solicitor-General Goode, before departure, described (Clay), 991.

action of, criticised (Dana), 878, 879, 881, 882.

what he should have done (Dana), 883.

Gibbs, Charles E. (clerk Ebbitt House):

testimony of, 1092.

produces Ebbitt House register, and fixes dates of arrival and departure of Van Benthuyzen, Gantt, Young, Von Briesen, Huntington, and B. T. Johnson, 1092.

Globe Telephone Company:

agreement of Pan-Electric company with (Harris), 371; Humphreys, 689, 693.

application of, to Department of Justice for Government suit (Humphreys), 682.

sued by Bell company (Humphreys), 686.

patent rights on which company is based (Humphreys), 686, 693.

action of, in regard to Cushman invention (Humphreys), 687.

Goode, Hon. John (Solicitor-General):

interview of Casey Young and Senator Harris with, regarding bringing of Government suit (Young), 191, 248, 260, 261, 262, 264, 332.

interview of Senator Harris and Casey Young with, regarding Government suit (Harris), 344, 359, 360, 378, 379, 382.

testimony of, 421, 539.

relations to Attorney-General prior to appointment, 421.

application of District Attorney McCorry to have Government suit brought, 421.

is called upon by Senator Harris and Casey Young, 422, 428, 430, 467, 481, 482, 483.

action taken by, on application of McCorry, 427, 440, 441, 442, 444, 445, 446.

Goode, Hon. John (Solicitor-General)—Continued.

- the practice of the Department of Justice explained, 429, 485.
- applications for annulling of patents, reference of to Patent Office, 430, 443, 478, 483, 484.
- calls attention of Attorney-General to newspaper articles, 430, 477.
- takes the responsibility of ordering Government suit, 430.
- calls upon the President in relation to newspaper articles, 430, 477.
- had no knowledge that Attorney-General was interested in telephone patents, 430.
- Memphis suit, 430.
- is told by Attorney-General of his interview with Van Benthuyssen, 431.
- second application from District Attorney McCorry, 431.
- the Attorney-General declines to confer with, about suit, 432.
- second application of McCorry sent to Interior Department, 432.
- Secretary Lamar's advice regarding Government suit, 434.
- names counsel employed in Government suit—Allen G. Thurman, of Ohio; G. P. Lowery, of New York; Hunton and Chandler, of Washington, and Charles S. Whitman, of Washington, 434.
- Colonel Gantt and Casey Young suggest Memphis as proper place for bringing Government suit, 434.
- reason for bringing suit at Columbus, Ohio, 434.
- selection of counsel by, 435, 480.
- fees to be paid counsel in Government suit, 435, 459, 460, 468, 471, 478, 486.
- explains "reason and authority" for constituting the Government a party, 436.
- practice of Government in employing assistant counsel, 436, 447, 448, 449, 479.
- acquaintance with Casey Young, 437.
- experience in patent cases, 437.
- describes papers forwarded with McCorry's application, 437, 474, 475, 476, 544.
- produces papers received from District Attorney McCorry, 438, 439.
- disability of Attorney-General to take action in regard to bringing suit, 450.
- probable cause for institution of suit, 451.
- papers sent to Interior Department with McCorry's application, 451.
- acquaintance of, with telephone litigation, 452, 453, 454, 455, 456, 484, 485.
- effect of annulment of Bell patent, 457.
- the question of jurisdiction, 458.
- United States judges discussed, 459 (Johnston), 503.
- hearing before Secretary of the Interior, 466.
- issues involved in Government suit, 472.
- stock held by, 473.
- Baltimore suit, 481.
- prior invention, question of, 486, 487.
- produces papers called for, 539.
- interrogated in regard to Government suits to annul patents, 540.
- interview of Bradley T. Johnson with (Johnson), 632, 643, 644.
- relation of, to Department of Justice explained (Garland), 653, 662, 672.

Government suit:

- against American Bell Telephone Company (Rogers), 14.
- interview of Young and Rogers in regard to (Rogers), 18, 32.
- letter of Rogers of May 24, 1885, to Garland, asking institution of proceedings (Rogers), 63, 82.
- conversation of Rogers about (Rogers), 64.
- conversation of Casey Young about (Rogers), 64; (Young) 154, 155, 156, 189, 252, 253.
- who first suggested the bringing of a (Rogers), 86.
- Young's reasons for desiring (Young), 280, 288, 289, 296, 298, 299, 300.
- former Government suits to annul patents (Young), 291; (Goode) 540.
- Senator Harris requested by Dr. Rogers to urge (Harris), 343, 368, 385, 386.
- effect of vacating Bell patent (Harris), 387, 388.
- Seixas does everything possible to induce bringing of (Seixas), 408.
- Goode takes responsibility of ordering (Goode), 430; (Garland) 652, 1152.
- Memphis suggested as proper place for bringing (Goode), 434.
- reason for bringing, at Columbus (Goode), 434.
- probable cause for institution of (Goode), 451; (Garland) 679.
- question of jurisdiction (Goode), 458.
- United States judges discussed (Goode), 459; (Johnston) 503.
- issues involved in (Goode), 472.
- Van Benthuyssen determines to enforce a (Van Benthuyssen), 577.
- efforts made by Bradley T. Johnson to procure (Johnson), 629, 632, 647.
- conferences in Washington regarding (Johnson), 630, 631, 634, 635.

Government suit—Continued.

Attorney-General Garland decides he cannot order (Garland), 651, 669, 1110, 1111.
interview of Attorney-General with President concerning (Garland), 653.
Attorney-General never promised it would be brought (Garland), 681.
bill filed in Columbus suit, 1272.

Graham, L. S. (printer, New Orleans):

deposition of, 1114.
the bill in equity in Memphis printed by, 1114.
answers written interrogatories by committee, 1114.

Gray, Prof. Elisha:

interview of Casey Young with (Young), 314, 316.
caveat of, 1219.
statement of, 1220, 1223.

Green, W. J., affidavit of (Int. Dep. Rec.), 1209.

Gustin, George A.:

negotiations through, with Bell Company for sale of Pan-Electric instruments
(Rogers), 20, (Young) 141, Harris (356).
contract of March 14, 1883 (Young), 141.
testimony of, 927.
one of the promoters of Western Telephone Company, 927.
undertakes negotiations with Bell Company for sale of Pan-Electric patents,
928.
interviews with Pan-Electric promoters regarding sale to Bell Company, 928.
Young opposed to any attempt to sell patents to Bell Company, 929.
commission to be paid to, for sale of Pan instrument, 929.

Guy, John F., affidavit of (Int. Dep. Rec.), 1182.

Harlan, Dr.:

electrician of local company (Rogers), 50.
contract with, of March 14, 1883 (Young), 141.

Harris, Isham G.:

articles of agreement between J. H. Rogers and (Rogers), 9.
views of, regarding proposed Congressional legislation (Rogers), 16.
negotiates for sale of Pan-Electric instruments to Bell Company (Rogers), 20.
requests Garland to defend Penn. suit (Rogers), 21.
board meeting at rooms of, in 1881 (Rogers), 29.
conversation with Dr. Rogers in regard to formation of company (Rogers), 38.
goes to New York to conclude contract (Rogers), 39.
opposes issuing of stock (Rogers), 44.
legal opinion of, regarding Pan-Electric inventions, sent to General Denver
(Rogers), 92.
conference with, at Metropolitan Hotel (Rogers) 108, (Young), 112.
conference with (Young), 112.
elected vice-president and director Pan-Electric Telephone Company, November
23, 1883, 137.
authorized to confer with Bell Company at Boston (Young), 282.
testimony of, 332, 556.
acquaintance with Dr. Rogers, 332.
visits Rogers laboratory, 332.
conditions on which he became interested in company, 333, 337, 338, 377.
describes the drawing up of the New York contract, 334, 338.
Mr. Hewitt's connection with enterprise, 335.
arranges with telegraph company in New York for use of wire, 335.
General Johnston and Harry Rogers to continue experiments, 335.
Mr. Mareau to investigate repeater for Western Union Telegraph Company,
335.
harmonious relations between directors of company, 336.
explains his relations to the company, 336.
opposes the issuance of stock, 336.
no meetings in Senate Judiciary Committee room, 337.
meetings at Senate committee room on Epidemic Diseases, 337.
no combination with Postal Telegraph Company, 337.
interviews with Garland and Johnston in regard to enterprise, 338. (Garland) 649.
asks Mr. Marble to give his opinion as to infringement, 339.
sales of Pan-Electric stock, 340, 371, 380.
authorized to sell stock to Senator Vest and George Howard, 340.
suggests that Governor Brown be admitted as an associate, 340.
explains action of directors regarding sale of State rights, 341, 377, 380.
Pan-Electric Company never chartered, 342.
receives letter from Dr. Rogers requesting him to urge Attorney-General to insti-
tute suit to test validity of Bell patents, 343.

Harris, Isham G.—Continued.

- does not reply to Dr. Rogers's letter, 343.
- informed of conferences with National Improved Company by Young, 343, 345.
- not present at conferences or consulted, 344.
- visits Solicitor-General Goode in regard to Government suit, 344, 359, 360, 378, 379, 382; (Young), 191, 248, 260, 261, 262, 264, 332; (Goode), 422, 428, 430, 467, 481, 482, 483.
- no official influence sought by Pan-Electric Company, 346.
- appointment of J. Harris Rogers as electrician to House of Representatives, 346.
- interview with Architect Clark about Rogers's appointment, 346.
- receives a tart note from Harry Rogers, 346.
- advises against House resolution appointing Rogers, 347.
- explains provisions of New York contract, 347.
- obtains legal opinions from Garland and Marble, 349, 381.
- capital stock to represent the property of the company, 350, 380.
- issuance of certificates explained, 351.
- local companies named, 352.
- explains letter to General Denver of June 14, 1881, 353.
- visits Boston and tests transmitter, 354.
- negotiations with Bell Company for sale of transmitter, 354.
- offer to sell transmitter declined by Mr. Vail, 355.
- Mr. Gustin's negotiations, 356.
- explains paragraph in letter of Shryock to Rogers, 357.
- union with American Postal Telegraph Company, 357.
- visits Commissioners of District of Columbia to get permission to put up wires on poles, 358.
- the Pittsburgh suit, 361.
- calls at Ebbitt House to see Colonel Gantt, 364.
- informed by Young of agreement with National Improved Telephone Company, 365.
- signs agreement and notifies directors, 366.
- article appears in New York World attacking Pan-Electric Company, 366.
- explains supplemental agreement of August 27, 1885, 367, 383, 384.
- knowledge as to application for Government suit, 368, 385, 386.
- writes letter to President commending Mr. Garland, 369.
- recommends Mr. Atkins for his present position, 369.
- signs Dr. Rogers's application for appointment, 369.
- recommends General Johnston for his present position, 369.
- identifies stockholders of Pan-Electric company and describes them, 370, 371.
- agreement with Globe Telephone Company, 371.
- agreement with Dr. Wellington Adams, 372, 373.
- agreement with Dr. Wellington Adams, text of, 373, 374.
- relations of D. E. Myers to Pan-Electric company, 372, 375, 376.
- affidavit of Professor Adams, 374.
- minutes of meeting, January 15, 1885 (Adams contract), 373.
- minutes of meeting, January 14, 1885 (Myers contract), 375.
- connection with McCorry's appointment, 378.
- no litigation contemplated, 379.
- never spoke to Mr. Garland about Government suit, 381.
- explains letter to Dr. Rogers of October 26, 1885, 387.
- effect of vacating Bell patent, 387, 388.
- desires to correct his testimony, 428.
- invites General Johnston to become interested in company (Johnston), 488.
- writes all contracts (Johnston), 497.
- corrects his testimony, 556.
- Van Benthuyzen introduced (Van B.), 615.
- Bradley Johnson has interview with, at Ebbitt House (Johnson), 634.

Hassall, Dr., Pan-Electric stock sent to (Rogers), 53.

Henkle, Hon. E. J. (M. C.):

- testimony of, 648.
- a director of Washington Telephone Company, 648.
- names fellow directors of company, 648.
- no stock of Washington Telephone Company issued to any Government officer, 649.

Hewitt, Abram S. (M. C.):

- declines Pan-Electric stock (Rogers) 26, 37, 57.
- relation of, to Pan-Electric (Harris), 335, (Atkins), 389.
- testimony of, 842.
- is invited by General Atkins to join Pan-Electric company, 843.
- is called upon by Dr. Rogers, Senator Harris, and General Atkins, and declines to become interested in Pan company, 843, 844.

Hewitt, Abram S. (M. C.)—Continued.

identifies letter of introduction from Senator Garland of January 18, 1884, 843.

is requested by Dr. Rogers to assist in obtaining appointment of J. H. Rogers as electrician of House, 844.

speaks to Architect Clark in regard to appointment of J. H. Rogers, 844.

views of, regarding legitimate enterprises for a member of Congress to engage in, 845, 846, 847.

Hill, E. N.:

testimony of, 948.

has written for Casey Young, and is familiar with Pan-Electric organization 948.

furnishes part of article to New York Tribune, concerning Pan company, 949, 969, 970.

source of information for Tribune article, 949, 952, 966.

furnishes article to New York World about Pan company, 949, 968, 973.

offers article to New York Sun, 949, 952, 967, (Dana) 874, 877.

is interviewed by detectives, 949.

purpose of, in compiling article for Tribune, 950, 951, 962, 969.

relations of, to Attorney-General Garland and Casey Young, 950, 952, 953, 954, 968.

copy of article by, taken to Professor Bell by General Sypher, 951, 967.

connection of General Sypher with compilation, 953, 965, 971.

is an attorney practicing before Congress, 953, 966, 974.

the meeting at 1327 G street, 955, 972, 973.

declines to give name of informant, 955, 956, 957, 958, 961, 964, 965, 977.

conference, between Young and National Improved Company, 962, 974.

compensation received by, for newspaper articles, 962, 967, 968, 971.

sells Pan stock belonging to Marcus J. Wright, 963.

connection of, with Jeffersonville Levee investigation, 966.

calls upon Mr. Crawford with World article (Crawford), 815, 816.

relations of, to Casey Young (Crawford), 817.

Hine, L. G., suggests formation of Pan-Electric company (Rogers), 37.

Howard, George, of Washington, stock sold to (Rogers), 77, (Harris), 340.

Hubbard, Gardiner G.:

testimony of, 766.

one of original associates in Bell Telephone Company, 766.

organization of Bell company described, 766, 774, 775.

Bell company never incorporated, was a joint stock company, 766, 1284.

names of original associates in Bell company, 767.

none of original members Government officials, 767.

capital invested in original National Bell Company, 768, 769, 776.

issuance of stock of Bell company, 769, 776.

is a director of the company, 770.

has taken no action in regard to the proposed Government suit, 770, 774.

connection of, with publication of article in New York World, 771, 772, 773.

no stock of Bell company given to members of Congress, 774.

licenses to local companies, 776.

letter from, to committee, 1282.

Humphreys, D. (counsel for Globe Telephone Company), testimony of, 681.

no Government officer had stock in Globe company, 682.

files application with Department of Justice to institute Government suit, 682.

explains position of Globe company regarding Government suit, 682.

confers with Messrs. Johnston, Atkins, and Johnson in regard to Government suit, 682.

relates interview with Attorney-General Garland, 683, 684, 690, 693; (Garland), 65.

argues case before Secretary of Interior, 685, 689.

shows expense of printing record with Pan and National Improved Companies, 685, 694.

his company sued by the Bell company, 686.

patent rights on which company is based, 686, 693.

the Cushman invention, action of Bell company in regard to, 687.

Globe company invited to join Pan and National Improved Companies and render mutual assistance, 689, 693.

Hunton & Chandler, of Washington, D. C., employed as counsel in Columbus suit (Goode), 434.

Hurst cotton-tie case, reference to the (Young), 150.

Hutchins, Stilson (proprietor Washington Post):

testimony of, 545.

Hutchins, Stilson, (proprietor Washington Post)—Continued.

offers to purchase Senator Vest's Pan-Electric stock, 546.

declines to publish Dr. Rogers's poetry, 547.

has not been approached in any way by telephone officials, 549.

Inventions of J. Harris Rogers :

list of (Rogers), 7.

described (Rogers), 43.

telemorphe (Rogers), 46.

described (Young), 112, 113, 129, 133,

pamphlets describing, 129, 130, 131, 133, 296.

General Johnston and J. H. Rogers to experiment with (Harris), 335.

Mr. Marean to investigate repeater for Western Union Telegraph Company (Harris), 335.

tested in Boston (Harris), 354.

negotiation with Bell company for sale of transmitter (Harris), 354.

offer to sell transmitter declined by Mr. Vail (Harris), 355.

sale of transmitter proposed to Bell company (Johnston), 495.

National Improved Telephone Company owns seven (Van B.), 565.

Johnston, George D., of New Orleans, published card of September 27, 1884, about infringements, 362.

Jenks, G. A. (Assistant Secretary Interior), opinion of, December 22, 1885, 1258.

Johnson, Bradley T. (president Washington Telephone Company), testimony of, 625, 1015.

asks committee to expunge Gardner's testimony relating to affairs of Washington Telephone Company, 624, 1015, 1023, 1026, 1027, 1090.

objects to stating facts concerning the business operations of Washington Telephone Company, 626.

connection of Hon. Hart B. Holton with company, 627, 628.

organization of Washington Telephone Company described, 628.

states the efforts made by him to have Government suit brought, 629, 632, 647, 1020, 1021, 1022.

describes the bringing of suit by Bell company in Baltimore, 630, 631, 632, 637, 638, 639, 640, 1016, 1017.

conferences in Washington regarding Government suit, 630, 631, 634, 635, 1017, 1018, 1023.

interview with Solicitor-General Goode, 632, 643, 644.

the procuring of the Wilber affidavit, 633.

never heard the details of agreement between Young and Van Benthuyzen, 634.

interview with Senator Harris at Ebbitt House, 634.

arrangement with counsel about carrying on suit, 635.

acquaintance of, with officials in Washington, 641, 642, 1026.

effect of vacating the Bell patent, 642.

stockholders in Washington Telephone Company, 643, 1016.

corresponds with Young and Gantt, 644, 646, 1015, 1016, 1026.

the Pittsburgh suit, 645.

Van Benthuyzen's application for Government suit, 645, 1017.

the meeting at Young's room at 1327 G street, 1017, 1020.

United States judges discussed, 1919, 1024.

appeal to the Supreme Court, 1024.

hearing before Secretary of Interior, 1026.

Johnston, Joseph E. :

articles of agreement of March 13, 1883, between J. H. Rogers and (Rogers), 9.

brings letter of introduction from Senator Harris (Rogers), 40.

not present at meetings of company (Rogers), 41.

elected president Pan-Electric Telephone Company November 23, 1883, 137.

authorized to confer with Bell company at Boston (Young), 282.

conference with (Young), 112.

dividends paid to, 293.

interview of Senator Harris with (Harris), 338.

indorsed for position by Senator Harris (Harris), 369.

testimony of, 488.

appointed Commissioner of Railroads April 3, 1885, 488.

is invited by Senator Harris to become interested in Pan-Electric company March, 1883, 488.

was not present in New York when contract was signed, 488.

official influence not sought, 489.

assessments for expenses, 489.

the Pan-Electric Telegraph Company organized, 489.

two charters obtained, 489.

opposes putting stock upon the market, 490.

obtains opinion of Marble as to infringement, 490.

Johnston, Joseph E.—Continued.

had not heard of broad claim of Bell company, 490.
 explains sale of territorial rights, 491, 508.
 contract for Indiana never went into effect, 492.
 minutes of April 7, 1885, providing for forfeiting of contracts with local companies, explained, 492.
 no attempts ever made to procure legislation favorable to Pan-Electric company, 492.
 recommends Dr. J. W. Rogers for Government appointment, 493.
 had no previous experience in practical telephony, 494.
 the sale of transmitter to Bell Company proposed, 495.
 Senator Harris wrote all the contracts, 497.
 sale of territorial rights discussed, 498, 502.
 a stock assessment of 10 per cent. made to meet expenses of litigation, 500.
 Bell company controlling courts and bar, 502.
 United States judges discussed, 503.
 never heard of agreement with National Improved Telephone Company, 505.
 understands that Young was opposed to bringing of Government suit, 506.
 explains Senator Vest's purchase of stock, 509.
 identifies agreement between Pan-Electric company and Upshur, 511.

Jones, George (editor New York Times):

testimony of, 884.
 the course of the Times in the Pan-Electric matter described, 884, 890, 891, 893, 894, 895.
 the Bell patent "rushed through" the Patent Office, 884.
 attempt by Bell company to influence course of the Times, 884, 885, 887.
 attempts by Pan company to influence the course of the Times.
 advertisement in Times paid for by Bell company, 885, 892.
 course of other daily newspapers in New York respecting Pan company, 886, 889.
 Van Benthuyzen's advertising bills, 888, 889, 892.
 statement of Van Benthuyzen in New York World, January 28, 1886, 888.
 familiarity of, with the facts in the Pan-Electric case, 890, 896.
 favors a Government suit, 891.
 his version of General Johnston's letter to Times, 891, 892, 893.
 names of assistant editors of Times, 884, 885, 895.
 interview of, with Casey Young, about furnishing information, 895.
 position of Times with reference to Attorney-General's ownership of Pan stock, 895.

Keating, J. M., of Memphis, stock sold to (Rogers), 104.

Klotz, Robert B :

a promoter of telephone company in Pennsylvania (Rogers), 13.
 stock sold to (Rogers), 104.

Klotz, Edward, stock sold to (Rogers), 104.

Lamar, L. Q. C. (See Secretary of Interior.)

Le Fevre, Hon. Benj. :

declines stock (Rogers), 41, 56.
 testimony of, 872.
 receives several invitations from Dr. Rogers to attend meetings of Pan company, 873.
 receives stock from and returns it to Dr. Rogers, 873.
 names of parties said by Dr. Rogers to be interested in his inventions, 873.

Legislation :

proposed by Congress (Rogers), 16, 32, 37.
 underground wires to Smithsonian (Rogers), 60, 94; (Young), 179, 187.
 bill to annul patents (Rogers), 93; (Young), 154, 173, 174, 231, 233, 272; (Van B.), 573, 615; (Mont.), 870.
 none procured by Pan-Electric Company (Johnston), 492.
 bill introduced by R. B. Vance in Forty-sixth, Forty-seventh, and Forty-eighth Congresses to annul patents, 695, 696.
 bill reported by House Judiciary Committee providing for cancellation of patents, 1051.
 report of House Judiciary Committee in regard to cancellation of patents, 1040.
 not sought by Pan company (Garland), 653.

Lehigh Valley Railroad, Pan-Electric Telephone instruments put up along line of (Rogers), 13.

Letters introduced in evidence (see also Exhibits):

Atkins, J. D. C., to J. W. Rogers, April 19, 1883, 405.
 Adreon, E. L., to Casey Young, November 12, 1884, 323.
 Adreon, E. L., to A. H. Garland, November 13, 1884, 322.
 Beach, Lewis, to J. W. Rogers, January 11, 1884, 861.

Letters introduced in evidence (see also Exhibits)—Continued.

- Beckley, J. N., to A. H. Garland, July 28, 1885, 677.
 Bell, A. G., to J. H. Sypher, October 27, 1885, 784.
 Brackett, C. F., to John Goode, March 19, 1886, 469.
 Brewster, Attorney-General, to D. S. Walker, January 11, 1883, 947.
 Carlisle, John G., to J. H. Rogers, May 1, 1884, 837.
 Clark, Edward, to J. W. Rogers, February 13, 1883, 711.
 Cox, S. S., to J. W. Rogers, January 13, 1885, 787.
 Driver, W. R., to C. E. Boyle, April 30, 1886, 897.
 Duryee, Schuyler, to Casey Young, November 24, 1885, 1135.
 Forbes, J. M., to C. E. Boyle, May 6, 1886, 958.
 Forbes, J. M., to George Jones, January —, 1886, 959.
 Garland, A. H., to Cox & Hewitt, January 18, 1884, 218.
 Garland, A. H., to D. E. Myers, January 5, 1884, 278.
 Garland, A. H., to E. L. Adreon, November 10, 1884, 322.
 Garland, A. H., to H. Gardes, September 21, 1884, 363.
 Garland, A. H., to the President, October 8, 1885, 460.
 Garland, A. H., to W. Van Benthuyzen, July 14, 1885, 569.
 Garland, A. H., to Secretary of Interior, July 23, 1885, 675.
 Garland, A. H., to M. I. Townsend, August 5, 1885, 676.
 Garland, A. H., to G. R. Selden, August 5, 1885, 676.
 Garland, A. H., to Secretary of Interior, July 14, 1885, 862.
 Garland, A. H., to J. W. Rogers, October 4, 1883, 1078.
 Garland, A. H., to J. W. Rogers, September 20, 1883, 1078.
 Goode, John, to Secretary of Interior, October 17, 1885, 245.
 Goode, John, to H. W. McCorry, September 3, 1885, 255.
 Goode, John, to H. W. McCorry, October 17, 1885, 432.
 Goode, John, to Secretary of Interior, October 20, 1880, 433.
 Goode, John, to Secretary of Interior, October 31, 1885, 433.
 Goode, John, to Secretary of Interior, November 6, 1885, 433.
 Goode, John, to District Attorney Kumler, March 17, 1886, 433.
 Goode, John, to the President, October 9, 1885, 463.
 Goode, John, to C. P. Young, March 23, 1886, 470.
 Goode, John, to C. F. Brackett, March 9, 1886, 470.
 Goode, John, to C. S. Whitman, February 1, 1886, 470.
 Goode, John, to Hunton & Chandler, February 1, 1886, 471.
 Goode, John, to A. G. Thurman, February 19, 1886, 471.
 Goode, John, to G. P. Lowrey, February 4, 1886, 471.
 Harris, Isham G., to J. W. Denver, June 14, 1884, 277.
 Harris, Isham G., to W. Van Benthuyzen, September 20, 1884, 363.
 Harris, Isham G., to J. W. Rogers, April 19, 1884, 405.
 Harris, Isham G., to A. S. Hewitt, January 17, 1884, 1074.
 Harris, Isham G., to J. W. Rogers, January 12, 1884, 1075.
 Harris, Isham G., to J. W. Rogers, October 2, 1884, 1075.
 Harris, Isham G., to J. W. Rogers, February 13, 1883, 1075.
 Harris, Isham G., to J. W. Rogers, July 5, 1883, 1875.
 Harris, Isham G., to Professor Baird, December 2, 1884, 1076.
 Harris, Isham G., to J. W. Rogers, August 5, 1883, 1076.
 Harris, Isham G., to J. W. Rogers, February 18, 1884, 1076.
 Harris, Isham G., to J. W. Rogers, September 6, 1883, 1077.
 Harris, Isham G., to J. W. Rogers, May 14, 1884, 1077.
 Harris, Isham G., to J. W. Rogers, October 6, 1885, 1078.
 Harris, Isham G., to J. W. Rogers, February 20, 1883, 1079.
 Harris, Isham G., to J. W. Rogers, April 27, 1883, 1085.
 Harris, Isham G., to J. W. Rogers, October 4, 1883, 1085.
 Harris, Isham G., to J. W. Rogers, July 5, 1884, 1087.
 Harris, Isham G., to J. W. Rogers, December 12, 1885, 1088.
 Harris, Isham G., to J. H. Rogers, January 25, 1884, 1082.
 Heiskell, J. B., to Casey Young, December 4, 1883, 295.
 Hill, E. N., to C. A. Dana, November 9, 1885, 874.
 Hitchcock, E. A., to A. L. Adreon, October 29, 1884, 321.
 Hubbard, Gardiner G., to C. E. Boyle, May 20, 1886, 1282.
 "Jim" to J. W. Rogers, February 8, —, 1081.
 "Jim" to J. W. Rogers, October 18, 1884, 1087.
 Johnson, Bradley T., to T. N. Vail, July 10, 1885, 630.
 Johnston, J. E., to J. W. Rogers, December 23, 1883, 277.
 Johnston, J. E., to J. W. Rogers, March 26, 1884, 494.
 Johnston, J. E., to J. W. Rogers, February 28, 1884, 514.
 Johnston, J. E., to J. W. Rogers, January 23, 1884, 515.
 Johnston, J. E., to J. W. Rogers, February 23, 1884, 1078.

Letters introduced in evidence (see also Exhibits)—Continued.

- Johnston, J. E., to J. W. Rogers, February 25, 1884, 1078.
 Johnston, J. E., to J. W. Rogers, March 26, 1884, 1081.
 Johnston, J. E., to J. W. Rogers, April 27, 1885, 1088.
 Johnston, J. E., to J. W. Rogers, November 8, 1883, 1081.
 Johnston, J. E., to H. Gardes, September 22, 1884, 363.
 Johnston, J. E., to J. H. Rogers, February 25, 1884, 513.
 Johnston, J. E., to J. H. Rogers, —, 1883, 1080.
 Johnston, J. E., to J. H. Rogers, March 23, 1883, 1080.
 Johnston, J. E., to J. H. Rogers, April 14, 1883, 1080.
 Johnston, J. E., to J. H. Rogers, February 23, 1884, 1081.
 Johnston, J. E., to J. H. Rogers, March 28, 1883, 1083.
 Johnston, J. E., to J. H. Rogers, March 29, 1883, 1083.
 Johnston, J. E., to J. H. Rogers, March 31, 1883, 1083.
 Johnston, J. E., to J. H. Rogers, April 3, 1883, 1083.
 Johnston, J. E., to J. H. Rogers, April 3, 1883, 1084.
 Johnston, J. E., to J. H. Rogers, April 7, 1883, 1084.
 Johnston, J. E., to J. H. Rogers, April 7, 1883, 1084.
 Johnston, J. E., to J. H. Rogers, April 19, 1883, 1084.
 Johnston, J. E., to J. H. Rogers, April 24, 1883, 1085.
 Johnston, J. E., to J. H. Rogers, August 3, 1883, 1085.
 Johnston, J. E., to J. H. Rogers, February 29, 1884, 1086.
 Johnston, J. E., to J. H. Rogers, March 21, 1884, 1086.
 Johnston, J. E., to J. H. Rogers, April 10, 1884, 1087.
 Johnston, J. E., to J. H. Rogers, October 18, 1884, 1088.
 Johnston, J. E., to J. H. Rogers, February 26, 1885, 1088.
 Johnston, J. E., to J. H. Rogers, January 23, 1885, 1088.
 Johnston, T. E., to Dear Sir, —, 1883, 1085.
 Lamar, L. Q. C., to A. H. Garland, August 3, 1885, 676.
 Lamar, L. Q. C., to John Goode, January 14, 1886, 464.
 Lamont, D. S., to W. Van Benthuyzen, February 14, 1886, 1067.
 Looney, R. F., to J. W. Rogers, August 3, 1885, 281.
 Looney, R. F., to J. W. Rogers, September 19, 1885, 1070.
 Looney, R. F., to Dear Friend, June 26, 1884, 1072.
 Looney, R. F., to Dear Friend, October 26, 1884, 1072.
 Looney, R. F., to Dear Friend, May 15, 1885, 1073.
 Looney, R. F., to Dear Friend, August 16, 1884, 1082.
 Looney, R. F., to (no address; no date), 1072.
 Lowell, John, to A. A. Ranney, April 28, 1886, 859.
 Lowrey, G. P., to John Goode, March 30, 1886, 468.
 McCorry, H. W., to A. H. Garland, August 31, 1885, 245.
 McCorry, H. W., to John Goode, October 14, 1885, 431.
 Montgomery, M. V., to A. H. Garland, July 30, 1885, 678.
 Montgomery, M. V., to Briesen & Steele, July 25, 1885, 868.
 Myers, D. E., to A. H. Garland, January 4, 1884, 278.
 Rogers, J. W., to New York Tribune, September 29, 1885, 85.
 Rogers, J. W., to Casey Young, April 11, 1883, 129.
 Rogers, J. W., to Casey Young, March 9, 1884, 142.
 Rogers, J. W., to Casey Young, March 10, 1884, 314.
 Rogers, J. W., to Casey Young, May 25, 1884, 317.
 Rogers, J. W., to Executive Committee Pan-Electric Association, April 17, 1883, 211.
 Rogers, J. W., to A. H. Garland, May 24, 1885, 221.
 Rogers, J. W., to A. H. Garland, September 29, 1885, 1079.
 Rogers, J. W., to George D. Johnson, September 20, 1884, 362.
 Rogers, J. W., to Edward Clarke, no date, 711.
 Rogers, J. W., to Lewis Beach, January 10, 1884, 860.
 Rogers, J. W., to C. Reynolds, no date, 1089.
 Rogers, J. W., to I. G. Harris, December 14, 1885, 1089.
 Report of subcommittee on relevant and irrelevant letters, 123.
 Rogers, J. H., to J. G. Carlisle, April 28, 1884, 836.
 Rogers, J. H. and J. C., to S. S. Cox, January 20, 1884, 999.
 Shryock, Leek, to J. W. Rogers, September 26, 1883, 356.
 The President to John Goode, October 8, 1885, 462.
 Sypher, J. H., to F. L. Radcliffe, October 27, 1885, 786.
 Sypher, J. H., to A. G. Bell, October 26, 1885, 778.
 Sypher, J. H., to C. E. Boyle, May 18, 1886, 1036.
 Van Benthuyzen, W., to A. H. Garland, July 12, 1885, 230.
 Van Benthuyzen, W. (indorsement), October 13, 1885, 273.
 Van Benthuyzen, W., to H. W. McCorry, August 26, 1885, 423.

Letters introduced in evidence (see also Exhibits)—Continued.

- Van Benthuyzen, W., to C. E. Boyle, May 17, 1886, 1035.
- Van Benthuyzen, W., to Grover Cleveland, October 10, 1885, 1064.
- Van Benthuyzen, W., to Grover Cleveland, February 13, 1886, 1066.
- Von Briesen, A., to C. E. Boyle, May 21, 1886, 1165.
- Wright, Marcus J., to J. W. Rogers, October 31, 1884, 514.
- Wintersmith, R. C., to J. W. Rogers, May 24, 1885, 1082.
- Young, Casey, to J. G. Thompson, September 30, 1880, 89.
- Young, Casey, to J. W. Rogers, August 21, 1883, 207.
- Young, Casey, to J. W. Rogers, no date, 214.
- Young, Casey, to J. W. Rogers, July 1, 1883, 266.
- Young, Casey, to J. W. Rogers, March 25, 1883, 266.
- Young, Casey, to J. W. Rogers, April 14, 1883, 561.
- Young, Casey, to J. W. Rogers, February 13, 1884, 561.
- Young, Casey, to J. W. Rogers, July 26, 1884, 1087.
- Young, Casey, to J. W. Rogers, no date, 1123.
- Young, Casey, to J. W. Rogers, August 1, 1883, 1123.
- Young, Casey, to J. W. Rogers, August 30, 1883, 1124.
- Young, Casey, to J. W. Rogers, July 1, 1883, 1124.
- Young, Casey, to J. W. Rogers, August 5, 1883, 1125.
- Young, Casey, to J. W. Rogers, July 29, 1883, 1125.
- Young, Casey, to J. W. Rogers, September 9, 1883, 1126.
- Young, Casey, to J. H. Rogers, September 7, 1885, 255.
- Young, Casey, to J. H. Rogers, August 5, 1883, 1126.
- Young, Casey, (no name), (no date) 267.
- Young, Casey, to Bradley T. Johnson, (no date) 269.
- Young, Casey, to I. G. Harris, November 15, 1884, 323.
- Young, Casey, to T. H. Gardner, June 23, 1885, 537.
- Young, Casey, to T. H. Gardner, July 21, 1885, 538.
- Young, Casey, to W. B. Rogers, July 26, 1884, 560.
- Young, Casey, to J. J. Storrow, November 5, 1885, 562.
- Young, Casey, to J. G. Thompson, September 30, 1880, 1082.
- Young, C. P., to John Goode, May 19, 1886, 469.

Litigation:

- between Bell Telephone Company and Rogers Telephone Company of Pennsylvania (Rogers), 20.
- in the South with Bell Company (Rogers), 21.
- in Pennsylvania (Rogers), 49, 61, 62; (Young) 144, 146.
- conference regarding, at Casey Young's room (Rogers), 63.
- in whose name to be brought (Rogers), 69.
- Pittsburgh suit (Rogers), 69; (Young), 152, 153; (Harris), 361; (Van B.), 565, 567, 600, 603, 604. (Johnson), 645.
- with Bell Telephone Company, not expected (Young), 138; (Harris), 379.
- obligation to Pan-Electric Company, to defend patent (Young), 145.
- Memphis suit (Young), 146, 152, 154, 189, 190, 234, 235; (Seixas), 409; (Goode), 430; (Van B.), 568; (Garland), 652; (Mont.), 871.
- petition filed in Memphis suit, 151, 152.
- Saint Louis suit threatened (Young), 147, 149, 320; (Garland), 662.
- Baltimore suit of July 16 (Young), 265, 228; (Goode), 481; (Johnson), 630, 631, 632, 637, 638, 640.
- effect of vacating Bell patent (Harris), 387, 388; (Atkins), 401; (Goode), 457; (Johnson), 642.
- authority for bringing Government suit to annul patent (Mont.), 872.

Local companies, Pan-Electric Company, formation of:

- at Mauch Chunk, Pa., (Rogers), 13, 50.
- in Missouri (Rogers), 45.
- in Texas (Rogers), 46.
- in Alabama (Rogers), 48.
- in Tennessee (Rogers), 48.
- in New York (Rogers), 48.
- in Pennsylvania (Rogers), 49.
- in District of Columbia, Virginia, Maryland, West Virginia, (Rogers), 50.
- in Illinois (Rogers), 51.
- form of contract with subordinate companies, 157.
- stock received from (Young), 179, 180, 196.
- sale of rights to, explained (Harris), 341, 377, 380; (Johnston), 491, 508.
- list of (Harris), 352; (Johnston), 498, 502.
- Indiana contract never went into effect (Johnston), 492.
- forfeiture of contracts with (Johnston), 492.

Looney, R. F. (see Letters):

Pan-Electric stock transferred to (Rogers), 12, 105.
nearly all sales of rights made by (Rogers), 51.
sales made by (Rogers), 74.
goes to Albany in Mr. Garland's interest (Rogers), 91.
gives Dr. Rogers ship-canal and mining stock, 104, 106.
chosen director Pan-Electric Telephone Company, 137.
dividends paid to, 293.

Lowrey, Grosvenor P., of New York, employed as counsel in Columbus suit (Goode), 434.

McComas, Hon. L. E.:

testimony of, 707.
declined to purchase stock offered by Mr. Gardner in local telephone company in Maryland, 707.
remembers name of Gen. Bradley T. Johnson in connection with the matter, 707, 708.

McCorry, H. W., United States district attorney at Jackson, Tenn.:

interview of Casey Young with (Young), 258.
Senator Harris's connection with appointment of (Harris), 378.
application of, to have Government suit brought (Goode), 421.
second application from, for Government suit (Goode), 431.
second application from, sent to Interior Department (Goode), 432.
papers forwarded by, described (Goode), 437, 474, 475, 476.
papers sent to, by Van Benthuyzen (Van B.), 578, 593.
receipt of application from, at Department of Justice described (Clay), 989, 991.

McEwen, Mr., stock transferred to (Rogers), 74.

McRae, Duncan stock sold to (Rogers), 105.

Manning, Hon. Van H.:

a promoter of telephone company in Pennsylvania (Rogers), 13.
stock offered to (Rogers), 53, 104.
letters from (Rogers), 76, 77.

Marble, E. M.:

opinion of (Rogers), 67.
transfer of stock to (Young), 319.
opinion of, of February 27, 1884, text of, 148.
opinion of, of February 27, 1884, remarks concerning (Young), 139, 143.
opinion of, of October 21, 1884, text of, 317.
asked by Senator Harris for opinion on question of infringement (Harris), 339, 349, 381 (Atkins), 389; (Johnston), 490.

Marean, Morell (manager Western Union Telegraph Company):

testimony of, 1002.
declines to comply with demands of subpoena to produce telegrams between Pan-Electric associates, 1002.
is following instructions of his superiors, 1004, 1009.
submits rule 100, of Western Union Telegraph Company, in regard to production of telegrams under subpoena, 1006.
dispatches retained for six months and then destroyed, 1009.
subpoena issued to, text of, 1060.

Mauch Chunk, Pa., Pan-Electric local company established at, with capital of \$5,000,000 (Rogers), 13, 50.

Memorial of W. Van Benthuyzen *et al.* to District Attorney McCorry, 241.

Mitchell, Thomas, of Washington, stock transferred to (Rogers), 74.

Money, Hernando D.:

a promoter of telephone company in Pennsylvania (Rogers), 13.
Pan-Electric stock offered to (Rogers), 53.
stock offered to, (Rogers), 53.
letter from (Rogers), 76.
not a member of Congress when he obtained stock (Young), 173.

Montgomery, Martin V. (Commissioner Patents):

testimony of, 867.
writes to Buesen & Steele, counsel, in reply to Van Benthuyzen's application of July 12, 1885, 868.
von Briesen calls upon, and Van Benthuyzen's application is returned to him, 868.
circumstances relating to return of application by, 868, 869.
bill to annul patents, 870.
the Sergeant-Warren case, 870.
the Memphis suit, 871.
authority for bringing Government suits to annual patents, 872.
opinion of, December 12, 1885, 268.

Muldrow, H. L. (Assistant Secretary Interior Department:

testimony of, 861.

produces papers relating to Van Benthuyssen's application of August 12 for Government suit, 862.

Van Benthuyssen visits the Department, 864.

not usual to return official letters, 866.

sat with Secretary Interior and heard evidence in telephone case, 867.

opinion of, December 22, 1885, 1265.

Myers, D. E., of Indiana:

Mr. Garland's opinion regarding Pan-Electric inventions sent to (Rogers), 91, (Garland), 652, 656, 657, 665.

negotiates for Indiana telephone rights, 92, 141.

proposes to buy State rights (Young), 140, 141.

relations of, to Pan Company (Harris), 372, 375, 376.

minutes of meeting of January 14, 1885, relating to contract with, 375.

National Improved Telephone Company:

consolidation of, with Pan-Electric company (Rogers), 15:

agreement between, and Pan-Electric Telephone Company (Rogers), 20.

to put in \$75,000 worth of testimony (Rogers), 83, 94.

contract between Pan-Electric company and (Young), 154, 175, 176, 227, 228, 270, 276 (Harris), 365; (Atkins), 392, 327; (Johnston), 505.

supplemental agreement (text of) between Pan and, of August 27, 1885, 324.

supplemental agreement of August 27, 1885, explained (Harris), 367, 383, 384 (Van Benthuyssen), 575, 596, 597, 617, 618.

conference with, by Young (Harris), 343, 345.

Senator Harris signs the agreement (Harris), 365.

H. O. Seixas, a director of (Seixas), 408.

agreement of August 4, 1885, between Pan and (text of), 574.

Bradley T. Johnson's statement concerning agreement with (Johnson), 634.

letter of, to George D. Johnson, October 4, 1884, 585.

National Secret Telephone Company:

organization of (Rogers), 70.

opinion of E. M. Marble concerning patents of, 317.

Neely, Mr., of Memphis, stock sold to (Rogers), 74.**Newspaper articles: (See also exhibits.)**

relating to Pan-Electric company (Pulitzer), 3.

New York World articles (Rogers), 16; (Harris), 366.

nothing paid for (Rogers), 24, 86.

World article of February 3 (Rogers), 58, 68.

letters to Tribune and World (Rogers), 67, 86; (Driver), 754.

in Washington Chronicle and Post (Rogers), 63, 82.

in Republic (Rogers), 105.

influence of, in favor of Bell company (Young), 290.

World article of February 10, 1886, denounced by Atkins as a slander, 406.

publication of, by Bell company (Forbes), 732, 733, 734; (Driver), 751.

industrial article in New York Times (Forbes), 733, 737, 738; (Driver), 753.

article in New York Commercial World (Forbes), 733.

J. H. Sypher's connection with (Sypher), 791, 801, 805, 808.

Whitelaw Reid's account of Tribune articles, 808.

T. C. Crawford's account of World publications, 814.

testimony of S. N. Clark respecting Tribune articles, 898, 1121.

testimony of George Jones as to Times articles, 884.

testimony of E. N. Hill as to Tribune article, 948.

testimony of C. A. Dana as to course of New York Sun, 874.

Nipher, F. E.:

omission of affidavit of, from record used in New Orleans suit (Van Benthuyssen), 580, 588, 590, 596, 597, 598, 599, 600, 602, 603, 619, 621.

affidavit of (Int. Dep. Rec.), 1193.

O'Connor, John D.:

testimony of, 787.

secretary to S. S. Cox, 787.

identifies letter of S. S. Cox to J. W. Rogers returning Pan-Electric stock, 787.

circumstances connected with the returning of the stock, 788, 789, 790.

Pan Electric Company:

based on inventions of J. H. Rogers (Rogers), 7.

division of interest among promoters (Rogers), 27, 35, 36, 57.

reasons for selecting public men to participate in (Rogers), 26, 34.

great names (Rogers), 38.

New York contract (Rogers), 39; (Young), 120, 121, 122, 123; (Harris), 347; (Atkins), 389; (Johnston), 488.

Pan Electric Company—Continued.

meeting in Judiciary Committee room (Rogers), 43.
 State charters (Rogers), 43; (Johnston), 489.
 no stock issued by (Rogers), 44.
 issuing of stock opposed by Senator Harris (Rogers), 44.
 local companies (Rogers), 52.
 statements of Casey Young regarding, 112, 113, 119, 120, 126, 193, 196, 197, 200, 202, 203, 266, 267, 269.
 articles of incorporation (Young), 127.
 minutes of meeting of November 23, 1883 (organization), 137.
 Casey Young elected secretary, treasurer, and director (Young), 137.
 of Pan-Electric Telephone Company (Young), 138; (Johnston), 489.
 State rights under (Young), 143, 144.
 meeting of directors of Pan-Electric Telephone Company, April 7, 1885, State rights (Young), 147.
 no stock to be sold except for general benefit (Young), 159; (Garland), 655.
 form of stock certificate (Young), 159, 193, 194, 195, 198, 302.
 minutes of stockholder's meeting January 26, 1885, stock certificates, 160, 161.
 parties to whom stock certificates were issued (Young), 162, 163; (Harris), 351; (Atkins), 390.
 assessments for expenses (Young), 167; (Atkins), 392; (Johnston), 489, 500.
 Young's reasons for opposing issuance of stock (Young), 185.
 minutes of meeting of January 12, 1885 (counsel), 237.
 minutes of meeting of February 7, 1884, Myers' contract (Young), 282.
 resolution of April 7, 1883, sales of territory (Young), 292.
 resolution of May 5, 1885, forfeited contracts (Young), 292.
 never chartered (Harris), 342.
 no stock to be sold without consent of executive committee (Atkins), 391.
 attendance of Attorney-General at meetings of (Garland), 652.
 meetings of, at Senator Harris's room, 1881 (Rogers), 29.
 at Dr. Rogers's house (Rogers), 39.
 at Senate Judiciary Committee room (Rogers), 43, 44; (Garland), 652.
 to discuss appointment of J. H. Rogers as electrician to House of Representatives (Rogers), 60.
 at Senate committee room on Epidemic Diseases (Harris), 337.
 at Colonel Young's room (Atkins), 391.
 at 1327 G street (Garland), 1105; (Hill), 955, 972, 973; (Young), 984, 985, 987.
 Attorney-General received no stock as a gift (Garland), 653, 664.
 official positions of promoters not considered (Garland), 654, 663.

Payne, Sereno E. (M. C.):

testimony of, 848.
 has conversation with Casey Young in regard to investment in Pan-Electric company stock, 848.
 decides not to invest in Pan stock, 848.

Platt, Hon. Orville H. (United States Senator):

testimony of, 993.
 chairman Committee on Patents, 993.
 describes interview with Senator Garland respecting bill to vacate patents, 994, 995, 996; (Garland), 651, 671.
 remarks concerning "stolen" bill, 994.
 reason for non-action on bill by Senate committee, 995.
 interview of, with Senator Garland (Crawford), 815.

Pollard and Taylor, Messrs., employed to defend Saint Louis suit (Young), 150.**Pollok, Anthony, affidavit of (Int. Dept. Rec.), 1174.****Price, Col. J. B., of Jefferson City:**

promised Pan-Electric stock (Rogers), 27.
 made claim for stock through Hunton & Chandler (Rogers), 57, 105.

Randall, Hon. Samuel J.:

stock offered to (Rogers), 55.
 testimony of, 840.
 if he received letter from Dr. Rogers, declined to embark in enterprise, 841.
 is unable to find correspondence with Dr. Rogers, 841.
 no one sent him any stock, 842.

Reid, Whitelaw (editor New York Tribune):

testimony of, 808.
 course of the Tribune in regard to Pan-Electric matter, 808, 811, 812.
 the Tribune article of September 25, 1885, explained, 809, 810.
 has received nothing from Bell company for publications in Tribune, 809.
 none of stockholders in Tribune interested in Bell company, 809.
 interviews of, with Mr. Dickerson, of Bell company, 810.

Reid, Whitelaw (editor New York Tribune)—Continued.

publishes interview with Attorney General Garland, 811.

article in Tribune relating to Attorney-General Garland's appearance as counsel in Supreme Court United States for State of Virginia, 813.

course of Tribune towards Bell company, 813.

Reis's Prospectus. Extract from Adams's compilation, 1255.

Roberts's torpedo case, papers relating to, put in evidence by Casey Young, 1140.

Robinson, Hon. W. E., :

Pan-Electric stock given to (Rogers), 54.

testimony of, 623.

never received stock from Dr. Rogers, 623.

is presented with poetry on Ireland by Dr. Rogers, 623, 624.

offers resolution reinstating J. H. Rogers as electrician House of Representatives, 623, 624.

Rochfort, Father :

stock in Pan-Electric Company given to (Rogers), 27.

allows his name to be used (Rogers), 39.

Rogers, J. Harris :

letters obtained from (Pulitzer), 5.

testimony of, 6.

letters furnished in vindication (Rogers), 16.

personal disagreement with Casey Young (Rogers), 19.

seeks appointment as electrician of House of Representatives (Rogers), 29.

goes to New York to conclude contract (Rogers), 39.

testimony of, 109, 1099, 1120.

explains statements made to New York Tribune about Messrs. Oates and Hanback as members of subcommittee, 109.

chosen electrician and director Pan-Electric Telephone Company, November 23, 1883, 137.

authorized to confer with Bell company at Boston (Young), 282.

dividends paid to, 293.

acquaintance of Senator Harris with (Harris), 332.

Senator Harris visits laboratory of (Harris), 332.

combination with American Postal Company, 1099.

interview of, with Casey Young at 1227 G street, 1099, 1101, 1103.

copies of agreement with National Improved Company made by Major Gardner, 1100, 1101.

Senator Harris signs the agreement, 1100, 1102, 1121.

identifies the Wellington-Adams compilation, 1103.

Mr. Garland introduced to (Garland), 650.

Rogers, Dr. J. W. :

testimony of, 37, 1117.

applies for appointment, 31, 36, 80, 81, 95 ; (Young), 283 ; (Garland), 658.

goes to New York to draw up contract, 39.

dedicates book to Mr. Garland, 58, 90, 97, 98.

World article of February 3 explained, 58.

Tribune letter of September 29 explained, 65, 84, 101, 102.

information furnished newspapers by, 66, 86.

stock held by, 66.

transfers of stock made by, 73.

issuance of stock by, 75, 96.

issuance of stock to Members of Congress, 77, 78, 96, 1118.

writes to Attorney-General to institute suit, 63, 82.

interviews of Casey Young with, 18, 32, 64, 101 ; (Young), 154, 155, 189.

feelings towards Attorney-General Garland, 84, 89, 94.

has sold \$500,000 worth of stock, 87, 94, 95.

advertises stock in papers, 88, 92.

is visited by Attorney-General, 90.

aids in Mr. Garland's appointment, 91.

gives names of parties to whom stock was sold, 104, 105, 106.

endorsed for position by Senator Harris, 369 ; by General Johnston, 493.

gives poetry on Ireland to Hon. W. E. Robinson (Robinson), 623, 624.

combination with American Postal Telegraph Company, 1117, 1118, 1120.

Pan company not a Credit Mobilier affair, 1118.

stock offered to only fifteen out of four hundred Members of Congress, 1118.

reads "The Mugwump" at Metropolitan Hotel, 1119.

Secretary of the Interior (Mr. Lamar) :

Casey Young appears before as counsel (Young), 235, 553.

conversation of Atkins with, 396.

- Secretary of the Interior (Mr. Lamar)—Continued.
 advice of, regarding bringing of Government suit (Goode), 434.
 papers sent to, with McCorry's application (Goode), 451.
 hearing before (Goode), 466.
 printing of record of proceedings before (Young), 558.
 withdrawal of Van Benthuyssen's letter from (Van Benthuyssen), 571, 572, 615.
- Seixas, H. O., of New Orleans:
 testimony of, 408.
 is director of National Improved Telephone Company, 408.
 did everything possible to induce bringing of Government suit, 408.
 decides to bring suit in Memphis, 409.
 reasons why suit could not be brought in New Orleans, 409.
 bill prepared at New Orleans under instructions of, 410, 416, 417.
 telegrams and letters to Van Benthuyssen about agreement, 411, 412, 413, 414, 415, 416.
- Sergeant & Warren case:
 correspondence of Department of Justice in relation to annulment of patent issued to, 675 to 678.
 discussed by Attorney-General (Garland), 674, 680.
 discussed by Commissioner of Patents (Montgomery), 870.
- Shea, Nicholas:
 suggested originally as a director in Pan-Electric company (Rogers), 39.
 millions of stock kept in safe of (Rogers), 87, 88.
- Smith, Henry H. (Journal Clerk House of Representatives):
 testimony of, 550.
 interview of, with Casey Young, regarding bill to annul patents, 550; (Young) 550.
 bill not stolen, 551.
- Snyder, Christian G., suggested originally as director in Pan-Electric company (Rogers'), 39.
- Spencer case:
 reference to the (Young), 144.
 history of the, from Adams' compilation, 1249.
- Subcommittee (Messrs. Oates and Hanback) appointed to examine correspondence between corporators of Pan-Electric association, report of, 123.
- Suits to vacate patents:
 correspondence of Department of Justice in relation to patent issued to Sergeant & Warren, 675 to 678.
 record of applications to Department of Justice for, 1229, 1234.
- Sypher J. Hale:
 testimony of, 790.
 association of, with E. N. Hill, 790, 794, 795.
 World article substantially like one sent by him to Professor Bell, 791.
 information regarding Pan company obtained by, from W. J. Cahoon, 791, 795, 802, 803, 806.
 Hill compiles the manuscript sent to Professor Bell, 791, 798, 803, 804.
 the publication in New York Tribune, 792, 801.
 object in preparing article, 792, 793, 796, 797, 805, 808.
 relations of, with Professor Bell, 794, 801, 804.
 knowledge of, as to combination of Pan and National Improved companies, 795, 803, 807.
 employment of, as counsel for telephone companies, 797.
 responsibility of, for first newspaper publications concerning Pan company, 798.
 suggests names of witnesses to committee, 801.
 intimacy between Casey Young and E. N. Hill, 803.
 relations of, to Attorney-General Garland, 806, 808.
 requests permission to refute Van Benthuyssen's statements, 1036.
 connection of, with World article (Crawford), 817.
- A. B. Talcott (electrician House of Representatives):
 testimony of, 996.
 is applied to by Dr. Rogers regarding appointment of J. H. Rogers as electrician of House, 996.
 Mr. Robinson's resolution regarding electrician introduced, 997.
 was appointed electrician by Speaker Kiefer, 997.
 is examined in regard to the Rogers letter, 998, 999.
 information obtained from (Crawford), 816.
- Testimony, report of:
 corrections made in by Attorney-General Garland, 723, 724, 725, 726, 727, 728, 790; (Clarke), 1122.

Testimony, report of—Continued.

made for American Bell Telephone Company (Driver), 754, 1011, 1122.
corrections of Casey Young, 1126.

Thompson, Jacob :

Pan-Electric stock transferred to (Rogers), 12.
sale of stock to (Rogers), 74.

Thurman, Allen G., of Ohio. Employed as counsel in Columbus suit (Goode), 434.

Tompkins, William C., affidavit of (Int. Dep. Rec.), 1184.

Upshaw, A. B. (chief clerk Indian Office):

stock sold to (Rogers), 105.
agreement between Pan company and (Johnston), 514.
testimony of, 821.
had contract with Pan company to organize company in Alabama, 821, 827, 828.
Looney interested with, in organizing company, 822, 824, 835.
consideration paid to Pan company, 822, 824, 825, 829.
subscriptions to stock of Alabama company, 823, 825, 826, 830, 835.
capital stock of Alabama company, 823, 826, 835.
formerly connected with press in Tennessee, 827.
contracts with subordinate local companies, 831, 832.
opinion of Garland published in newspapers, 833.
was indorsed for present position by Harris, Young, and Brown, 833.
Alabama company not now in operation, 834.
effect of annulling Bell patent, 834.

Van Benthuyzen, Watson (President National Improved Telephone Company):

confers with Casey Young (Rogers), 62, 93.
is present at Pittsburgh suit (Young), 153.
propositions made to, by Young (Young), 154, 175, 229.
withdrawal of letter of July 12, 1885 (Young), 271.
telegrams from, about agreement (Young), 275.
affidavit of, regarding Wilbur, 311.
Atkins introduced to (Atkins), 399.
testimony of, 564, 1005, 1011, 1031, 1096.
company owns seven inventions of J. Harris Rogers, 565.
describes the incidents of the Pittsburgh suit, 565, 600.
has interview with Colonel Young at Pittsburgh, 567.
writes to Attorney-General about bringing Government suit, 568.
makes agreement with Young in regard to prosecution of Memphis and New Orleans suits, 568.
interview with Attorney-General about institution of suit, 570, 572, 614, 615, 622.
withdraws letter from Interior Department, 571, 572, 613 (Garland), 661, 1112.
bill to annul patents, "stolen" from Senate, 573, 615.
produces agreement of August 4, 1885, between Pan and National Improved Telephone Companies, 574.
explains the supplemental agreement of August 27, 1885, 575, 596, 597, 617, 618.
determine to enforce a Government suits, 577 (Johnson), 645.
prepares papers to be sent to District Attorney McCorry, 578, 593.
the omission of the Nipher affidavit from the Interior Department record used in New Orleans suit explained, 580, 588, 590, 596, 597, 598, 599, 600, 602, 603, 619, 621.
the record not used in Louisiana suit as a complete record, 581.
controversy between Pan and National Improved Company as to infringement, 584.
the Wellington Adams compilation, 589.
telegrams from Young to, about agreement, 594.
declines to give correspondence with his attorneys, 601.
reasons for abandoning Pittsburgh suit, 603, 604.
meets Mr. Von Briesen in Washington, and obtains Wilber affidavit, 604.
has copies made of Wilber affidavit, 605.
consultation with Mr. Von Briesen, 615, 616.
is introduced to Senator Harris, 616.
affidavit of, in New Orleans case, regarding record, dated January 9, 1886, 621.
applies for permission to refute statements made by witnesses before committee against him, 1005, 1011, 1013, 1034, 1035.
dispatch from Memphis to Chicago Inter-Ocean, 1031, 1032.
dispatch of, to President Cleveland, Chicago, September 28, 1885, 1032, 1096.
letter of, submitting list of witnesses whom he desires subpoenaed, 1035.
interview with, published in New York Times, September 28, 1885, 1096, 1098.

- Vance, Robert B. (assistant Commissioner Patents):
 testimony of, 694.
 introduces bills in 46th, 47th, and 48th Congresses providing for the annulling of patents, 695.
 text of bills to annul patents, 695, 696.
 Casey Young objects to bills of, 697, 699.
 converses with Senators Platt and Garland in regard to bill, 697, 699.
 Report of, from House Committee on Patents, January 9, 1884, in regard to bill to vacate patents, 698.
 the withdrawal of Van Benthuzen's application, 701 (Garland), 661, 1112.
 Report of, from House Committee on Patents, June 9, 1880, in regard to bill to vacate patents, 703.
- Vest, Hon. George G.:
 Holds stock in Pan-Electric company (Pulitzer), 5.
 buys 1,000 shares of (Rogers), 11, 57; (Pulitzer), 5.
 testimony of, 303.
 purchased 100 shares stock June, 1884, 303.
 produces certificate of sale, 303.
 never had anything to do with management of company, 304.
 consults Senator Garland about Pan-Electric patent, 304.
 has declined to sell his stock, 304.
 received but 90 shares of the 100 purchased, 304.
 Senator Harris authorized to sell stock to (Harris), 340.
 sale of stock to, explained (Johnston), 509.
 Stilson Hutchins offers to purchase the stock of (Hutchins), 546.
- Von Briesen, Arthur:
 counsel in Pittsburgh suit (Young), 153.
 conference with Van Benthuyzen in Washington (Van Benthuyzen), 604, 615, 616.
 testimony of, 930.
 retained by National Improved Telephone Company in Pittsburgh suit, 930.
 describes occurrences at Pittsburgh, 930, 939.
 obtains affidavit from Wilber, 931, 932, 935.
 interview with Attorney-General about Government suit, 931, 932, 936, 937, 939, 942, 944.
 obtains the return of Van Benthuyzen's letter from Commissioner of Patents, 931, 938 (Montgomery), 868.
 date of arrival of, in Washington in July, 932.
 the bill to annul patents, 933, 944.
 combination of Pan and National Improved companies, 933, 939.
 the granting of the Bell patent, 934.
 conference at Ebbitt House, 940, 941, 942, 943.
 Commissioner of Patents writes to, regarding Van Benthuyzen's application (Montgomery), 868.
 calls upon the Commissioner of Patents (Montgomery), 868.
- Walker, Duncan S., of Washington, D. C., employed by Pan-Electric company to report on barbed wire and torpedo cases (Young), 557.
- Washington Telephone Company:
 testimony of Young respecting, 143, 205, 297.
 testimony of Gardner respecting, 516 to 539.
 contract between Pan company and (Gardner), 517.
 capital of (Gardner), 518.
 names of incorporators of (Gardner), 518; (Henkle), 648.
 disposition made of capital stock (Gardner), 519; (Henkle), 649.
 of Maryland (Gardner), 519.
 could not put up poles in District of Columbia (Gardner), 521.
 expenses of litigation in Baltimore suit (Gardner), 527, 528.
 no stockholder in, connected with Government (Gardner), 534; (Henkle), 649.
 Bradley T. Johnson asks committee to expunge testimony of Gardner relating to affairs of, 624.
 organization of, described (Johnson), 628.
 stockholders in (Johnson), 643.
 connection of Hart B. Holton with (Johnson), 627, 628.
 E. J. Henkle, a director of (Henkle), 648.
- Watson, Rev. Dr., of Memphis, Tenn., sale of stock to (Rogers), 74.
- Western Union Telegraph Company:
 relations of Bell company to (Forbes), 745.
 refusal of, to produce telegrams (Marean), 1002.
- Whitman, Charles S., of Washington, D. C., employed as counsel in Columbus suit (Goode), 434.

Wilber, Zenas F.:

- affidavit of Van Benthuyssen regarding, 311.
- statement of Young about affidavit of, 312.
- affidavit of August 3, 1885, produced, 313.
- Van Benthuyssen obtains affidavit of (Van B.), 604, 605.
- statement of Bradley T. Johnson concerning affidavit of (Johnson), 633.
- affidavits of (Int. Dep. Rec.), 1176, 1195, 1226, 1228.

Windom, Hon. William: declines stock (Rogers), 41, 56.

Wintersmith, Col. Richard, Pan-Electric stock given to (Rogers), 27, 39, 105.

Wright, General Luke:

- employed by Pan-Electric company as counsel (Rogers), 33, (Young) 237.
- brings D. E. Myers, of Indiana, to Washington, 139.

Wright, Marcus P., Pan-Electric stock given to (Rogers), 27, 39. (*See letters.*)

Young, Hon. Casey:

- preliminary statement as counsel, 2.
- articles of agreement between J. H. Rogers and (Rogers), 9, 114.
- Converses with J. H. Rogers about Government suit (Rogers), 18.
- has personal disagreement with J. H. Rogers (Rogers), 19.
- goes to New York to conclude contract (Rogers), 39, 114.
- conversation with Dr. J. W. Rogers about Government suit (Rogers), 64, 68, 69, 101.
- testimony of, 111, 552, 984, 1126, 1152.
- infringement of Bell telephone patent, 119.
- inventions of J. H. Rogers described, 112, 113, 129, 133.
- organization of Pan-Electric company, 112, 113, 119, 120, 126, 193, 196, 197, 200, 202, 203, 266, 267, 269.
- conference with General Johnston, Senator Harris, and Senator Garland, 112.
- Pan-Electric Association, his own nomenclature, 113.
- Stock not a gift or donation, 114, 118, 119, 296.
- official influence not sought, 118.
- the New York contract explained, 120, 121, 122, 123.
- division of moneys received from sale of State rights, 126.
- articles of incorporation Pan-Electric Telephone Company, 127, 136.
- organization of Pan-Electric Telephone Company, November 23, 1883, 137.
- elected secretary and treasurer and director, 137.
- conflict with Bell Telephone Company not expected, 138.
- organization of Pan-Electric Telegraph Company, 138.
- E. M. Marble's opinion of February 27, 1884, remarks concerning, 139, 143.
- E. M. Marble's opinion, text of, 148.
- Mr. D. E. Myers's proposal to buy State rights, 140.
- terms of sale of rights for Illinois, Indiana, Minnesota, to D. E. Myers, 141.
- contract of March 14, 1883, with Gustin and Harlan, 141.
- negotiations through Gustin with Bell Company, 141.
- the Washington Telephone Company, 143, 205, 297.
- contract for Missouri with General Boyle and Dr. Arrington, 143.
- Mr. Garland's opinion on broad, generic claim, 143, 279.
- State right sold, 113, 144.
- Pennsylvania suit, 144, 146.
- Dowd and Spencer cases explained, 144.
- Dolbear case explained, 145.
- collusive cases, 145.
- obligations to defend patent, 145.
- Drawbaugh case, 146.
- the Memphis suit, 146, 152, 154, 189, 190, 234, 235.
- the Memphis petition filed, 151, 152.
- meeting of directors Pan-Electric Telephone Company, April 7, 1885, 147.
- Saint Louis suit threatened, 147, 149, 320.
- Senator Garland unable to attend to Saint Louis suit, 149.
- Messrs. Pollard and Taylor employed to defend, 150.
- the Hurst cotton-tie case, 150.
- describes the Pittsburgh suit, 152, 153.
- meets Messrs. Bakewell and Kerr, Mr. von Briesen, Mr. Huntington, and Mr. Van Benthuyssen, 153.
- publication of Dr. Wellington Adams, 153, 558.
- proposition made to Van Benthuyssen, 154, 175, 229; (Van Benthuyssen) 567.
- contract between Pan and National Improved Companies, 154, 175, 176, 227, 228, 270, 276.
- bill to annul patents, 154, 173, 174, 231, 233, 272.
- returns to Washington August 30, 154.
- conversation with Rogers about bringing Government suit, 154, 155, 189.
- the Gunning case, 154.

Young, Hon. Casey—Continued.

- never told Rogers that Attorney-General had agreed to bring suit, 156, 252, 253.
- produces form of contract made by Pan-Electric Telephone Company with subordinate companies, 157.
- no stock to be sold except for general benefit, 159.
- form of certificate of stock, 159, 193, 194, 195, 198, 302.
- stock "peddled about town" by Dr. Rogers, 160.
- minutes of stockholders' meeting, January 26, 1885, 160, 161.
- gives list of parties to whom stock certificates were issued, 162, 163.
- stock sold only to four persons, 166.
- certificate issued to Mr. Klotz, of Pennsylvania, 167.
- assessments for expenses, amount of, 167.
- explains financial operations of company, 168, 199.
- Mr. Atkins not a member of Congress when contract was drawn, 170.
- Members of Congress want to buy stock, 171, 186, 187.
- Mr. Money not a member of Congress when he obtained stock, 173.
- conference at Ebbitt House July 31, 1885, with National Improved Company, 177, 187, 188, 225, 226, 238, 239, 249.
- conference with Attorney-General Garland about Government suit, 178, 232, 256, 257, 271.
- underground telegraphy, resolution in Senate respecting, 179, 187.
- stock received from local companies, 179, 180, 196.
- explains items in cash account of Pan-Electric Telephone Company for 1883-'84, 182, 307.
- gives reasons for opposing issuance of stock, 185.
- writes letter to President about Government suit for Van Benthuyzen to sign, 191.
- calls on Mr. Goode, Solicitor-General, with Senator Harris 191, 248, 260, 261, 262, 264, 332 (Goode), 422, 428, 430, 467, 481, 482, 483 (Harris), 344, 359, 360, 378, 379, 382.
- explains his letter of August 21, 1883, Dr. Rogers, 207.
- is applied to by Dr. Rogers to assist his son getting appointment as electrician of the House, 213, 216, 217, 218, 219.
- resolution of Mr. Robinson to appoint J. H. Rogers electrician, 214.
- gives reasons for appearing as counsel before Secretary of Interior, 235.
- reads minutes of meeting (January 12, 1885), authorizing employment of Messrs. Gant and Wright as counsel in Memphis suit, 237.
- describes interview with Mr. McCorry, United States district attorney, 258.
- explains the Baltimore suit of July 16, 265, 288.
- the withdrawal of Mr. Van Benthuyzen's letter of July 12, 1885, 271.
- telegrams received from Van Benthuyzen about agreement, 275.
- reasons for wanting Government suit brought, 280, 288, 296, 296, 298, 299, 300.
- reads minutes of February 7, 1884, in regard to Meyer's contract for Ohio, Illinois, Indiana, and Minnesota, 282.
- identifies signatures to Dr. Rogers's application for office, 283.
- describes interview with Mr. Crawford, of the New York World about newspaper publication, 285.
- influence of newspapers controlled by Bell company, 290.
- former Government suits to annul patents, 291.
- resolution of April 7, 1883, regarding sales of territory, 292.
- resolution of May 5, 1885, regarding forfeited contracts, 292.
- dividends Pan-Electric Telephone Company, in account with Messrs. Johnston, Harris, Atkins, Garland, Young, Looney, Brown, and J. H. Rogers, 293.
- affidavit of W. Van Benthuyzen of August 28, 1885, regarding Z. F. Wilber, 311.
- statement respecting Wilder's affidavit, 312.
- affidavit of Z. F. Wilber of August 3, 1885, produced, 313.
- declines to answer for what other company he is attorney, 314.
- had a conversation with Elisha Gray, 314.
- declines to answer whether there has been any arrangement between himself and Mr. Gray, 315.
- interviews with Mr. Gray, 316.
- E. M. Marble's of October 21, 1884, 317.
- produces supplemental agreement between National Improved Telephone Company and Pan-Electric Telephone Company, dated August 4, 1885, 324.
- did not show agreement to any one, 325.

Young, Hon. Casey—Continued.

- explains the circumstances connected with, 326, 327, 328, 329, 330, 331, 563, 564.
- dividends paid to, 293.
- interview of, with H. H. Smith, in regard to "stolen" bill (Smith), 550.
- argument of, before Secretary of Interior, 553.
- explains items in cash book of Pan-Electric company, 553.
- printing of record of proceedings before Interior Department, 558.
- conferences at 1327 G street, 984, 985, 986, 987.
- requests permission to offer rebutting testimony, 988.
- corrects his testimony given before committee, 1126.
- offers affidavit containing facts and grounds upon which he asks to introduce additional testimony, 1152, 1158.



House documents

Bd.: [374.] 1885/86, Vol. 19 = Congress 49, Sess. 1

Washington, DC 1886

Am.b. 3040-374,19

urn:nbn:de:bvb:12-bsb11548131-4